

INCOME FROM EMPLOYMENT

1.0 TAX LAW.

This Practice Note applies in respect of the taxation of income from employment.

2.0 INTERPRETATION.

In this Practice Note, unless the context requires otherwise –
“Act” means the Income Tax Act, 2004.

Definitions and expressions used in this Practice Note that are used in the Act have, unless the context requires otherwise, the same meaning in this Practice Note as they have in the Act.

3.0 THE APPLICATION OF THIS PRACTICE NOTE.

This Practice Note considers:-

- 3.1 What constitutes employment.
- 3.2 General rule for taxation of income from employment.
- 3.3 Taxable employment income payment.
- 3.4 Excluded payments.
- 3.5 Taxation of allowances.
- 3.6 Taxation of benefits in kind.
- 3.7 Quantification of taxable benefits in kind.
- 3.8 Provision of employer’s motor vehicle for personal use of the employee.
- 3.9 Loans provided in return for services.
- 3.10 Provision of residential housing.

3 HOW THE LAW APPLIES.

4.1 What constitutes employment

The Act defines "employment" as –

- (a) a position of an individual in the employment of another person;
- (b) a position of an individual as manager of an entity other than as partner of a partnership;
- (c) a position of an individual entitling the individual to a periodic remuneration in respect of services performed; or
- (d) a public office held by an individual, and
- (e) includes a past, present and prospective employment.

4.2 General rule for taxation of income from employment

The general rule is that income from employment is "the individual's gains or profits from any employment for a year of income".

4.3 Taxable employment income payments

In calculating gains or profits from the employment of the employee for the year of income the following payments shall be included:-

- Payments of wages, salary, payment in lieu of leave, fees, commissions, bonuses, gratuity or any subsistence, travelling, entertainment or other allowance received in respect of the employment or services rendered.
- Payments being reimbursement by an employer of personal expenditure by the employee or an associate of an employee. (Personal expenditure includes any expenditure incurred by the employee in the maintenance of himself, his family or establishment or for any other personal or domestic purpose).
- Payments for the employee's agreement to any conditions of the employment, (includes such payments made before the commencement of the employment).
- Retirement contributions and retirement payments paid by an employer.
- Payment for redundancy or loss or termination of employment relating to the year of payment (current year of income)
- Other payments made in respect of the employment including benefits in kind.

4.4 Excluded payments, i.e. non-taxable payments

The following payments are excluded in calculating the employee's income from an employment:

- Any allowance that represents solely reimbursement to the employee of expenditure spent wholly and exclusively in the production of the income of the employer is excluded from employment income.
- Reimbursement to the employee of an amount expended by him wholly and exclusively in the production of the employee's income from employment.
- Medical services, payment for medical services and payment for insurance for medical services provided to the employee, the employee's spouse and up to four of the employee's children and is available on a non-discriminatory basis to all employees of the employer.
- Benefits derived from the use of employer's motor vehicle by the employee for the employee's personal use is generally taxed as a benefit in kind provided the employer claims relief or deduction in relation to ownership, maintenance or operation of the vehicle. However, if the employer does not claim the deduction or relief the benefit is excluded from the income of the employee. Since the Government does not pay income tax from business activities that are the functions of government and therefore does not claim deductions. Government employees do not pay tax on this benefit.
- Benefit derived from the use of residential premises by an employee of the Government or any institution whose budget is fully or substantially out of Government budget subvention.
- Where an employer makes payment for providing travelling for the employee, the employee's spouse and up to four children between the place of work and the place of domicile which is more than 20 miles away, the payment is not included in calculating the income from employment provided that the employee is recruited or engaged for employment solely in the service of the employer at the place of employment. For example an employer-provides passage costs for the employee to take up employment or to go on annual leave for the employee and the employee's family the payment for the passages is not taxed subject to meeting those requirements.
- On premises cafeteria services available on a non-discriminatory basis to all employees of an employer are not taxable as a benefit in kind.
- Small benefits or payments that are unreasonable or administratively impracticable for the employer to account or allocate to their recipients are also not taxable.

- Retirement contributions paid by an employer on behalf of the employees towards approved retirement funds, subject to the limit of the actual contribution or the statutory amount, are not taxable.

4.5 Taxation of allowances

Any allowance payable by a employer to the employees is taxable. However an allowance that is payable solely as reimbursement to the employee of the expenditure spent wholly and exclusively in the production of the income of the employer is excluded from the employees' employment income [See Practice Note 11/2004 on Taxation of Allowances, Gifts Tips etc].

If an employee receives a travelling and accommodation allowance and that allowance is spent entirely on travelling and accommodation for the employee while the employee is away solely for the employer's business purposes, then the payment is not taxable.

4.6 Taxation of benefits in kind

Where an employer makes payment for the personal needs of an employee through providing the employee with goods or services (as opposed to money) these are called benefits in kind. Taxable benefits in kind typically include those benefits which are for the personal use or consumption needs of the employee (e.g. employer providing housing for employee, employer providing for education of the employee's children, employer giving goods or services free or at a cost lower than the market value to the employees).

4.7 Quantification of taxable benefits in kind

In general, the value of benefit in kind is quantified by the market value of the benefit, that means, the money that another person would have to pay on the market to receive the same good or service.

However, special quantification rules apply to provision of motor vehicle, subsidised loans and provision of housing.

Where an employer provides a benefit in kind which is chargeable on the employee which is not easily attributed to a particular month, then for the purposes of the tax withholding, the amount of the benefit shall be treated as paid to the employee proportionately over each month during which the payment or benefit is provided.

4.8 Provision of an employer's motor vehicle for personal use of the employee

Where an employer provides a motor vehicle for the private use of the employee, this is a taxable benefit to the employee. However, where the employer does not

claim a deduction in relation to ownership, maintenance or operation of the vehicle the benefit is not taxable on the employee.

Where the benefit is taxable, it is quantified using the following table:

Engine Size of Vehicle	Quantity of payment	
	Vehicle less than 5 years old	Vehicle more than 5 years old
Not exceeding 1000cc	Shs. 250,000	Shs. 125,000
Above 1000cc but not exceeding 2000cc	Shs. 500,000	Shs. 250,000
Above 2000cc but not exceeding 3000cc	Shs. 1,000,000	Shs. 500,000
Above 3000cc	Shs. 1,500,000	Shs. 750,000

The age of the motor vehicle is calculated from the date of the first registration of the vehicle in Tanzania.

4.9 Loans provided in return for services

Where an employer provides a loan to the employee and where the term of the loan is twelve months or more and the aggregate amount of the loan and any other similar loans outstanding at any time during the previous twelve months exceeds three months basic pay, with no interest or interest rate below the statutory rate; the foregone interest amount on the loan is a taxable benefit. The benefit for the year of income is quantified as the difference between the interest the employee pays (if any) and the interest that would have been paid using the statutory interest rate applicable during the year of income. Statutory rate in relation to a calendar year means the Bank of Tanzania discount rate at the start of the year.

4.10 Provision of residential housing

The value of housing, including any furniture or other contents, is calculated as the lesser of -

- i) the annual market value of the rental of the house; or
- ii) the greater of 15% of the employee's total income for the year excluding the housing benefit component and the expenditure claimed as a deduction by the employer in respect of the premises during the year of income.

Example 1

Where an employer provides residential housing to the employee whose salary is shs. 12,000,000/= for year, for which market rental value is shs. 960,000/= per year and the employer claims a deduction of shs. 1,080,000/= per year the housing benefit is calculated as follows:

- i) Market rental value: shs. 960,000/=
- ii) (a) 15% of the salary: shs. 1,800,000/=

(b) Deduction claimed: shs. 1,080,000/=

The value of the benefit is the lesser of shs. 960,000/= and greater of 1,800,000/= and shs. 1,080,000/=, i.e. the lesser of shs. 960,000/= and shs. 1,800,000/=. Hence the value of housing benefit is shs. 960,000/= for the year of income, which is shs. 80,000/= per month.

Example 2

A company had one employee during the year of income and the following were the employee's monthly emoluments.

Basic salary	-	Shs.400,000/=
Transport allowance	-	Shs.250,000/=
Lunch allowance	-	Shs.150,000/=
Medical allowance	-	Shs. 50,000/=
Total taxable pay	=	<u>Shs.850,000/=</u>

6.2. Example 3

Referring to remuneration details in example 2

(a) Assuming that an employee was housed by his employer freely. Suppose the market value of rental at that area was shs.200,000/= per month and the expenditure claimed by the company for that premises was 150,000/=

Solution:

- Compare 15% of Total emoluments (excluding housing benefit) with expenditure claimed is 150,000/= you take 150,000/=.
- Compare the market value which is 200,000/= and 150,000/= take the lesser which is 150,000/=.

Tax Computation:

Refer example 2 Total emoluments	850,000/=
Add Housing benefit	<u>150,000/=</u>
Total	<u>1,000,000/=</u>

(b) Refer (a) above.

Assume that the employee contributes Shs.50,000 as rent, the housing benefit will be:-

Solution:

Housing benefit computed in (a) above	150,000/=
Less amount paid by employee	<u>50,000/=</u>
Total	<u>100,000/=</u>

6.3. **Example 4**

Refer to remuneration details in Example 2

Beside the emoluments stated in Example 2, the employee received the following benefits:

- (i) A new self drive car for private use, which is 3000 cc.
The company claims expenditure on the car maintenance and ownership against their taxable income.
- (ii) Loan advance of Shs.3,000,000 payable in 24 monthly instalments and free of interest.
(Assuming the statutory rate in relation to the calendar year was 12% p.a. charged on Total loan).
- (iii) Other benefit – electricity 50,000/= pm
- Water 20,000/= pm

Solution

Total emoluments per Example 2	850,000/=pm
Add – Car benefit	
Annual (cc 3000) = 1,000,000/=	
Per month = divide by 12	83,333/= pm

- Loan interest
Interest per statutory rate
 $12\% \times \frac{3,000,000}{12} = 30,000/=$
Less interest paid NIL

Loan Interest benefit =Shs. 30,000/=pm
- Other benefits
Electricity 50,000/=

Water 20,000/=
Total taxable income = Shs.1,033,333/=