

Jail and suspended sentence for couple convicted of falsely claiming deductions for expenses of self-education and approved charitable donations

A couple were convicted on November 22 at the Tuen Mun Magistrates' Courts of wilfully with intent to evade salaries tax and were sentenced today (December 13). The first defendant was sentenced to two months' imprisonment. The second defendant was sentenced to two months' imprisonment, suspended for three years.

The first defendant and the second defendant, aged 60 and 58 respectively, are husband and wife. The first defendant pleaded guilty to seven counts of evading tax, wilfully with intent, by signing the tax returns for the years of assessment 2011-12 to 2016-17 and a duplicate tax return for the year of assessment 2013-14, without reasonable grounds for believing the information on the claims of deductions for expenses of self-education and approved charitable donations in the tax returns was true, contrary to section 82(1)(d) of the Inland Revenue Ordinance (Cap. 112) (IRO). The second defendant pleaded guilty to six counts of evading tax, wilfully with intent, by signing the tax returns for the years of assessment 2012-13 to 2016-17 and a duplicate tax return for the year of assessment 2013-14, without reasonable grounds for believing the information on the claims of deductions for expenses of self-education and approved charitable donations in the tax returns was true, contrary to section 82(1)(d) of the IRO.

The court heard that the first defendant claimed in his tax returns deductions for expenses of self-education in amounts ranging from \$10,000 to \$71,000 each year and approved charitable donations in amounts ranging from \$15,000 to \$131,000 each year for the years of assessment 2011-12 to 2016-17. The first defendant failed to produce any details or evidence in support of his deduction claims and alleged that the relevant receipts were lost. An investigation by the Inland Revenue Department (IRD) revealed that he had paid an overseas university a sum of \$23,249, other self-education expenses of \$1,253 and charitable donations of \$6,060 in the relevant years of assessment. The first defendant's total false deduction claims for expenses of self-education and approved charitable donations for the six years of assessment amounted to \$746,538 and the total salaries tax evaded was \$126,911.

The second defendant claimed in her tax returns deductions for expenses of self-education in amounts ranging from \$30,000 to \$58,500 each year for the years of assessment 2012-13 to 2015-16 and approved charitable donations in amounts ranging from \$10,000 to \$27,500 each year for the years of assessment 2012-13 to 2016-17. The second defendant also failed to produce

any details or evidence in support of her deduction claims and also alleged that the relevant receipts were lost. An investigation by the IRD revealed that the second defendant did not pay any expenses of self-education or approved charitable donations in the relevant years of assessment. The second defendant's total false deduction claims for expenses of self-education and approved charitable donations for the five years of assessment amounted to \$280,800 and the total salaries tax evaded was \$8,582.

The IRO provides that expenses of self-education paid for prescribed courses or examination fees paid to specified education providers or associations, and a donation of money to any charitable institution or trust of a public character which is exempt from tax under section 88 of the IRO or to the Government for charitable purposes, are tax deductible. Documentary evidence in support of deduction claims should be retained for seven years (i.e. six years after the expiration of the relevant year of assessment). The IRD will conduct random checks on deduction claims. Taxpayers will be asked to produce supporting documents when their cases are selected for audit.

A spokesman for the IRD reminded taxpayers that tax evasion is a criminal offence under the IRO. Upon conviction, the maximum penalty for each charge is three years' imprisonment and a fine of \$50,000 plus a further fine of three times the amount of tax evaded.