

J. Y. Interpretation No.267 (October 11, 1990) *

ISSUE: Are the legislative purposes of civilian housing as set forth in the directive, Tai-Tsai-Shue-Tze No. 37639 issued by the Ministry of Finance in conformity with the Constitution?

RELEVANT LAWS:

Article 19 of the Constitution (憲法第十九條); Article 15, Paragraph 2, Subparagraph 1, of the House Tax Act (房屋稅條例第十五條第二項第一款) .

KEYWORDS:

house tax (房屋稅), tax benefit (租稅優惠), civilian housing (平民住宅房屋), low-income (低收入) .**

HOLDING: Article 15, Paragraph 2, Subparagraph 1, of the House Tax Act stipulates that the civilian housing apportioned for sale by the government shall be subject to one-half of the regular tax rate in order to extend tax benefits to low-income civilians. In accordance with such purpose, the Ministry of Finance, taking into consideration the then existing social and economic condi-

解釋文：房屋稅條例第十五條第二項第一款規定，政府平價配售之平民住宅房屋稅減半徵收，旨在對於低收入人民之住宅給予租稅優惠，財政部依據此項立法意旨，參酌當時社會經濟狀況，於中華民國六十四年十月二十七日以臺財稅字第三七六三九號函，說明此種平民住宅之涵義，與憲法尚無牴觸。

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tions, explained the meaning of such civilian housing in the letter Tai-Tsai-Shue-Tze No. 37639 dated October 27, 1975, and declared such legislative purposes to be in conformity with the Constitution.

REASONING: Under Article 19 of the Constitution, the people have the obligation to pay taxes. The phrase “payment of taxes as required by law” means that both the scope of taxation and tax exemption shall be stipulated by law. However, in the event of doubt as to the application of law, the relevant authority may, by its own authority, render an interpretation thereon that reflects the purpose of the law.

Article 15, Paragraph 2, Subparagraph 1, of the House Tax Act provides that civilian housing apportioned for sale by the government shall be subject to one-half of the regular tax rate which, as evidenced by the relevant explanation documented in the Legislative Yuan’s Review Report, intends to provide taxation benefits to low-income people (the indigent) to lessen their economic burden. Civilian

解釋理由書：人民有依法律納稅之義務，為憲法第十九條所明定。所謂依法律納稅，兼指納稅及免稅之範圍，均應依法律之明文。惟法律條文適用時發生疑義者，主管機關自得為符合立法意旨之闡釋。

房屋稅條例第十五條第二項第一款規定，政府平價配售之平民住宅房屋稅減半徵收，旨在對於低收入人民（貧民）之住宅，給予租稅優惠，以減輕其負擔，此觀立法院審查報告之有關說明即可瞭然。此所謂平民住宅，既以政府平價配售予低收入人民（貧民）者為限，自不包括雖由政府出售而非平價配售之住宅在內。財政部為免適用此項減稅法律，發生疑義，乃依據上述立法原

housing refers to housing apportioned for sale to people of low-income at a flat price, and naturally does not include housing offered for sale by the government at non-flat regular prices. To avoid doubt concerning the application of this tax-cut law, the Ministry of Finance followed the original legislative intent taking into account the then existing social and economic conditions, and stated in the letter, Tai-Tsai-Shue-Tze No. 37639, issued on December 27, 1975: "Civilian housing shall fulfill the following criteria: 1. Must not exceed twelve pings of construction per household; 2. Must comply with standards of the people who will live in said premises, not the people who will come to buy said premises at auction; and 3. The price of civilian housing shall not exceed the construction cost thereof, and the interest derived from construction loans shall be borne by the government." The determination made based upon the foregoing definition of civilian housing as a guideline for authenticating the facts does not surpass the boundaries of the above-mentioned law and does not contravene the Constitution. Such standards for iden-

意，參酌當時社會經濟狀況，於中華民國六十四年十月二十七日，以臺財稅字第三七六三九號函示：「平價配售之平民住宅必須符合下列要件：一、配售住宅每戶建坪不得超過十二坪。二、合乎政府訂定配住人身分標準配售予平民而非標售者。三、平價住宅之售價不大於興建成本，其貸款興建之利息部分，由政府負擔者。」以說明此種平民住宅之涵義，作為認定事實之準則，既未逾越上開法律之規定，與憲法尚無牴觸。至此種平民住宅之認定標準，因社會經濟狀況之演變，自應隨時為合理之調整。事實上財政部其後對於特定情形之住宅（如為配合拆除違章建築，而配售與拆除戶之整建住宅等），亦已先後另訂認定標準，併予敘明。

tifying civilian housing shall be reasonably modified in accordance with the changes in the social and economic environment. In fact, it should be noted that the Ministry of Finance has, over a period of time, set forth standards for certain special housing, such as housing apportioned for sale to inhabitants of buildings constructed without licenses that are torn down for reconstruction.