

INLAND REVENUE BOARD OF REVIEW DECISIONS

Case No. D33/00

Penalty tax – incorrect return submitted – section 82A of the Inland Revenue Ordinance (‘IRO’), Chapter 112.

Panel: Ronny Wong Fook hum SC (chairman), Dennis Law Shiu Ming and Ronald Tong Wui Tung.

Date of hearing: 3 June 2000.

Date of decision: 7 July 2000.

The taxpayer failed to include in this return his earnings of \$417,198 acting as sales supervisor of Company B. The Commissioner imposed an additional tax of \$6,000 on the taxpayer. This amounts to 8.86% of the amount of tax which would have been undercharged had the Taxpayer’s return been accepted as true.

The taxpayer explained that he left Company B for Company A. Company B failed to finalise his entitlements when he submitted his return.

Held:

There is no doubt that the figure of \$417,198 in issue was finalised on 1 April 1998 when Company B submitted its return. He made no attempt to remedy the deficiency of his return prior to the Revenue’s assessment of 11 August 1998. \$417,198 amounts to 72.98% of his total income.

Appeal dismissed.

INLAND REVENUE BOARD OF REVIEW DECISIONS

Richard Lock for the Commissioner of Inland Revenue.
Taxpayer in person.

Decision:

1. By his return dated 8 May 1998, the Taxpayer reported to the Revenue income for the year of assessment 1997/98 in the sum of \$154,428 being his earnings as sales manager of Company A. The Taxpayer failed to include in this return his earnings of \$417,198 acting as sales supervisor of Company B during the period between 1 April 1997 to 19 May 1997.
2. Relying on the return from Company B dated 1 April 1998, the Taxpayer was assessed by the Revenue on 11 August 1998 on the basis of \$571,625. The Taxpayer duly paid the salaries tax so assessed.
3. On 21 January 1999, the Commissioner of Inland Revenue gave notice to the Taxpayer of her intention to impose additional tax under section 82A of the the IRO consequential upon the incorrect return submitted by the Taxpayer. After considering representations from the Taxpayer, the Commissioner by notice dated 5 July 1999 imposed additional tax of \$6,000 on the Taxpayer. This amounts to 8.86% of the amount of tax which would have been undercharged had the Taxpayer's return been accepted as true.
4. The Taxpayer appealed against the additional tax so imposed.
5. At the hearing before us, the Taxpayer explained that he left Company B for Company A. Company B failed to finalise his entitlements when he submitted his return. He paid salaries tax as assessed. He urged us to be sympathetic bearing in mind the current property slump.
6. There is no doubt that the figure of \$417,198 in issue was finalised on 1 April 1998 when Company B submitted its return. The Taxpayer made no reference to Company B as a separate source of income in his return. He made no attempt to remedy the deficiency of his return prior to the Revenue's assessment of 11 August 1998. \$417,198 amounts to 72.98% of his total income. In these circumstances, we are of the view that the Taxpayer has no ground in challenging the assessment of additional tax in the sum of \$6,000.
7. We dismiss the Taxpayer's appeal.