

INLAND REVENUE BOARD OF REVIEW DECISIONS

Case No. D66/99

Penalty Tax – incorrect salaries tax return – failure to disclose certain sums chargeable to tax – 10.6% penalty – whether a reasonable excuse existed.

Panel: Ronny Wong Fook Hum SC (chairman), William Cheng Chuk Man and James Kwan Yuk Choi.

Date of hearing: 27 May 1999.

Date of decision: 15 September 1999.

In the year of assessment 1996/97 the taxpayer was separately employed by three different companies. Hence, she had three separate sources of income. By her return dated 1 May 1997, the taxpayer reported earnings in the sum of \$118,693. She failed to return her earnings from the three companies amounting to \$322,998. Her failure represented a shortfall of 63% of her actual income. After representation, the Commissioner imposed an additional tax in the sum of \$4,000 which was 10.6% of the amount of tax which would have been undercharged had her return been accepted as correct.

The taxpayer appealed to the Board stating that, inter alia, she had not erred in the past and that she did not check the relevant return carefully before submission.

Held by the Board:

There was no merit to the appeal. The taxpayer had inserted an arbitrary amount in her return, having made no effort to report her true earnings from her three employers. The penalty imposed was reasonable. There was no justification to disturb the Commissioner's assessment.

Appeal dismissed.

Yip Sham Yin Har for the Commissioner of Inland Revenue.
Taxpayer in person.

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Decision:

1. For the period between 1 April 1996 to 31 May 1996, the Taxpayer was employed as purchasing manager of Company A. Her total earnings for this period were \$205,728.
2. The Taxpayer worked as the interior design co-ordinator of Company B for the period between 9 December 1996 to 6 January 1997. She earned a total of \$26,193 during this period.
3. The Taxpayer began work as the purchasing manager of Company C on 7 January 1997. She earned a total of \$91,077 up to 31 March 1997.
4. By her return dated 1 May 1997, the Taxpayer reported to the Revenue earnings in the sum of \$118,693. She failed to return her earnings from Company A, Company B and Company C amounting to \$322,998. The shortfall was \$204,305 amounting to 63% of the total income. She was however assessed on 17 November 1997 on the basis of her full earnings of \$322,998.
5. After considering representations from the Taxpayer dated 22 October 1998, the Commissioner by notice dated 27 January 1999 imposed additional tax in the sum of \$4,000. This is about 10.6% of \$37,617 which is the amount of tax which would have been undercharged had her return been accepted as correct.
6. The Taxpayer appealed against this assessment of additional tax. She made the following submissions before us:
 - a. She had been paying tax of over 10 years. She did not err in the submission of her previous returns.
 - b. She did not check the relevant return carefully before submission.
 - c. She urged us to consider reducing the amount of additional tax.
7. We are of the view that there is no merit in this appeal. As pointed above, the Taxpayer had three separate sources of income. She made no effort at all to report her earnings from her three employers. She simply inserted a wholly arbitrary amount in her return. She understated 63% of her total income. In these circumstances, the amount of additional tax in the sum of \$4,000 is reasonable. We see no justification to disturb this assessment.
8. For these reasons, we dismiss the Taxpayer's appeal.