

**Case No. D64/06**

**Salaries tax** – practice and procedure – appeal – absence – section 68 of Inland Revenue Ordinance (‘IRO’).

Panel: Colin Cohen (chairman), James Mailer and James Wardell.

Date of hearing: 30 November 2006.

Date of decision: 5 December 2006.

The taxpayer’s appeal had been fixed on 30 November 2006 and set down for one day from 9:30 am to 5:00 pm. On 14 November 2006, the taxpayer wrote the Clerk to the Board of Review (‘the Board’) requesting an adjournment. The Board having considered matters felt that there was no good reason for this matter to be adjourned but advised the taxpayer if he wished he could make an application for an adjournment at the hearing on 30 November 2006.

On 30 November 2006, the hearing commenced at 9:34 am, the Board was advised that the taxpayer had been present but at 9:30 am he left indicating that he was a busy man and he was not prepared to remain. The Board was also informed by the Clerk that he had asked the taxpayer to remain, and in turn, the hearing would commence. However, the taxpayer left.

**Held:**

1. The taxpayer was fully aware as to the fact that the hearing was set down for the whole day. It was clear that he took a deliberate decision to leave the hearing and not to attend.
2. The Board had no alternative but to dismiss the appeal.

**Appeal dismissed.**

Taxpayer in absentia.

Chan Wai Yee and Lai Wing Man for the Commissioner of Inland Revenue.

(2006-07) VOLUME 21 INLAND REVENUE BOARD OF REVIEW DECISIONS

**Decision:**

1. Mr A ('the Taxpayer') has objected to salaries tax assessments for the years of assessment 1998/99 and 1999/2000 in respect of the determination made by the Deputy Commissioner of the Inland Revenue dated 24 August 2006.

2. On 14 November 2006, the Taxpayer wrote to the Clerk to the Board of Review requesting an adjournment. The Board having considered matters felt there was no good reason for this matter to be adjourned but advised the Taxpayer if he wishes he can make an application for an adjournment at the hearing on 30 November 2006.

3. We would mention that this hearing has been fixed and set down for one day from 9:30 am to 5:00 pm.

4. When the hearing commenced at 9:34 am, we were advised that the Taxpayer had been present but at 9:30 am he left indicating that he was a busy man and he was not prepared to remain.

5. Our Clerk informed us that he had asked the Taxpayer to remain and in turn, the hearing would commence.

6. However, the Taxpayer left.

7. Ms Chan Wai-yee acting on behalf of the Inland Revenue Department drew our attention to section 68(2B). This states as follows:

*'(2B) If, on the date fixed for the hearing of an appeal, the appellant fails to attend at the meeting of the Board either in person or by his authorized representative the Board may –*

*(a) if satisfied that the appellant's failure to attend was due to sickness or other reasonable cause, postpone or adjourn the hearing for such period as it thinks fit;*

*(b) proceed to hear the appeal under subsection (2D); or*

*(c) dismiss the appeal. (Added 40 of 1972 s.8)'*

8. In our view that the Taxpayer was fully aware as to the fact that the hearing was set down for the whole day. It is clear that he took a deliberate decision to leave the hearing and not to

(2006-07) VOLUME 21 INLAND REVENUE BOARD OF REVIEW DECISIONS

attend.

9. That being the case, we have no alternative but to dismiss the appeal which we now do so.