

INLAND REVENUE BOARD OF REVIEW DECISIONS

Case No. D25/86

Board of Review:

Charles A. Ching, *Chairman*, William L. Chan and John Lo Sien King, *Members*.

22 September 1986.

Salaries Tax—Section 9(2) of the Inland Revenue Ordinance—whether removal expenses paid to the Appellant by his employer, Hong Kong Government, be included in his assessable income and taken into account for the purpose of calculating rental value.

The Appellant, a government employee in the uniformed services, was required to occupy a call room at a designated place. His wife and family continued to live in a flat purchased under the Home Purchase Scheme. He was paid \$6,200 as removal expenses and this amount was included in his assessable income and also taken into account for calculating the rental value of the call room under Section 9(2) of the Inland Revenue Ordinance. The Appellant objected to the inclusion of removal expenses and lodged an appeal.

Held:

The amount was rightly included under Section 9(1) and the calculation of rental value was based on Sections 9(2) and 9(6).

Appeal dismissed.

Chan Wong Yee-hing for the Commissioner of Inland Revenue.
Appellant in person.

Reasons:

The taxpayer is an employee of Hong Kong Government in the uniformed services. He is purchasing a home under the Government's home purchase scheme. He lives there with his wife and family. In December of 1982 he was required to occupy a call room at a designated place. His wife and family continued to live at home. He claimed and was allowed \$6,200 as removal expenses. The Commissioner has included that sum in his assessable income. The consequences are (1) that he has been taxed on that amount and (2) that that amount has been taken into account in calculating the rental value of the call room on which he is also taxed. Hence this appeal.

We have no doubt that the \$6,200 was rightly included in his assessable income. Section 9(1) of the Inland Revenue Ordinance, Cap. 112, provides that income from any office or employment includes a perquisite or an allowance. This sum was either one or both.

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Section 9(1) also defines “income” as including the rental value of any place of residence provided rent free by an employer. Section 9(6) defines “place of residence” as including a residence provided by an employer notwithstanding that an employee is required to occupy it by or under the terms of his employment. Section 9(2) provides that the rental value of the place of residence is to be deemed to be 10 per cent of the income. Once given that the \$6,200 was part of the taxpayer’s income it follows that that amount should be included in the calculation under section 9(2).

This case is on all fours with the decision in BR90/84. For the reasons given we dismiss this appeal.