

<i>Year</i>	<i>Number of complaints received</i>	<i>Number of cases referred by the PIC to the MCHK for disciplinary inquiries</i>	<i>Number of cases found to be substantiated after disciplinary inquiries[#]</i>
2011	461	33	19
2012	480	21	12
2013	452	32	26

Note:

Including cases referred by the PIC to the MCHK for disciplinary inquiries before the respective years.

In considering a disciplinary case, the MCHK often requires the complainant to provide various kinds of information, such as affidavit and medical reports. Where necessary, the MCHK will also seek views of different independent experts or even legal advice to ensure that the case is determined in an objective, fair and just manner. Subject to the submission of all necessary information by the complainant, and depending on the nature, type and complexity of a complaint case, the processing time varies from case to case.

In a bid to expedite the complaint-handling process, the MCHK suggested in June this year to increase the number of lay assessors and allow them to substitute lay members of the MCHK in forming the quorum for preliminary investigations and disciplinary inquiries. The proposal involves amendments to the Medical Registration Ordinance. The Administration is actively discussing with the MCHK and will proceed with the drafting of legislation.

Taxation Issues Related to Remunerations Received Under Business Agreements with Overseas Companies

9. **MR SIN CHUNG-KAI** (in Chinese): *President, the incumbent Chief Executive announced his resignation from DTZ in November 2011. It has recently been reported by some Australian media that in December of the same year, Chief Executive signed an agreement with UGL Limited (UGL), which was then planning to acquire DTZ, undertaking not to poach employees from or compete with DTZ as well as to act as a referee and adviser to UGL, within two years after the acquisition was completed. Under the aforesaid agreement, Chief Executive received a remuneration of £4 million in total in 2012 and 2013.*

In addition, according to that agreement, Chief Executive may sell at any time his shares in DTZ Japan (the Japanese branch of DTZ) to UGL fetching at least £200,000. At the meeting of this Council held on the 6th of this month, the Acting Chief Secretary for Administration cited the professional advice of a certified public accountant (practising) that according to relevant requirements under the Inland Revenue Ordinance (Cap. 112) (IRO), salaries tax was applicable to income arising in or derived from Hong Kong from an office, employment and any pension only, and Chief Executive was therefore not required to pay salaries tax for the payments he received from UGL. Nevertheless, some members of the public have pointed out that the aforesaid agreement involves the provision of services and has to be carried out in Hong Kong. As such, they have queried why Chief Executive was not required to pay tax for the payments concerned. In this connection, will the Government inform this Council if it has assessed:

- (1) whether the remunerations receivable by a Hong Kong resident under an agreement entered with an overseas company, under which he undertakes to act as a referee and adviser to that company, shall be deemed "income arising in or derived from Hong Kong" from an "employment of profit", and hence shall be subject to salaries tax assessment; if the assessment outcome is in the negative, of the justifications for that; if the assessment outcome is in the affirmative, whether the full amount or just part of the remunerations concerned shall be deemed assessable income; and*
- (2) whether, in accordance with Cap. 112, a Hong Kong resident is required to pay tax for the profits earned from the sale of the shares of an overseas company; if the assessment outcome is in the negative, of the reasons for that?*

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Chinese): President, my consolidated reply to Mr SIN Chung-kai's question is as follows:

In accordance with the requirements under section 8 of the IRO, salaries tax is chargeable on every person in respect of his income from any office or employment or any pension arising in or derived from Hong Kong. In assessing whether an income is chargeable to tax, the assessor has to consider all details of

each individual case including the territorial source of the employment and the nature of the income concerned. Generally speaking, salaries, wages and director's fees, commissions, bonuses and leave pay are chargeable income. As regards other types of income, their chargeability to tax can only be assessed on the basis of the facts involved. The assessor has to examine all details of the case before making the assessment.

As to whether profits earned from the sale of the shares of an overseas company are chargeable to tax, all relevant facts of each individual case, including the locality and nature of the profits concerned, have to be examined before an assessment can be made. Since Hong Kong adopts a territorial source principle of taxation and does not charge capital gains tax, generally speaking, if the profits concerned are sourced from Hong Kong and are of revenue nature, such profits are chargeable to tax. However, if the profits concerned are not sourced from Hong Kong or if the profits are of capital nature, they are not subject to tax. The assessor has to ascertain the locality and nature of the profits on the basis of relevant facts in deciding whether tax should be charged on the individuals concerned.

Given the official secrecy provision under section 4 of the IRO, the Inland Revenue Department will not comment or disclose any further information on individual cases.

~~Public Works Proposals Pending Funding Approval~~

10. **MR WONG KWOK-HING** (in Chinese): *President, in recent months, some members of this Council's Finance Committee and the Public Works Subcommittee (PWSC) under it have filibustered some controversial funding proposals, resulting in a huge backlog of agenda items awaiting vetting and approval. It is learnt that the commencement of quite a number of public works projects has been deferred because funding approvals have not yet been obtained. In this connection, will the Government inform this Council:*

- (1) *in each of the past two legislative sessions, of the number of public works projects for which (i) commencement was delayed, (ii) tender exercises were not conducted as scheduled and (iii) re-tendering was required due to the expiry of the tender validity periods, as a result*