

Amendment Relating to Removing the Special Treatment on Excluding Housing Allowance and Other Housing Benefit from Relevant Income

To prevent employers from evading their responsibilities to pay MPF contributions or reducing the amount of MPF contributions payable by deliberately labelling a portion of the salary of their employees as housing allowance, the Legislative Council at its third reading on 9 January 2008 passed the legislative amendment to remove the special treatment on excluding housing allowance and other housing benefit from the definition of “relevant income”. Following the passage of the amendment, housing allowance and other housing benefit will be treated on the same basis as other remuneration items and any such item will be included in calculating MPF contributions if it satisfies the criteria for “relevant income”.

Notes to Employers

The Mandatory Provident Fund Schemes Authority (MPFA) reminds all employers that, in the light of the legislative amendment regarding housing allowance, you should:

- consider making necessary amendments to your payroll system and other remuneration systems, and review the arrangements on granting housing allowance and housing benefit to your employees, so as to avoid breaching the legislation;
- explain to your employees that the amount of employee MPF contributions to be deducted from their monthly salary may change following the legislative amendment to include housing allowance as part of their relevant income;
- notify the trustees of the amount of relevant income of your employees and pay the correct amount of monthly MPF contributions to the trustees on time;

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- discuss and agree with your employees on any necessary amendment of terms and conditions of employment contracts and retirement benefit arrangements; and
- record the amount of employees' relevant income and the amount of contributions accurately.

Employers must calculate the total monthly mandatory contributions accurately for all employees and pay the contributions to the trustees on time. Should employers attempt to evade their responsibilities to make MPF contributions, the MPFA can institute civil proceedings against the defaulting employers to recover the outstanding contributions and impose surcharge on them. The MPFA can also impose a fine of HK\$5,000 or 10% of the amount of default contributions (whichever is greater) on the defaulting employers. Defaulting on MPF contributions is an offence and employers concerned are liable to prosecution. An offender is liable to a maximum penalty of imprisonment for 6 months and a fine of HK\$100,000 on first conviction.

Other Amendments

The MPFA has produced another flyer, which sets out the major amendments to the MPF legislation that have more direct impact on employers and MPF scheme members, and it is available to the public free of charge. For details, please visit the MPFA's website at <http://www.mpfa.org.hk>. You may also refer to the documents pertinent to the amendments to the Mandatory Provident Fund Schemes Ordinance posted on the Legislative Council's website at <http://www.legco.gov.hk> and to the Government Gazette posted on the Government Logistics Department's website at <http://www.gld.gov.hk>.



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