

The Honourable TAM Yiu-chung, GBS, JP
Chairman,
Legislative Council Panel on Public Service
8 Jackson Road, Central
Hong Kong

18 December 2000

Dear Mr TAM,

**Deductions from Contract Gratuities
for MPF Contributions**

On behalf of the gratuity-earning staff employed by the HKSAR Government and as the highly representative Staff Side of the Senior Civil Service Council with a multi-rank and inter-departmental membership of over 100,000 staff serving in the Civil Service, we are obliged to draw your attention to a serious matter. I refer to the Administration's possibly unlawful and certainly mean-spirited intention of recouping its share of the MPF contributions required under Section 7A of the MPF Schemes Ordinance by means of deductions from the end-of-contract gratuities due to the several thousand gratuity earning staff. From the beginning of this year, the Staff Side has, at a series of meetings with the Secretary for the Civil Service, clearly and forcefully adduced its position for protesting this malpractice. On 20 October 2000, we issued a formal letter of protest (as attached) to the Secretary for the Civil Service reiterating our very strong objection to these disgraceful financial shenanigans which, as revealed by the mass media, is becoming a common practice engaged in by some unscrupulous employers in the private sector and which may snowball into virtually all employers following the Administration's lead.

So far, there has not been the slightest indication that the Administration intends to reconsider its position and get back on the right track as stipulated under the MPF Schemes Ordinance. It is a highly anomalous situation that on the one hand the Commissioner for Labour has been earnestly exhorting employers not to fund their MPF contributions by curtailing their employees' remuneration and fringe benefits package while on the other the Government itself, being the largest employer, has resorted to this malpractice. In our view, the Government in so doing has contravened Section 43B(1) of the MPF Schemes Ordinance.

It was reported in several newspapers on 16 December 2000 that the Chief Justice has exercised his authority to exempt judicial staff on contract-terms from the intended deduction out of gratuities. This practice clearly implies that the Administration has applied unfair treatment and a double standard on all civil service contract staff. Such being the case, we insist this treatment be withdrawn forthwith. Instead, the Administration should genuinely make its share of MPF contributions out of its own monies, as intended by the MPF Ordinance.

We hereby request your Panel's serious assessment of the impact of the present anomalous situation under which the gratuity-earning staff employed by the Government are being treated unfairly, discriminately and possibly unlawfully. As Section 7A of the MPF Schemes Ordinance is already in effect, it is imperative that the situation be resolved as soon as possible. It is a matter of public interest that should the Administration succeed in this policy the whole of the private sector will follow suit and the MPF Ordinance will become a mockery of justice.

Yours faithfully,

(Ms Cecilia SO Chui-kuen)
Staff Side Chairman
Senior Civil Service Council

c.c. Mr Joseph W P WONG, GBS, JP
Secretary for the Civil Service

Senior Civil Service Council (Staff Side)

ASSOCIATION OF EXPATRIATE
CIVIL SERVANTS
OF HONG KONG

HONG KONG
CHINESE CIVIL SERVANTS'
ASSOCIATION

SENIOR NON-EXPATRIATE
OFFICERS'
ASSOCIATION

RM. 138
CENTRAL GOVERNMENT
OFFICES
EAST WING,
LOWER ALBERT ROAD,
HONG KONG

Mr Joseph W P WONG, GBS, JP
Secretary for the Civil Service

Room 1024B, 10/F, West Wing
Central Government Offices, HK

Dear Mr WONG,

20 October 2000

Deductions from Contract Gratuities for MPF Contribution

Despite the imminence of the target date on which Section 7A of the MPF Schemes Ordinance will come into effect, the Staff Side is obligated to reiterate its strong objection to the Administration's decision regarding contract staff. We consider it fundamentally wrong to make reductions in gratuities equal to the Government's share of the total MPF contribution which, as specified in the MPF Ordinance, should be defrayed from the employers' own funds. This should be observed in the spirit of the legislation and not avoided by shameful financial shenanigans. At successive SCSC meetings held in February, April, June and September this year, we have clearly and forcefully put forward our position of not accepting this disgraceful method of funding the Government's MPF contribution by stealth, that is, recouping it out of an officer's gratuity.

Notwithstanding the very strong objections raised by many contract officers and their staff associations, there has been no indication that the Administration has reconsidered its position. It is utterly ironic that while the Commissioner for Labour has been exhorting employers not to fund their MPF contributions by curtailing their employees'

remuneration packages and fringe benefits, the Administration provides the example for improper MPF practice to be adopted by unscrupulous employers. In fact, honest employers must now be reconsidering their position given the Government's own example.

We are strongly of the view that the Government should reverse its intention of recouping its MPF contributions for its gratuity-earning staff from their gratuities.

Please let us have your reply as soon as possible.

Yours sincerely,

(Ms Cecilia SO Chui-kuen)
Staff Side Chairman
Senior Civil Service Council