



INLAND REVENUE BOARD OF MALAYSIA

PERQUISITES FROM EMPLOYMENT

PUBLIC RULING NO. 2/2013

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(This Ruling replaces the Public Ruling No. 1/2006 dated 17 January 2006, Addendum to Public Ruling No.1/2006 dated 30 August 2007, Second Addendum to Public Ruling No. 1/2006 dated 25 February 2009 and Third Addendum to Public Ruling No.1/2006 dated 30 July 2009 issued by Inland Revenue Board Of Malaysia.)

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DIRECTOR GENERAL'S PUBLIC RULING

A Public Ruling as provided for under section 138A of the Income Tax Act 1967 is issued for the purpose of providing guidance for the public and officers of the Inland Revenue Board Of Malaysia. It sets out the interpretation of the Director General of Inland Revenue in respect of the particular tax law, and the policy and procedure that are to be applied.

A Public Ruling may be withdrawn, either wholly or in part, by notice of withdrawal or by publication of a new ruling.

**Director General Of Inland Revenue,
Inland Revenue Board Of Malaysia.**

1. Objective

The objective of this Ruling is to explain –

- 1.1. The distinction between perquisites and benefits in kind (BIK)
- 1.2. The meaning of perquisites in relation to an employment
- 1.3. Types of perquisites and the tax treatment
- 1.4. The employer's responsibilities upon the granting of perquisites to the employee, and
- 1.5. The employee's responsibilities on receiving such perquisites.

2. Summary Of Changes

This Ruling is published to merge Public Ruling No.1/2006 issued on 17 January 2006 with –

- (a) Addendum to Public Ruling No.1/2006 dated 30 August 2007
- (b) Second Addendum to Public Ruling No. 1/2006 dated 25 February 2009, and
- (c) Third Addendum to Public Ruling No.1/2006 dated 30 July 2009.

3. Related Provisions

The provisions of the Income Tax Act 1967 (ITA 1967) related to this Public Ruling are sections 2, 7, 13, 25, 77, 82, 82A, 83, 112, 113, 119A, 120, subsection 4(b) and Schedule 6.

4. Interpretation

The words used in this Ruling have the following meaning -

- 4.1. "Resident", in relation to an employee, is an employee resident in Malaysia for a basis year for a year of assessment by virtue of section 7 of the ITA 1967.
- 4.2. "Document" means –
 - (a) Statement of income and expenditure, and
 - (b) Invoices, vouchers, receipts and such other documents as are necessary to verify the particulars in a income tax return form (ITRF).

-
- 4.3. "Individual" means a natural person.
- 4.4. "Employer" in relation to an employment, means –
- (a) Where the relationship of master and servant subsists, the master,
 - (b) Where the relationship of master and servant subsists does not subsist, the person who pays or is responsible for paying any remuneration to the employee who has the employment, notwithstanding that that person and the employee may be the same person acting in different capacities.
- 4.5. "Market value", in relation to anything, means the price which that thing would fetch if sold in a transaction between independent persons dealing at arm's length.
- 4.6. "Employee", in relation to an employment, means –
- (a) Where the relationship of servant and master subsists, the servant,
 - (b) Where that relationship of servant and master does not subsist, the holder of the appointment or office which constitutes the employment.
- 4.7. "Reimbursement", in relation to any perquisite received by the employee, means an expense incurred by the employee which is subsequently reimbursed by the employer.
- 4.8. "Employment" means -
- (a) Employment in which the relationship of master and servant subsists,
 - (b) Any appointment of office, whether public or not and whether or not that relationship subsists, for which remuneration is payable.
- 4.9. "Perquisites", in relation to an employment, means benefits in cash or in kind that are convertible into money received by an employee from the employer or third parties in respect of having or exercising the employment.

-
- 4.10. "Records" include –
- (a) Books of account recording receipts and payments or income and expenditure
 - (b) Invoices, vouchers, receipts and such other documents as in the opinion of the Director General are necessary to verify the entries in any books of account, and
 - (c) Any other records as may be specified by the Director General under statutory order.
- 4.11. "Basis year", in relation to a year of assessment for an employment source, is the basis period for that year of assessment.
- 4.12. "Year of assessment" means the calendar year.
- 4.13. "Basis period", in relation to gross income from employment, is as ascertained by section 25 of the ITA 1967.
- 4.14. "Not resident", for a basis year for a year of assessment in relation to an employee, means an employee other than a resident employee.

5. The Distinction Between Perquisites And Benefits In Kind (BIK)

- 5.1. Perquisites and BIK (including the value of living accommodation (VOLA)) are benefits arising from an employment. These benefits are gross income from employment under subsection 13(1) of the ITA 1967 and is taxable under subsection 4(b) of the ITA 1967. However, there are differences between these benefits.
- 5.2. Perquisites are benefits in cash or in kind which can be converted into money received by an employee from his employer or from third parties in respect of having or exercising an employment. Perquisites are taxable under subsection 4(b) of the ITA 1967 as part of the gross income from employment under paragraph 13(1)(a) of the ITA 1967.
- 5.3. BIK are benefits which are not convertible into money provided for the employee by or on behalf of the employer. These benefits are categorised as gross income from employment under paragraph 13(1)(b) of the ITA 1967. The tax treatment on BIK is explained in detail in the Public Ruling No. 3/2013: Benefits-In-Kind dated 15 March 2013.

- 5.4. VOLA is living accommodation benefit provided for the employee by or on behalf of the employer. VOLA is gross income from employment under paragraph 13(1)(c) of the ITA 1967. The tax treatment on VOLA is explained in detail in the Public Ruling No. 3/2005: Living Accommodation Benefit Provided For The Employee By The Employer dated 11 August 2005.
- 5.5. It is important for the employer to determine and categorise correctly whether a benefit otherwise than in money provided to the employee is a perquisite under paragraph 13(1)(a) of the ITA 1967 or a BIK under paragraph 13(1)(b) of the ITA 1967. The distinction is important as the gross income from employment under paragraph 13(1)(a) of the ITA 1967 will affect the computation of the value of living accommodation enjoyed by the employee under paragraph 13(1)(c) of the ITA 1967.

6. Perquisites

- 6.1. Paragraph 13(1)(a) of the ITA 1967 provides that the gross income of an employee in respect of gains or profits from an employment includes any wages, salary, remuneration, leave pay, fee, commission, bonus, gratuity, perquisite or allowance (whether in money or otherwise) in respect of having or exercising the employment. This means that the gross income of an employee from an employment under paragraph 13(1)(a) of the ITA 1967 comprises of not only wages, salary, leave pay, fee, commission, bonus and gratuity, but also includes any perquisite or allowance, whether in money or otherwise, received by an employee in respect of having or exercising the employment.
- 6.2. All perquisites are gross income under paragraph 13(1)(a) of the ITA 1967 and are chargeable to tax under subsection 4(b) of the ITA 1967.
- 6.3. Perquisites have the following characteristics:
 - 6.3.1. Perquisites can be received regularly or casually.
 - 6.3.2. Perquisites received can be in cash or in kind. If it is received in kind, such items must have money's worth and are convertible into money. The phrase **convertible into money** means that when the items are provided to the employee, they can be sold, assigned, transferred or convertible into cash.
 - 6.3.3. Perquisites can be received by an employee in respect of an employment contract entered into by him or is given by the employer or a third party voluntarily. In the case of perquisites

received from third parties, the employee must declare such income in the ITRF BE or B.

- 6.3.4. Notwithstanding the above, a perquisite is subject to tax only if it arises in respect of having or exercising an employment.

Example 1

On 1.4.2010, Alfred, an employee of a company, was granted 1,000 units of ordinary shares of that company free of charge. The price of the shares at the date of grant was RM4.50 per unit. All the shares were subsequently sold by Alfred on 1.9.2010 at the price of RM4.80 per unit.

The tax treatment on Alfred in respect of the receipt and sale of shares is as follows:

As the shares –

- (a) Have money's worth, and
- (b) Are received from the employer in respect of having or exercising the employment,

they are perquisites to Alfred and form part of his gross income from employment. As the perquisites arose on 1.4.2010, when Alfred received them (subsection 25(1) of the ITA 1967), the amount that is chargeable to tax for the year of assessment 2010 is RM4,500 (RM4.50 X 1,000).

However, subsequent profits arising from the sale of shares on 1.9.2010 are capital gains and are not subject to tax.

(Note: The tax treatment in respect of the shares offered to the employee free of charge by the employer is explained in detail in Public Ruling No. 11/2012. - Employee Share Option Scheme Benefit dated 31.12.2012)

Example 2

Mei Hwa is employed as a waitress in a restaurant. She often assists the customers at menu selection. Due to her pleasant, warm, friendly and helpful attitude, she often receives tips from customers who patronise the restaurant. In 2010, Mei Hwa received tips amounting to RM10,000.

The tax treatment on Mei Hwa in respect of tips received by her is as follows:

Tips amounting to RM10,000 is perquisite even though they are received voluntarily from third parties and not from Mei Hwa's employer. The perquisite is Mei Hwa's gross income from employment being reward for services rendered by reason of having or exercising an employment as a waitress. Mei Hwa has to declare the tips received and the tips would be taxed in the year of assessment 2010 (subsection 25(1) of the ITA 1967).

- 6.4. The phrase **having an employment** means an employee can be taxed in respect of a perquisite received by him purely for having the employment or for holding an office or appointment without being actively involved in the performance of any duties.

Example 3

Alex is a director (not a service director) of a controlled company. On 1.7.2011, at the Annual General Meeting of the company, the shareholders of the company passed a resolution to pay of the entrance fees in respect of individual membership in a recreational club for members of the Board of Directors of the company. This is in addition to their ordinary fees to be paid. The amount paid for each membership is RM16,000 and the payment was made by the company on 30.9.2011. Alex is one of the members of the Board of Directors who received this benefit.

The tax treatment on Alex in respect of the benefit received is as follows:

The payment of RM16,000 is a perquisite since it is -

- (a) A benefit, in addition to the ordinary fee
- (b) Paid to a recreational club for part settlement in respect of the individual membership entrance fees for Alex, and
- (c) Related to an appointment resulting in an employment.

The perquisite is Alex's gross income from employment to be taxed for the year of assessment 2011, even though Alex is not actively involved in the performance of any duties.

- 6.5. The phrase **exercising an employment** means there are duties to be performed by an employee, where a part of the duties may be performed outside Malaysia but should be for the organisation situated in Malaysia (paragraph 13(2)(c) of the ITA 1967).
- 6.6. In the determination of whether an amount received (whether in cash or in kind) can be chargeable to tax, **it is the substance** of the amount received that is of importance and **not the label** that is attached to it. In other words, even though an amount received is labelled as a gift, but if it can be proved that the amount is received in respect of **having an employment** or **exercising an employment**, such amount received is a perquisite and is chargeable to tax as part of the gross income from employment under paragraph 13(1)(a) of the ITA 1967.

Example 4

Norman is a sales manager with a trading company. On 27.12.2010, at the company's Annual Dinner, he received the following:

- (a) A watch costing RM5,000 for serving the company for 20 years, and
- (b) Letter of appreciation and cash gift of RM10,000 for successfully securing an important contract for the company in April 2010. This award was made voluntarily by his employer.

The tax treatment on Norman in respect of the above is as follows:

- (a) The watch, valued at RM5,000, is a perquisite to Norman. The amount of RM5,000 is chargeable to tax when received i.e. for the year of assessment 2010 as the watch has a cash value, can be sold, assigned or convertible into cash and is received in appreciation for past services performed.
- (b) The certificate of appreciation is not chargeable to tax as it has no monetary value and is not convertible into money even though it is related to exercising an employment.
- (c) The cash of RM10,000 is a perquisite and is Norman's gross income from employment for the year of assessment 2010. The cash of RM10,000 is in appreciation of the excellent service rendered even though it is given by the employer voluntarily.

- 6.7. Pure gifts or testimonials received by an employee from his employer or third parties purely for personal appreciation or for specific personal reasons are not taxable as such gifts are not related to having or exercising the employment. Examples of pure gifts or testimonials include –
- (a) Wedding gifts whether in the form of cash, jewellery or other items given to an employee by the employer
 - (b) Cash given to an employee by the employer for passing the professional examination with excellent results
 - (c) Cash, other items or certificate of appreciation given to a bank employee by the employer or third parties for successfully foiling an attempted bank robbery
 - (d) Cash, other items and certificate of appreciation given to an employee for having achieved some extraordinary feats –
 - (i) Swimming across the English Channel
 - (ii) Sailing around the world within a specified period of time
 - (iii) Climbed the highest mountain in the world
 - (iv) Other similar feats.

7. Types Of Perquisites And The Tax Treatment

- 7.1. Among the types of perquisites commonly given to an employee by the employer are:
- (a) Pecuniary liability of employees paid by the employer, such as income tax payment, electricity bills, water and telephone bills
 - (b) Credit card facilities
 - (c) Loan interest
 - (d) Recreational club membership
 - (e) Tuition or school fees of child
 - (f) Life insurance premium

- (g) Gardener, driver, domestic help or guard
- (h) Waiver of loan or advance
- (i) Scholarship
- (j) Assets given free of charge or sold at a discount
- (k) Gift vouchers
- (l) Gift of personal computer to the employee by the employer
- (m) Excellent public service award
- (n) Professional subscriptions

7.2. The value of a perquisite received by the employee is his gross income from employment under paragraph 13(1)(a) of the ITA 1967. For perquisites having a market value, the value of the perquisite is ascertained as follows:

	<u>RM</u>
Market value of the perquisite	XX
Less:	
Amount paid for the perquisite received (if any)	<u>XX</u>
Value of the perquisite chargeable to tax on the employee	<u>XX</u>

For perquisites not having any market value, the value of the perquisite is ascertained as follows:

	<u>RM</u>
Amount of the perquisite	XX
Less:	
Amount paid for the perquisite received (if any)	<u>XX</u>
Value of the perquisite chargeable to tax on the employee	<u>XX</u>

7.3. Employee's pecuniary liabilities

All pecuniary liabilities of an employee which are paid by his employer whether voluntarily or under the terms of an employment contract are perquisites to the employee and is his gross income from the employment, irrespective whether the payment –

- (a) Is made direct to the person who should receive the amount owing

- (b) Given to the employee so that the employee can settle his pecuniary liability, or
- (c) Given to the employee as a reimbursement.

Among the pecuniary liabilities of the employee paid by the employer are income tax, water bill, electricity bill, telephone bill, road tax, car insurance premiums, car parking fees and car maintenance charges.

The amount chargeable to tax in respect of pecuniary liabilities paid by the employer can be reduced if the employee makes use of such amenities in the performance of his official duties, on the condition that such official duties can be substantiated with a confirmation by the employer.

7.3.1. **Income tax borne by the employer**

The income tax of an employee borne by his employer for a basis year for a year of assessment is treated as a perquisite of that employee when the actual amount of tax for that year of assessment can be ascertained, that is in the following basis year. The computation of perquisite relating to the income tax liability of the employee borne by the employer and the computation of tax payable by the employee benefiting from such perquisites is explained in detail in the Public Ruling No. 2/2006: Tax Borne By Employers issued on 17 January 2006.

7.3.2. **Utility bills**

Where electricity, water and telephone bills are under an employee's name and if the employer –

- (a) Gives an amount of money to the employee for the employee to settle the amounts owing as shown in those bills, or
- (b) Pays the amounts owing as shown in such bills direct to the authorities concerned,

the amount paid by the employer is perquisite to the employee. The amount is assessed on the employee for the basis year for the year of assessment in which the perquisite is received (subsection 25(1) of the ITA 1967). However, where –

- (a) The employer subscribes these utilities
- (b) The bills for these utilities are under the name of the employer and not that of the employee, and
- (c) The employee only enjoys the benefits when provided by the employer who subscribes for them.

The amount of such benefits is BIK which is gross income from an employment of the employee under paragraph 13(1)(b) of the ITA 1967, as these benefits are not convertible into money although they have monetary value.

7.3.3. Car insurance premium, road tax, parking fees and car maintenance charges

The amount to be taken as perquisite for the above items is the amount of car insurance premium, road tax, parking fees and car maintenance charges (personal liability of the employee) paid by the employer.

7.4. Credit card facilities

Where an employee is provided by his employer with a credit card used exclusively for performing his duties including entertaining the employer's customers, the annual membership fee of the credit card is not considered as perquisites to the employee. However, where the credit card is also used by the employee for private purchases and payments, any amounts paid by the employer to settle these private purchases and payments, including the annual membership fee, are perquisites under paragraph 13(1)(a) of the ITA 1967.

7.5. Loan interest

7.5.1. The charge to tax on the employee in respect of the receipt of this benefit is based on the facts of each case. In general, this benefit is a perquisite based on the cost borne by the employer when the employer provides the loan to the employee whether for -

- (a) Interest free loan
- (b) Loan where only part of the interest is borne by the employer, or

(c) Interest charged is below market rate.

In other words, the source of fund for the loan is the primary factor which determines whether the receipt of such benefit is taxable on the employee.

7.5.2. Internal funds

Where the loan given to the employee arises from the internal funds of the company, no benefit is taxed on the employee even though the employee actually derives monetary benefit from the loan given to him since the employer did not bear any cost when the loan was given to the employee. Such a tax treatment would be given in the case where an interest free loan is given to an employee from the excess business funds of the employer or without any loan taken from any other persons.

7.5.3. Funds from bank loan or loan from related companies

Where an employer obtains a loan from a third party to provide the interest free loan to the employee, the amount of perquisite is the cost borne by the employer to the third party for provision of the loan facility. This treatment is also applicable in the case where the employer receives a preferential rate from the loan provider due to good credit standing. The preferential rate is regarded as the market rate for that employer.

Where an employer obtains a loan from a third party to provide the loan to the employee and the employee is required to pay only the nominal interest on the loan while the balance of the interest is borne by the employer, the amount of perquisite is the difference between the interest charged on the employer by the loan provider and the nominal interest paid by the employee.

The method of calculation of the perquisite arising from the benefit is as follows:

Amount of interest charged on the employer by the loan provider	<u>RM</u> XX
Less:	
Amount of nominal interest paid by the employee	<u>XX</u>
Value of perquisite chargeable to tax on the employee	<u>XX</u>

Example 5

Wahid, a Chief Executive in a listed company, has obtained a housing loan in 2009 where he is being charged with interest at the rate of 4% per annum. The funds for the housing loan are obtained from a loan taken by the employer from a bank which charges interest at the preferential rate of 8% per annum. The market rate of interest for a similar loan is 10% per annum. In 2009 the employer paid interest to the bank amounting to RM6,000 while Wahid paid interest to the employer amounting to RM3,200.

The amount of perquisite taxable on Wahid for the year of assessment 2009 is computed as follows:

	<u>RM</u>
Amount of interest charged by the bank on the employer for the loan taken	6,000
Less:	
Amount of interest charged on Wahid	<u>3,200</u>
Value of perquisite chargeable to tax on Wahid	<u>2,800</u>

- 7.5.4. If the loan to the employee is given at the rate which is the same as the cost paid by the employer, there is no perquisite to be taxed on the employee.
- 7.5.5. In summary, perquisites related to this benefit would arise only where—
- (a) The funds for providing the loan facility originate from external funds, and
 - (b) The rate of interest charged on the employee for the loan provided by the employer is lower than the rate of interest borne by the employer.

7.6. Recreational club membership

The tax treatment for this benefit is based on the facts of each case.

7.6.1. Individual membership

In this situation, the membership is owned by the individual. The entrance, monthly or annual membership subscription or term membership fees and other related reimbursements are the pecuniary liabilities of the employee. Such fees paid by the employer to a recreational club for the benefit of an employee are perquisites to the employee.

7.6.2. Corporate membership

In contrast to an individual membership, a corporate membership is owned by the employer. When the employer pays the entrance fee and the monthly or annual subscriptions of a corporate membership to a recreational club for the benefit of the employee, the entrance fee is not a perquisite to the employee as the membership is owned by the employer. The monthly or annual subscription is a BIK under paragraph 13(1)(b) of the ITA 1967 and is not a perquisite under paragraph 13(1)(a) of the ITA 1967 as this benefit is not convertible into money even though there is monetary value.

7.7. Tuition or school fees of child

7.7.1. Payment or reimbursement to an employee by the employer in respect of tuition or school fees for the employee's children studying in or outside Malaysia is a perquisite to the employee and is his gross income from employment.

7.7.2. However, where the employee receives reimbursement from an education refund plan, this reimbursement is not treated as a benefit to the employee. An education refund plan is a fund established by the employer to enable an employee of the company, upon the successful completion of a part-time course or study at the certificate, diploma or degree level, to claim reimbursements for the expenses on registration fees, course or tuition fees and examination fees incurred by him to acquire that qualification. The course or study undertaken must be for the purpose of enhancing the education and skills of the employee and is directly related to the performance of the employee's duties.

7.8. Insurance premiums

- 7.8.1. Where the employer pays the annual insurance premium for an insurance scheme in which the employee, members of his family or his nominee is appointed as the beneficiary to the policy, the amount of annual premium is a perquisite to the employee.
- 7.8.2. However, certain insurance premiums or contributions paid by the employer are not considered as perquisites to the employee and therefore are not taxable on him. Such insurance premiums are –
- (a) Insurance premiums which are obligatory for foreign workers as a replacement to SOCSO contributions.
 - (b) Group insurance premiums to cover workers in the event of an injury or accident.
 - (c) Insurance premiums on insurance policies under the Aviation Travel Insurance for employees for coverage of employees for travelling on official duty.
 - (d) Contributions by employer to the health care management organisation for payment of the medical and treatment costs of employees.

7.9. Gardener, driver, domestic help or guard

- 7.9.1. Where the gardener, driver, domestic help or guard is hired by the employee or the employer allows the employee to make claims for reimbursement of the salaries of the gardener, driver, domestic help or guard, the amount of salary or the reimbursement paid by the employer is a perquisite to the employee.

Example 6

Chong Hin, is a partner in an accounting firm. He accepted an offer to become a managing director of Bina Teguh Sdn Bhd after the company has agreed to pay his house rent, his driver's and domestic help's salaries.

The amount of the house rent, the driver's and domestic help's salaries paid by the employer are perquisites to Chong Hin and are taxable on him.

- 7.9.2. However, where the gardener, driver, domestic help or guard is employed by the employer and the employee is entitled to the benefit of that gardener, driver, domestic help or guard provided by the employer to him, the benefit is a BIK to the employee.

Example 7

Using the facts in Example 6, if the company agrees to provide the house, driver and domestic help to Chong Hin free of charge in fulfilling the condition for his acceptance of the appointment, the tax treatment on Chong Hin is as follows:

Item	Provision In The ITA 1967	Amount To Be Taxed
House	Paragraph 13(1)(c)	30% X paragraph 13(1)(a) of the ITA 1967 Or Defined value of the living accommodation, whichever is the lower
Driver's salary	Paragraph 13(1)(b)	Amount expended by the employer Or Prescribed value i.e. RM600 per month per person (concession)
Domestic help's salary	Paragraph 13(1)(b)	Amount expended by the employer Or Prescribed value i.e. RM400 per month per person (concession)

- 7.9.3. However, in the case where a driver is not specifically provided to any employee but the driver comes from a pool of drivers provided by the employer for the use of other employees solely for business purposes, no benefit will be taxable on the employee.

7.10. Scholarship

Paragraph 24, Schedule 6 of the ITA 1967 provides that any sums paid by way or in the nature of a scholarship or other similar grant or allowance to an individual, whether or not in connection with an employment of that individual is exempted from income tax. However, the salary paid to an employee during the study leave period is taxable as income from employment as the employee is regarded as having an employment, even though he is not exercising his employment.

7.11. Waiver of loan or advance

Where an employer provides a loan or advance to his employee and subsequently waived the amount of the loan or advance, the amount of loan or advance waived is a perquisite to the employee as it is payment for services performed. Such a perquisite will arise in cases where the employer provides a loan to an employee to enable the employee to attend courses or undergo training and subsequently waives the loan or advance after the employee has served the required time with the employer. This perquisite is his gross income from employment and is taxable for the basis period for the year of assessment in which the loan or advance is waived.

Example 8

Gwen works with a legal firm. In February 2008, her employer gave her a loan of RM20,000 to enable her to attend a one-year course in law. The loan contract provides that if Gwen works with the employer for a period of 24 months after the completion of the course, the loan need not be repaid. Gwen successfully fulfilled this condition under the contract in January 2011 and the loan was subsequently waived.

The tax treatment on the loan is as follows:

The amount of loan waived by the employer amounting to RM20,000 is a perquisite to Gwen and is her gross income from employment as it is payment for services performed. The perquisite is taxable for the year of assessment 2011 i.e. in the year in which the loan is waived [subsection 25(2) of the ITA 1967].

7.12. Assets provided free of charge or sold at discounted prices

- 7.12.1. Where assets such as houses, cars or other items are provided free of charge or sold at discounted prices by the employer to his employee, the difference between the market price of such assets and the amount paid by the employee (if any) is a perquisite to the employee. The amount is gross income from employment under paragraph 13(1)(a) of the ITA 1967.

Example 9

AMV is a company selling imported luxury cars. The company has a **Staff Purchase Discount Plan** for its employees at the managerial level. According to the **Staff Purchase Discount Plan**, the employees at the managerial level can purchase the cars sold by the company at discounted prices as follows:

Type Of Asset	Market Price Per Unit	Discount Given (%)
Car Model AMV Superclass	RM1,100,000	10

The discount of 10% on the price of the car received by the employee is a perquisite as –

- (a) The car has money's worth and can be convertible into money, and
- (b) The employee upon purchasing the car, has ownership rights over the car and is subsequently able to sell the car to a third party.

Thus, the amount of the discount is gross income from employment under paragraph 13(1)(a) of the ITA 1967.

7.13. Gift vouchers

- 7.13.1. Normally, gift vouchers are not taxable in the hands of the employee unless they are of a recurring nature and are provided in the circumstances where the employee expects such gifts as part of his remuneration.
- 7.13.2. Where it is the practice of the employer to give gift vouchers to the employees on festive occasions such as Christmas, Chinese New Year, Deepavali, Hari Raya Aidil Fitri or Gawai Day, based on the

length of service of the employee and such vouchers can be used to buy goods from a particular shop, the value of the gift vouchers is a perquisite to the employee.

7.14. Gift of personal computers

Where an employee receives a gift of a personal computer from his employer, the market value of the personal computer is a perquisite to the employee in the year the benefit is received [subsection 25(2) of the ITA 1967 1967].

7.15. Excellent public service award

The excellent service award given to officers and staff of the public sector by the Government for excellent service rendered in the performance of their duties must be treated as gross income from employment under paragraph 13(1)(a) of the ITA 1967 and is subject to tax.

7.16. Professional subscriptions

Subscriptions to a professional body paid by an employer on behalf of his employee will not be considered as a perquisite if membership to that professional body is essential to the business of the employer in terms of enhancement of knowledge for the employee to facilitate him in carrying out his duties. However, where it cannot be proved that the membership is relevant to the business of the employer, then the professional subscription paid on behalf of the employee is a perquisite.

8. Tax Exemption On Perquisites Received By An Employee

Tax exemption is given on perquisites received by an employee whether in cash or in kind pursuant to his employment in respect of the following :

8.1. Innovation or productivity award - Paragraph 25C, Schedule 6 of the ITA 1967

8.1.1. Paragraph 25C, Schedule 6 of the ITA 1967 was introduced in year of assessment 2007 to provide tax exemption on perquisite received by an employee limited to RM1,000 pursuant to his employment in respect of –

- (a) Past achievement,
- (b) Service excellence award, or

- (c) Long service on condition that the employee has served with the same employer or with companies within the same group of companies for more than 10 years.

Example 10

Andrew is a manager with Gemilang Sdn. Bhd. At the company's Annual Dinner held on 30.12.2007, he received the following :

- (a) A watch costing RM3,000 for serving the company for 15 years, and
- (b) Letter of appreciation and cash gift of RM5,000 for excellent service.

Tax treatment on Andrew in respect of the above is as follows-

- (a) The total value of perquisite received by Andrew in the year of assessment 2007, in respect of long service and excellent service amounts to RM8,000. Out of this amount, RM1,000 will be tax exempt by virtue of paragraph 25C, Schedule 6, ITA 1967. The balance of RM7,000 is to be included as part of Andrew's gross income as perquisite.
- (b) The certificate of appreciation is not chargeable to tax as it has no money's worth and is not convertible into money even though it is related to exercising an employment.

Example 11

Sarafina commenced employment with Daya Maju Holding Sdn. Bhd. on 01.01.2004. During her first three years of service, she did not take any sick leave. In appreciation of this, she was given a cash award of RM1,000 by her employer on 31.03.2007.

The total value of perquisites received by Sarafina in the year of assessment 2007 amounts to RM1,000. Since the perquisite received is in respect of past achievement, the whole amount is tax exempt in the year of assessment 2007 by virtue of paragraph 25C, Schedule 6, ITA 1967.

- 8.1.2. From year of assessment 2008, tax exemption on perquisites in the form of awards received by an employee is extended to include innovation award or productivity award received by an employee from his employer, whether in cash or in kind, pursuant to his employment. The amount of perquisites exempted from tax is increased from RM1,000 to RM2,000. If the total amount or value of awards exceeds RM2,000, the balance will be subject to tax.

Example 12

Aliff is an executive employed by CAB Bhd in Kuala Lumpur. He started his service in 1992. He was seconded to DEN Ltd in China, a wholly owned subsidiary company of CAB Bhd, for the years 2001 until 2005. He returned to Malaysia in 2006 and continued his service with CAB Bhd. Aliff received a long service award from his employer in conjunction with the company's anniversary held on 31.12.2008. He received a watch worth RM5,000 and a certificate of appreciation for having served the company for 15 years.

The total value of perquisites received by Aliff in year 2008, in respect of long service amounts to RM5,000. Out of this amount, RM2,000 will be exempt from tax by virtue of paragraph 25C, Schedule 6 of the ITA 1967. The balance of RM3,000 is to be included as part of Aliff's gross income as perquisite.

Example 13

Alicia is an engineer employed by Synthetic Holding Bhd. She had successfully invented a new method to increase the company's production. Due to her success, she received an innovation award from the company in the form of cash amounting to RM10,000 on 30.06.2011.

The total value of perquisites received by Alicia in year 2011 amounts to RM10,000. Out of this amount, RM2,000 will be exempt from tax by virtue of paragraph 25C, Schedule 6 of the ITA 1967. The balance of RM8,000 is to be included as part of Alicia's gross income from employment as perquisite.

Example 14

Ramesh is a human resource manager employed by Mesra Berhad. He had introduced ideas to promote better staff relationship in the company. As a recognition for his ideas he received an innovation award from the company in the form of cash amounting to RM3,000 on 31.12.2010.

The total value of perquisites received by Ramesh in year 2010 amounts to RM3,000. Out of this amount, RM2,000 will be exempt from tax by virtue of paragraph 25C, Schedule 6 of the ITA 1967. The balance of RM1,000 is to be included as part of Ramesh's gross income as perquisite.

- 8.1.3. For purposes of paragraph 8.1.1.(c) above, a holding company and all its subsidiaries are regarded as companies within the same group regardless of whether the companies are in Malaysia or outside Malaysia.

Example 15

X Germany Ltd has undertaken a restructuring exercise of its companies worldwide in 2008. Due to the restructuring, employees from the holding company X Germany Ltd and a subsidiary company X Thailand Ltd were transferred to another subsidiary company X Malaysia Sdn Bhd.

The employees are regarded to have served within the same group of companies for the purposes of paragraph 25C, Schedule 6 of the ITA 1967.

8.2. Allowances

8.2.1. Travelling allowance, petrol allowance or toll rate

- (a) Travelling allowance or petrol allowance received by an employee for travelling from home to place of work and from place of work to home is exempted up to an amount of RM2,400 per year. The exemption is effective from year of assessment 2008 to year of assessment 2010.
- (b) Travelling allowance, petrol allowance or toll rate received by an employee for travelling in exercising an employment is exempted up to an amount of RM6,000 per year.

- (c) However, if an employee receives travelling allowance, petrol allowance or toll rate exceeding RM6,000 for travelling in exercising his employment, the employee can make a further deduction in computing his employment income on the amount spent for official duties. Records pertaining to the further deduction and the exempted amount should be kept for a period of 7 years for audit purposes .
- (d) In order to qualify for the above mentioned exemptions, the employer has to identify the amount of travelling allowance, petrol allowance or toll rate provided to the employee for travel between home and place of work and/or the amount of travelling allowance, petrol allowance or toll rate provided to the employee for travel in exercising employment.
- (e) If the employer is unable to identify the amount of travelling allowance, petrol allowance or toll rate provided to the employee for travel between home and place of work and/or the amount of travelling allowance, petrol allowance or toll rate provided to the employee for travel in exercising employment, the amount of travelling allowance, petrol allowance or toll rate exempted is up to a maximum of RM6,000.

Example 16

Syazril is an auditor employed by a petroleum company. In addition to monthly salary paid for year 2009, his employer pays him travelling allowance and toll rate as follows:

Allowance	Amount (RM)
Travelling from home to place of work and from place of work to home	2,880
Travelling in exercising employment	7,200
Toll rate	3,600

The amount of perquisite exempted and taxable in the year of assessment 2009 is as follows:

Allowance	Amount (RM)	Exempted Amount (RM)	Taxable Amount (RM)
Travelling from home to place of work and from place of work to home	2,880	2,400	480
Travelling in exercising employment	7,200	6,000*	4,800
Toll rate	3,600		

* Exempted amount of RM6,000 comprises travelling allowance and toll rate.

However if Syazril keeps proper record in relation to travelling in exercising his employment, then he is entitled to claim the actual amount expended as a deduction in computing his employment income.

8.2.2. Parking rate or parking allowance

- (a) Parking rate or parking allowance received by an employee is exempted from tax. This exemption includes parking rate paid by the employer directly to the parking operator.
- (b) The amount of parking rate or parking allowance provided by the employer to his employee has to be reasonable and not excessive.

Example 17

Cynthia is an executive employed by a communication company in Kuala Lumpur. Her employer does not provide parking bay facility and thus, she is paid parking allowance of RM180 per month.

Parking allowance of RM180 per month received by Cynthia is exempted from tax from year of assessment 2008.

8.2.3. **Meal allowance**

- (a) Meal allowance received by an employee on a regular basis, for example on a daily or monthly basis, given at the same rate to all employees is exempted from tax.
- (b) The amount of meal allowance provided by the employer to his employee has to be reasonable and not excessive.

Example 18

Hairi is a technician employed by a company which sells electrical goods. He receives meal allowance amounting to RM250 per month.

Meal allowance amounting to RM250 per month received by Hairi is exempted from tax from year of assessment 2008.

- (c) Meal allowance provided to an employee for purposes such as overtime or outstation/overseas trips and other similar purposes in exercising his employment is meant to cover meal expenses of the employee. Such meal allowance is paid according to the employee's position, duties or place where the employment is exercised. Any allowance pertaining to such meal expenses falls under this exemption. Similarly, a per diem allowance which is meant to cover meal expenses for an employee in exercising his employment is also included in this exemption.

However, the meal allowance and per diem allowance are only exempted if they are given based on the rate fixed in the internal circular or written instruction of the employer.

Example 19

Kuey is an accountant employed by an IT company in Kuala Lumpur. In March 2008 he was assigned to Johor Bahru for five days to audit the records of a branch of the IT company. He was paid by his employer an outstation allowance to cover his meal expenses amounting to RM60 per day while carrying out his duties in Johor Bahru as provided in the internal circular of the IT company.

Kuey is entitled for the exemption on the amount of outstation allowance paid by his employer amounting to RM300 (RM60 x 5 days).

8.2.4. Child care allowance

- (a) Child care allowance received by an employee or paid directly by the employer to the child care center is exempted from tax up to an amount of RM2,400 a year.
- (b) For the purposes of this exemption, child means a child of the age of 12 years and below and who is a legitimate child or step-child of an individual or his wife/husband or a child proved to the satisfaction of the Director General to have been adopted by the individual or his wife/husband in accordance with any law.

Example 20

Rozita is a financial manager employed by a bank and has two children ages 4 and 13 years old. She sends her children to a child care centre and pays RM400 per month to the centre. She receives child care allowance of RM250 per month from her employer (RM3,000 a year).

Child care allowance amounting to RM2,400 received by Rozita is exempted from tax. The balance of the allowance amounting to RM600 is included as part of Rozita's gross income from employment.

Example 21

Ahmad is a supervisor at an electronics factory and has two children ages 3 and 5 years old. He sends his children to a child care center at a cost of RM500 per month. Payment for child care is paid directly by the employer to the child care center. Total costs per year to the child care center by an employer is RM6,000.

Child care allowance amounting to RM2,400 paid to the child care center is exempted from tax. The balance of the allowance amounting RM3,600 is included as part of Ahmad's gross income from employment.

Example 22

Roxane is an accountant employed by a finance company and has three children ages 13 to 16 years old. She hires a helper and receives child care allowance of RM250 per month from her employer (RM3,000 a year).

Child care allowance amounting to RM3,000 received by Roxane is to be included as perquisite.

Example 23

Ziad and his wife are employed by separate direct selling companies. Both Ziad and his wife receive child care allowance from their employer amounting to RM250 per month in year 2008. They have a daughter age 5 years old and employs a domestic maid for the household.

Both Ziad and his wife are each entitled for an exemption on child care allowance up to an amount of RM2,400 for year of assessment 2008. In the case where Ziad and his wife elect for a combined assessment, the total amount to be exempted is RM4,800.

8.3. Subsidies on interest

8.3.1. Subsidy on interest for housing, education or car loan

- (a) Subsidised interest for housing, education or car loan received by an employee is fully exempted from tax if the total amount of loan taken does not exceed RM300,000.

Example 24

Mary Anne is an executive employed by a listed company. She takes up a loan provided by her employer to finance the purchase of her house and car. Her employer took up a loan from a commercial bank to fund the housing and car loan provided to its employees. The interest amounting to RM15,000 paid by her employer to the commercial bank in relation to Mary Anne's housing and car loan is the amount of interest to be borne by Mary Anne if she takes up the loan directly from the commercial bank.

However Mary Anne has to pay her employer only two-third of the interest, whereas one-third of the interest is borne by her employer as shown below :

Type Of Loan	Principal Amount Of Loan (RM)	Interest To Be Borne By Employee (a) (RM)	Interest Payable By Employee (b) (RM)	Interest Subsidised By The Employer (Perquisite) (c = a – b) (RM)
Housing	200,000	12,000	8,000	4,000
Car	75,000	3,000	2,000	1,000
Total	275,000	15,000	10,000	5,000

The amount of perquisite amounting to RM5,000 is fully exempted from tax for the year of assessment 2008 since the total amount of loan does not exceed RM300,000.

- (b) If the total amount of loan taken by an employee exceeds RM300,000, the amount of subsidised interest to be exempted from tax is limited in accordance with the following formula:

$$A \times \frac{B}{C}$$

Where,

- A - is the difference between the amount of interest to be borne by the employee and the amount of interest payable by the employee in a basis period for a year of assessment,
- B - is the aggregate of balance of principal amount of housing, education or car loan taken by the employee in a basis period for a year of assessment or RM300,000 whichever is lower,
- C - is the total aggregate of principal amount of housing, education or car loan taken by the employee.

Example 25

Pang is a senior executive employed by a listed company. He takes up a bank loan in November 2007 to finance the purchase of his house and car. The bank charges interest at the rate of 6% on the housing loan but Pang has to pay 4% interest and the balance is borne by his employer. The interest charged on the car loan 3% and Pang has to pay only 2 % interest and the balance is borne by his employer. The amount of loan taken and payment of interest by Pang and his employer for the year 2008 are as follows:

Type Of Loan	Housing (RM)	Car (RM)	Total (RM)
Principal amount of loan	240,000	120,000	360,000
Balance of principal loan on 31/12/2008	220,000	105,000	325,000
Interest to be borne by employee (a)	14,400	3,600	18,000
Interest paid by employer	4,800	1,200	6,000
Interest payable by employee (b)	9,600	2,400	12,000
Interest subsidised by the employer (Perquisite) (c = a – b)	4,800	1,200	6,000

The amount of perquisite exempted from tax is computed as follows:

$$\text{RM6,000} \times \frac{300,000^*}{360,000} = \text{RM5,000}$$

$$\text{Taxable perquisite: RM6,000} - \text{RM5,000} = \text{RM1,000}$$

* Since the aggregate of balance of principal loan exceeds RM300,000 it has to be restricted in accordance with the formula in this paragraph.

The amount of loan and payment of interest in the year 2009 are as follows:

Type Of Loan	Housing (RM)	Car (RM)	Total (RM)
Principal amount of loan	240,000	120,000	360,000
Balance of principal loan on 31/12/2009	200,000	90,000	290,000
Interest to be borne by employee (a)	14,400	3,600	18,000
Interest paid by employer	4,800	1,200	6,000
Interest payable by employee (b)	9,600	2,400	12,000
Interest subsidised by the employer (Perquisite) (c = a – b)	4,800	1,200	6,000

The amount of perquisite exempted from tax is computed as follows:

$$\text{RM6,000} \times \frac{290,000}{360,000} = \text{RM4,833}$$

$$\text{Taxable perquisite: RM6,000} - \text{RM4,833} = \text{RM1,167}$$

On 01.01.2011, Pang pursues further education on a part time basis with a private university in Kuala Lumpur. To fund his studies, he took an education loan provided by his employer amounting to RM90,000. The amount of loan taken and payment of interest in the year 2011 are as follows:

Type Of Loan	Housing (RM)	Car (RM)	Education (RM)	Total (RM)
Principal amount of loan	240,000	120,000	90,000	450,000
Balance of principal loan on 31/12/2011	100,000	40,000	81,000	221,000
Interest to be borne by employee (a)	14,400	3,600	3,150	21,150
Interest paid by employer	4,800	1,200	788	6,788

Interest payable by employee (b)	9,600	2,400	2,362	14,362
Interest subsidised by the employer (Perquisite) (c = a – b)	4,800	1,200	788	6,788

The amount of perquisite exempted from tax is computed as follows:

$$\text{RM6,788} \times \frac{221,000}{450,000} = \text{RM3,333}$$

$$\text{Taxable perquisite: RM6,788 – RM3,333 = RM3,455}$$

- (c) The exemption of subsidised interest on housing loan is applicable to any type of residential property and regardless whether the employee already owns another residential property.
- (d) The exemption of subsidised interest on education loan is only in relation to education loan which is utilised for the employee's own education.
- (e) For the purposes of exemption on subsidised interest for car loan, car means a motor vehicle other than a motor vehicle licensed by the appropriate authority for commercial transportation of goods or passengers

8.4. Gifts and monthly bills for fixed line telephone, mobile phone, pager, personal digital assistant (PDA) and subscription of broadband

8.4.1. Gifts

A gift of a fixed line telephone, mobile phone, pager or PDA which is registered under the name of the employee is fully exempted from tax. Cost of registration and installation are included in the amount to be exempted. The exemption given is limited to one unit for each asset.

8.4.2. Monthly bills for fixed line telephone, mobile phone, pager or PDA

Monthly bills paid by the employer for the fixed line telephone, mobile phone, pager or PDA registered under the name of the employee is fully exempted from tax. Cost of registration and installation are included in the amount to be exempted.

8.4.3. Monthly bills for subscription of broadband

Monthly broadband subscription bills paid by the employer for broadband registered under the name of the employee is fully exempted from tax. Cost of registration and installation are included in the amount to be exempted.

Example 26

Vendrajah is a marketing executive employed by Device Service Bhd. In year 2008 he receives a fixed line telephone and PDA from his employer. He also receives broadband facility which is registered under his name. All the telephone and broadband subscription bills are paid by the employer.

- (a) The gifts received by Vendrajah from his employer in the form of fixed line telephone and PDA which are registered under his name are exempted from tax in the year of assessment 2008.
- (b) The monthly bills and the cost of registration and installation paid by the employer for the fixed line telephone, PDA and broadband which are registered under his name are exempted from tax in the year of assessment 2008.

8.4.4. Where an employee receives a fixed allowance for telephone, the full amount of that telephone allowance is taxable as part of his gross income from employment under paragraph 13(1)(a) of the ITA 1967.

8.5. Gift of a new personal computer

An amount equal to the value of the benefit of one new personal computer received as a gift by an employee from his employer is exempted from tax. Personal computer means a desk top computer, laptop computer or handheld computer but does not include computer accessories. The exemption was effective from –

- (a) The year of assessment 2001 to the year of assessment 2003 inclusive [P.U.(A) 503, Income Tax (Exemption) Order (No. 56) Order 2000 dated 22 December 2000], and
- (b) The year of assessment 2008 to the year of assessment 2010 [Income Tax (Exemption)(No. 4) Order 2008].

8.6. Non-application

8.6.1. The above tax exemption does not apply if the employee who was given an allowances, subsidised interest or gifts by the employer who has control over his employer. Thus, allowances, subsidised interest or gifts received by that employee is perquisite to the employee.

8.6.2. For the purposes of this Ruling, control over his employer means:

- (a) For a company, the power of an employee to control is through the holding of shares or the possession of voting power in or in relation to that or any other company, or by virtue of powers conferred by the articles of association or other document regulating that or any other company, that the affairs of the first mentioned company are conducted in accordance with the wish of the employee
- (b) For a partnership, the employee is a partner of the employer, or
- (c) For a sole proprietor, the employee and the employer is the same person.

9. Employer's Responsibilities

- 9.1. Where an employee is provided with a composition of several allowances, the employer is required to identify the actual value of each allowance in order to qualify for the relevant exemption.
- 9.2. An employer is responsible to prepare a detailed list of all the exempted allowances received by each employee in the respective Employee's Salary Statement for each year of assessment.
- 9.3. In accordance with subsection 83(1) of the ITA 1967, the employer is required to report in the employee's statement of remuneration (Form EA and EC) and Form E for the employer, all payments in respect of services provided by the employee including all types of perquisites. This includes the benefits provided for the spouse, family, servants, dependent or guest of the employee. The failure by the employer to comply with this subsection will

render the employer liable to prosecution under subsection 120(1) of the ITA 1967.

- 9.4. In accordance with section 82 of the ITA 1967, the employer is also required to keep records and receipts pertaining to all claims on expenses incurred on the employees. These records and receipts must be kept for a period of seven (7) years from the end of the year of assessment in which the ITRF is furnished for the purposes of verification during a tax audit. The failure by the employer to comply with this section will render the employer liable to prosecution under section 119A of the ITA 1967.

10. Employee's Responsibilities

- 10.1. In accordance with subsection 77(1) of the ITA 1967, the employee is required to report in the ITRF BE or B (whichever is applicable) all payments received in respect of having or exercising the employment including all types of perquisites received from the employer or third parties. This includes benefits received for the spouse, family, servants, dependent or guest of the employee. The failure by the employee to comply with this section will render the employee liable to prosecution or penalty under section 112 of the ITA 1967. Where the employee under declares his income, he is liable to prosecution or penalty under section 113 of the ITA 1967.
- 10.2. In accordance with section 82A of the ITA 1967, the employee is required to keep records and documents pertaining to all receipts from the employer or third parties in respect of having or exercising an employment including the receipts of perquisites. Such records or documents must be kept for a period of seven (7) years from the end of the year of assessment in which the ITRF is furnished for purposes of verification during a tax audit.

11. Monthly Tax Deduction (MTD)

Where an employee receives a perquisite from his employment, the employer must ensure that the tax to be charged on the perquisite is deducted from the employee's remuneration based on the Schedule (Rule 3) of the monthly Income Tax Deductions under the Income Tax (Deduction From Remuneration) Rules in the month in which the perquisite is paid. In the case where the salary of the employee is not sufficient to absorb the monthly income tax deduction on the perquisite, the employer is required to obtain the approval of the LHDNM for payment on the perquisite by instalments with the issuance of the Directive of Tax Deduction (CP 38).

12. Deduction Claim By Employers

Employers are eligible to claim deduction for expenses in respect of employment of its employees, including all types of perquisites paid to the employees as provided under subsection 33(1) of the ITA 1967 and Income Tax (Deduction for Benefit and Gift From Employer to Employee) Rules 2009 [P.U.(A) 153/2009].

**Director General Of Inland Revenue,
Inland Revenue Board Of Malaysia**