

Two company directors convicted of tax evasion after retrial

The Secretary for Justice lodged an appeal against the acquittal of two company directors who were charged of assisting a company to evade profits tax. The Court of Appeal allowed the appeal on June 27, 2019, and remitted the case to the District Court for retrial. The retrial hearing was held in the District Court on November 26, 2019, and both directors were convicted of two charges of tax evasion today (April 7). Sentencing was adjourned to April 28 pending community service reports.

The two directors, now aged 53 and 59 respectively, were previously acquitted of five charges of offences, being wilfully with intent to assist a company to evade profits tax. The Secretary for Justice appealed to the Court of Appeal against the Judge's verdict on two of the five charges. The two relevant charges were wilfully with intent assisting a company to evade tax by making use of a fraud, art or contrivance or authorising the use of such fraud, art or contrivance, for the years of assessment 2005-06 and 2006-07, contrary to section 82(1)(g) of the Inland Revenue Ordinance (Cap. 112) (IRO).

The court heard that the two directors were the shareholders and directors of a property agency company. The total assessable profits reported by the said company for the two years 2005-06 and 2006-07 amounted to \$253,425. An investigation by the Inland Revenue Department (IRD) revealed that the two directors included two bogus payments in the total sum of \$199,000 as expenses of the said company, namely "computer and internet expenses" of \$99,700 and "salaries and commission expenses" of \$99,300, thereby reducing the company's assessable profits for the two years by a total amount of \$199,000. The total tax evaded was \$34,826.

A spokesman of the IRD reminds 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.