

**Case No. D31/06**

**Salaries tax** – extension of time for appeal – notice of appeal not filed within prescribed appeal period as provided under section 66(1A) of the Inland Revenue Ordinance ('the IRO') because appellant out of Hong Kong – appellant produced evidence in support of appeal – whether extension of time and appeal allowed

Panel: Colin Cohen (chairman), Peter R Griffiths and Kumar Ramanathan.

Date of hearing: 1 June 2006.

Date of decision: 29 June 2006.

By a determination dated 17 March 2006, the Inland Revenue Department ('the IRD') refused the appellant's claim for various charitable deductions for the year 2004/05.

The appellant was out of Hong Kong between 7 and 18 April 2006. On 20 April 2006, the appellant sent letter appealing the determination. The appellant further produced various receipts in respect of the relevant charitable donations which were in dispute.

The IRD indicated before the hearing that in the event of the Board being prepared to grant an extension of time to the appellant to give a notice of appeal as provided for under section 66(1A) of the IRO, the Commissioner was prepared to concede and allow the deductions in respect of the charitable donations.

**Held:**

1. Since the IRD has confirmed that they have no objection to an extension of time being granted and that they accepted that the appellant was outside Hong Kong and had been prevented from filing his appeal within the prescribed appeal period, the Board granted the appellant the necessary extension of time and allowed the appeal.

**Appeal allowed**

Taxpayer in person.

Lau Wai Sum and Lee Yun Hung for the Commissioner of Inland Revenue.

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**Decision:**

1. On 17 March 2006, a determination was made by the Inland Revenue Department ('IRD') whereby they refused the Appellant's claim for various charitable deductions as set out in his salaries tax assessment for the year 2004/05.
2. On 20 April 2006, the Appellant sent a letter appealing the determination but did not include the Commissioner's determination.
3. The Appellant was out of Hong Kong between 7 and 18 April 2006.
4. There had been correspondence between the Taxpayer and the IRD both preceding and subsequent to the determination. Eventually the Taxpayer did provide various receipts in respect of the relevant charitable donations which were in dispute. The IRD therefore indicated on the 9 May 2006 that in the event of the Board being prepared to grant an extension of time to the Taxpayer to give a notice of appeal as provided for under section 66(1A) of the Inland Revenue Ordinance ('IRO'), the Commissioner was prepared to concede and allow the deductions in respect of the charitable donations.
5. At the hearing, the representatives of the IRD quite reasonably and sensibly confirmed that they had no objection to an extension of time being granted. Further, that they accepted that having regard to the Taxpayer's traveling, he was outside Hong Kong and had been prevented from filing his appeal within the prescribed appeal period.
6. Hence, after considering the above matters and hearing the parties, we granted the Taxpayer the necessary extension of time and in turn, allowed the appeal in the light of the concessions made by the IRD.