

What to do if there's a dispute over tax?

Let's learn from the latest tribunal case
where a taxpayer won and think together!



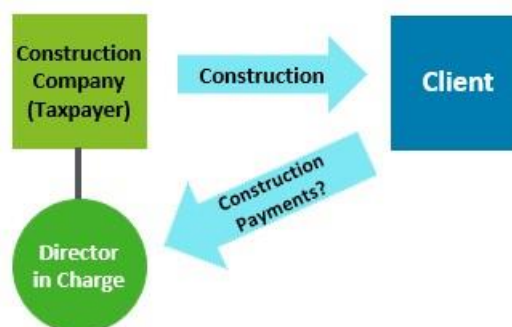
"I didn't intend to hide it..."

Executive Summary

- The written confession of a taxpayer can become decisive evidence. Therefore, never write anything that differs from your own understanding.
- We will provide an explanation based on the National Tax Tribunal Decision on 4 December 2023.
- You can also watch our YouTube lecture on this episode in Japanese [here](#).

1. Transaction conducted by the Taxpayer

- The taxpayer in this case (the "Taxpayer") was a construction company with a fiscal year ending in December. It received and completed four construction orders in the fiscal year ending December 2020, and three orders in the fiscal year ending December 2021 from its clients. The director in charge received the payments for these construction projects in cash, but due to forgetting to issue receipts, the construction payments were left unrecorded in the books.
- The tax authorities in this case (the "Tax Authorities"), during a tax audit, identified and pointed out that the construction payments were not recorded in the books. They then pressured the Taxpayer to submit a written statement acknowledging that it intentionally did not record the construction payments and that the director in charge had embezzled the funds for personal use. As a result, the Taxpayer reluctantly compiled and submitted a written statement reflecting its understanding of the situation.
- The issue at hand was whether the director in charge intended to hide the construction payments. If that was the case, the concealment of the construction payments would result in the imposition of a heavy penalty tax. In the written statement submitted by the Taxpayer, it was noted that the director in charge had forgotten to issue receipts when receiving the construction payments in cash, and therefore, the payments were not recorded in the books.
- Additionally, the statement mentioned that due to inadequate management of the cash received for the construction payments, it was unclear what happened to the money, but it could be perceived as if it was embezzled for personal use. The question was whether this situation implied that the director in charge intended to hide the payments.



2. Disposition issued by the Tax Authorities

- The Tax Authorities questioned whether it was possible that the director in charge created invoices for these construction payments, received the payments in cash from the clients, and yet failed to issue receipts. The director in charge was responsible for all cash management and accounting for the Taxpayer, so he should have been fully aware that the cash received for the construction payments belonged to the Taxpayer at the time of receipt. Despite this, the payments were not recorded in the books, which meant he must have embezzled them for personal use.
- Moreover, the Taxpayer acknowledged that the director in charge embezzled the construction payments by treating the off-the-books funds as executive bonuses paid to the director and submitted an amended corporation tax return based on this acknowledgment. The director in charge intended to hide the construction payments. Therefore, the Tax Authorities imposed heavy penalty tax.
- However, the director in charge received the construction payments in cash when visiting a client for another matter without bringing receipts. Since the amounts were small, he simply forgot to issue the receipts. Although the Taxpayer believed the cash received was likely used for some of its payments, it couldn't provide proof. Therefore, the Taxpayer wrote that it could be perceived as if the director embezzled the funds.
- The Taxpayer couldn't remember the exact details of how the construction payments were used, so it reluctantly decided to treat it as executive bonuses. However, this did not mean the Taxpayer admitted that there was an intention to hide the payments. The Taxpayer filed a tax appeal.



3. Decision made by the National Tax Tribunal

- First, the National Tax Tribunal thoroughly examined the facts related to the accounting treatment of the construction payments. The Taxpayer typically issued receipts to clients when receiving sales payments in cash and kept copies of those receipts. Additionally, for cash transactions, the copies of the receipts and other related documents were handed over to an acquaintance of the director in charge, who was asked to prepare the daily cash book. The daily cash book and copies of the receipts were then compiled for the year and handed over to a service provider to prepare the general ledger.
- On the other hand, there was no evidence suggesting that copies of receipts existed but were intentionally not recorded in the daily cash book or the general ledger. Therefore, the fact that these construction payments were not recorded in the books could be attributed to either the taxpayer intentionally or inadvertently not issuing receipts for the construction payments or intentionally or inadvertently discarding the copies of the receipts.
- The director in charge submitted a written statement indicating that he forgot to issue receipts for these construction payments. However, while this statement showed that the director inadvertently did not issue receipts for the construction payments, it did not indicate that he intentionally failed to issue them.
- At the time the director received the cash for these construction payments, he might have recognized that it belonged to the Taxpayer. However, it was possible that he later confused it with his own funds and lost the recognition that it belonged to the Taxpayer, leading him to spend the cash from the construction payments. Therefore, it could not be said that the Taxpayer intended to hide these construction payments. The National Tax Tribunal cancelled the entire imposition of the heavy penalty tax.

4. Tips for resolving differences of opinion

- When the tax authorities impose a heavy penalty tax, they almost always try to get the taxpayer to submit a written statement confessing, "I did it on purpose." If the taxpayer files a tax appeal against the imposition of the heavy penalty tax, the tax authorities will promptly present the taxpayer's confession as evidence. If the National Tax Tribunal does not find any other evidence contradicting the taxpayer's confession, it tends to support the imposition of the heavy penalty tax based on that written statement.
- In other words, the taxpayer's written confession can become decisive evidence. Therefore, taxpayers should never write anything that differs from their own understanding.

We provide a way to resolve differences in opinion with the tax authorities

Guide to tax controversy services

Deloitte Tohmatsu comprehensively provides tax controversy services.

We examine the causes of differences in opinion and consult with clients regarding the likelihood, procedures, and costs of having the taxpayer's view accepted. We provide comprehensive services, including the preparation of rebuttal letters and legal opinions, consultations with tax examiners, and representation in tax appeals and tax litigation.



Our strong credentials make us a top choice

Track record of tax controversy services

Deloitte Tohmatsu has a proven track record of resolving differences of opinion with the tax authorities.

In numerous cases that we have undertaken and been involved in, the taxpayers' views have been accepted. Some recent examples where the taxpayers' views were accepted are as follows.

2025	Rebuttal letter	Requirements for re-examination	Rebuttal letter	Taxable sales ratio
	Tax appeal	Entertainment expenses	Legal opinion	CFC regime
2024	Rebuttal letter	Donations	Legal opinion	Heavy penalty tax
	Tax litigation	Article 132-2 of Corporation Tax Act	Tax appeal	Revocation of blue form tax return approval
	Legal opinion	CFC regime	Tax appeal	Property tax
2023	Legal opinion	Bad debt losses and losses on sale of receivables	Legal opinion	Entertainment expenses
	Legal opinion	Article 132-2 of Corporation Tax Act	Legal opinion	Advantageous placement of shares
	Tax litigation	CFC regime		
2022	Legal opinion	Property tax	Tax appeal	Deemed capital gains
	Tax appeal	Corporate gains on donations	Legal opinion	Deemed capital gains
2021	Tax appeal	Reorganization tax regime		
2020	Legal opinion	Stamp tax		

Introduction to the tax controversy team

At Deloitte Tohmatsu, there is a team dedicated to resolving differences in opinion with the tax authorities.

This team is composed of lawyers, CPTA, CPA, ex-tribunal judges, and ex-tax officials. We work together as a unified group to address and resolve these differences in opinion with the tax authorities.

 Yutaka Kitamura Lawyer / CPTA Lawyer (NY)	 Tsutomu Yamatoya Lawyer Lawyer (NY)	 Ichiro Tsumimori Lawyer Lawyer (NY)	 Yoichi Noda Lawyer Ex-tribunal judge	 Masataka Miyaji Lawyer Ex-tribunal judge	 Yasuyuki Miyai Lawyer / CPA Ex-tribunal judge	 Takuma Sasaki Lawyer Ex-tax official
 Junko Takahashi Lawyer	 Yusuke Fukase Lawyer	 Takahiro Suwa Lawyer	 Yuta Shimada Lawyer	 Yuki Kotani Lawyer	 Ryo Hasegawa Lawyer	 Masaya Yamamura Lawyer

Introduction to YouTube lectures and publications

Deloitte Tohmatsu provides tips for resolving differences in opinion through various channels.

The YouTube lectures, "What to do if there's a dispute over tax," are released once a month, with each session lasting about 10 minutes. We also publish English newsletters, "What to do if there's a dispute over tax," once a month based on the YouTube lectures.



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