



INLAND REVENUE BOARD MALAYSIA

BENEFITS-IN-KIND

**THIRD ADDENDUM TO
PUBLIC RULING NO. 2/2004**

Translation from the original Bahasa Malaysia text

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A Public Ruling may be withdrawn, either wholly or in part, by notice of withdrawal or by publication of a new ruling which is inconsistent with it.

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

**BENEFITS-IN-KIND
THIRD ADDENDUM TO PUBLIC RULING NO. 2/2004**

1. This Addendum provides clarification in relation to tax exemption on certain benefits-in-kind received by an employee pursuant to his employment.
2. **Tax exemption on benefits-in-kind received by an employee**
 - 2.1 Benefits-in-kind received by an employee pursuant to his employment are chargeable to tax as part of gross income from employment under paragraph 13(1)(b) of the Income Tax Act 1967 (ITA).
 - 2.2 However, there are certain benefits-in-kind which are either exempted from tax or are regarded as not taxable. These benefits-in-kind are mentioned in paragraphs 4.3 and 4.4 of the Public Ruling No. 2/2004 issued on 8 November 2004. A further clarification on benefits-in-kind in the form of 'goods and services offered at discounted prices' is explained in the Second Addendum to the Public Ruling No. 2/2004 issued on 17 January 2006.
 - 2.3 From the year of assessment 2008, the following benefits-in-kind are also exempted from tax. The explanations provided in this Addendum in relation to the exemption on certain benefits-in-kind are as provided under the Income Tax (Exemption) Order 2009 - [P.U. (A) 152/2009].
 - 2.3.1 (a) **Discounted price for consumable business products of the employer**
 - i. The Second Addendum to Public Ruling No. 2/2004 specified that the 'goods offered at discounted price' which are not taxable are confined to 'consumables' which are products of the employer and the value is not more than RM200. If the value of the goods exceeds RM200, the full amount will be taxable.
 - ii. With effect from the year of assessment 2008, the value of the discount on goods will be exempted up to a maximum of RM1,000. If the value of the discount exceeds RM1,000, only the amount exceeding RM1,000 will be taxable. The goods can be provided to the employee either free of charge (fully discounted) or at a partly discounted price. The value of the goods is based on the sales price.

- iii. Goods which are consumable business products of the employer include either goods manufactured by the employer or goods which are trading stocks of the employer.

Example 1:

Pro Mesra Sdn Bhd which sells toiletries gives each of their employees free toiletries items which are valued at RM1,200 in the year 2008. In year 2009 the employees are given toiletries items at a discounted price. The value of the discount given to each employee is RM700.

The employees are exempted from tax on the discounted value of goods received up to an amount of RM1,000 whereas the excess of RM200 will be charged to tax in the year of assessment 2008.

In the year of assessment 2009 the employees are exempted from tax on the amount of discount received which is RM700.

(b) Discounted price for services provided by the employer

Discounted price for services provided by the employer for the employee's benefit is fully exempted from tax.

Example 2:

A dentist who operates a private dental clinic provided free dental treatment to his dental assistant in the year 2008. The dentist's normal charge for dental treatment is RM100.

The employee is exempted from tax on the discounted value of services received i.e. RM100 from the employer in the year of assessment 2008.

Example 3:

A bank provides free investment consultation services to its employees in the year 2008. The bank also provides its employees with a discounted amount for purchase of its newly launched investment product.

The employees qualify for exemption from tax on the discounted value of investment consultation services received from the employer. However the employees will be taxed on the value of

discounted investment product received from the employer since the product does not fall under the meaning of services provided by the employer.

- (c) Only benefits received by an employee from his employer, either in the form of consumable business products or services, is exempted from tax. Benefits received by an employee from a company within the same group of companies as its employer are not exempted from tax. For this purpose, 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 4:

Michael and Wong are both employees of Food Manufacturing Sdn Bhd which manufactures biscuits. Michael received free biscuits manufactured by his employer, valued at RM500, in the year 2008. Whereas, Wong received cakes manufactured by Confectionery Sdn Bhd, worth RM500, in the year 2008. Confectionery Sdn Bhd is a related company of Food Manufacturing Sdn Bhd.

Michael is fully exempted from tax on the discounted value of goods received in the year of assessment 2008 but Wong does not qualify for exemption in the year of assessment 2008 because the goods are not products of his employer.

- (d) Benefits provided to a spouse or unmarried children of the employee (children in respect of whom an employee is eligible to claim for a deduction under section 48 of the ITA) is considered to be benefits received by the employee.

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

- i. Benefits received by an employee in the form of fixed line telephone, mobile phone, pager or PDA registered under the employer's name is fully exempted from tax. The amount to be exempted includes registration cost and installation cost. The exemption given is limited to one unit for each asset.
- ii. Monthly bills paid by the employer for fixed line telephone, mobile phone, pager, PDA or subscription of broadband is fully exempted

from tax. The amount to be exempted includes registration cost and installation cost.

- iii. With full exemption given to the above with effect from the year of assessment 2008, paragraph 3, item 1 of Appendix 2 to the Public Ruling No. 2/2004 in respect of benefit on telephone and telephone bill is no longer applicable.

2.3.3 Traditional medicine and maternity

- i. Benefits received for medical treatment is exempted from tax as mentioned in the Public Ruling No. 2/2004. However, medical treatment is confined to treatment of illnesses by certified medical doctors who practice modern medicine.
- ii. With effect from the year of assessment 2008, the medical treatment benefit exempted from tax is extended to traditional medicine and maternity. Traditional medicine means Malay Traditional Medicine, Chinese Traditional Medicine and Indian Traditional Medicine. Examples of the treatment are malay traditional massage, ayurvedic or acupuncture.
- iii. Traditional medicine can be defined as diverse health practices, approaches, knowledge and belief incorporating plant, animal and/or mineral based medicines, spiritual therapies, manual techniques and exercises applied singularly or in combination to maintain well-being, as well as to treat, diagnose or prevent illness.
- iv. Traditional medicine which qualifies for the exemption is treatment given by a medical practitioner registered with bodies which are certified or registered in accordance with the rules governing traditional medicine as laid down by the Ministry of Health. Some of the qualifying bodies are as listed below:
 - (a) Malay Traditional Treatment
Persatuan Perubatan Tradisional Melayu Malaysia (PUTRAMAS)
 - (b) Indian Traditional Treatment
Pertubuhan Perubatan Tradisional India Malaysia (PEPTIM)
 - (c) Chinese Traditional Treatment

- Federation of Chinese Physicians and Chinese Dealers Associations of Malaysia (FCPMDM)
 - Federation of Chinese Physicians & Acupuncturists Associations of Malaysia (FCPAAM)
 - Chinese Physician's Associations of Malaysia (MCPA)
- v. Complimentary medicine and homeopathy are not included in this exemption. Some examples of complimentary medicine are aromatherapy, reflexology, spa and Thai traditional massage.
- vi. Maternity expense which qualifies for the exemption is for treatment in respect of pregnancy or child birth. The treatment has to be given by:
- certified medical doctors who practice modern medicine;
 - medical practitioners registered with bodies which are certified or registered in accordance with the rules governing traditional medicine as laid down by the Ministry of Health.

2.3.4 Benefit on free petrol

- i. Benefit on free petrol, whether in the form of petrol card provided by the employer or petrol bill paid by the employer, is benefit-in-kind received by an employee pursuant to his employment. The benefit that is taxable is the total value of petrol provided to the employee and is chargeable to tax as part of gross income from employment under paragraph 13(1)(b) of the ITA.
- ii. Paragraph 6.1.4 of the Public Ruling No. 2/2004 states that if an employee enjoys the benefit of a motorcar with free petrol, he will be assessed on the annual prescribed benefit of a motorcar and petrol as per Appendix 2 of the Public Ruling No. 2/2004. From the year of assessment 2008, the annual prescribed benefit of petrol as per Appendix 2 of the Public Ruling No. 2/2004 is no longer applicable. The benefit on free petrol is taken to be the total value of petrol provided to the employee.
- iii. From the year of assessment 2008:
- (a) the employer has to identify the amount of value of petrol provided to the employee for travel between home and place of work and/or the amount of value of petrol provided to the

employee for travel in exercising employment. The amount of benefit on free petrol exempted in respect of:

- travelling from home to place of work and from place of work to home is limited to RM2,400 per year with effect from year of assessment 2008 to year of assessment 2010; and
- travelling in exercising an employment is limited to RM6,000 per year. However, if an employee receives free petrol exceeding RM6,000 in exercising his employment, a claim for deduction for official duties can be made by the employee in computing his employment income. Records pertaining to the exempted amount and the claim for official duties should be kept for a period of 7 years for audit purposes.

(b) If the employer is unable to identify the amount of value of petrol provided to the employee for travel between home and place of work and/or the amount of value of petrol provided to the employee for travel in exercising employment, the amount of benefit on free petrol exempted is limited to a maximum of RM6,000.

- iv. The exemption is not applicable to the benefit on motorcar. Therefore the annual prescribed benefit on motorcar as per Appendix 2 of the Public Ruling No. 2/2004 is still applicable.

Example 5:

Simon is provided with a 3 year-old used car which was purchased by his employer for RM180,000 together with the amenity of free petrol. The cost of the motorcar when new was RM206,000. The petrol bill incurred by the employer in respect of this motorcar in the year 2008 was RM8,900.

The annual value of benefits-in-kind on car and petrol for the year of assessment 2008 is computed as follows:

Types of benefits-in-kind	Based on the formula method (RM)	Based on the prescribed value method (RM)
Motorcar	$\frac{180,000}{8} \times 80\% = 18,000$	9,000
Petrol	8,900 (actual value of petrol)	

Value of benefit on motorcar chargeable to tax is:

- RM18,000 based on formula method.
- RM9,000 based on the prescribed value method.

In respect of benefit on petrol, Simon's employer has to establish the actual value of petrol used by him for travelling from home to place of work and from place of work to home or in exercising his employment.

If Simon's employer can establish the actual value of petrol used, then the amount exempted is as follows:

- limited to RM2,400 for travelling from home to place of work and from place of work to home; and
- limited to RM6,000 for travelling in exercising his employment. However, if Simon keeps proper records 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.

If Simon's employer is unable to identify the amount of actual value of petrol provided to him for travel between home and place of work and/or the amount of value of petrol provided for travel in exercising employment, the amount of benefit on free petrol exempted is limited to RM6,000.



3. Non-Application

3.1 Where an employer provides benefits-in-kind of the type which qualify for exemption to his employee and that employee has control over his employer, the exemption is not applicable. Thus, the benefits-in-kind received by that director or employee is taken to be part of his gross income from employment and taxable under paragraph 13(1)(b) of the ITA.

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

(a) for a company, the power of an employee to secure, by means of 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.

4. This Addendum forms part of the Public Ruling No. 2/2004 and is effective from the year of assessment 2008.

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