

Developments in the Law:
Tax Law
——Recent Decisions in Administrative Court

Keh-Chang Gee^{*}

Abstract

Ranging from January 1, 2005 to February 28, 2011, the number of tax litigations amounted to 11581 cases out of 29006, accounting for the bulk amount of administrative litigations. Focusing on the said period of time, this paper analyzes relevant cases, judicial interpretations as well as revisions in legislation, specifically in the issues regarding tax avoidance and substantive taxation, cooperative obligation and tax estimation, right to tax return (Article 28 of Tax Collection Act), and tax penalties.

The soaring volume and ratio in tax litigations is a result of both the taxpayer's self-awareness of their rights and the rulings made by the tax agencies seemingly unconvincing to taxpayers. Moreover, the excessive use of tax administrative penalties and lack of ideas such as the presumption of innocence in the tax administrations could also be the reasons. In the decade after the reform of Administrative Procedure Act, given the fact that the winning rate of taxpayers are still low, the quality of the decisions makes evident progress. A breakthrough decision, often incurring the change of ideas in the tax administration, is no less important than a legislative reform.

Keywords: substantive taxation, tax avoidance, tax estimation, tax fairness, principle of taxation by law, cooperative obligation, right to tax return

^{*} Professor of Law, College of Law, National Taiwan University.
E-mail: ksgee@ntu.edu.tw