



**LEMBAGA HASIL DALAM NEGERI
INLAND REVENUE BOARD**

PUBLIC RULING

TAX BORNE BY EMPLOYERS

Translation from the original Bahasa Malaysia text.

PUBLIC RULING NO. 2/2006

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DIRECTOR GENERAL'S PUBLIC RULING

A Public Ruling is issued for the purpose of providing guidance for the public and officers of the Inland Revenue Board. 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A Public Ruling may be withdrawn, either wholly or in part, by notice of withdrawal or by publication of a new ruling which is inconsistent with it.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,
Malaysia**



1. This Ruling explains:
 - i. the computation of the perquisite relating to income tax of the employee borne by the employer; and
 - ii. the computation of tax payable by the employee who is entitled to this perquisite.
2. The provisions of the Income Tax Act 1967 (ITA) related to this Ruling are sections 2, 7, 13, 25, 83, subsection 112(3), section 131 and Part 1 of Schedule 1.
3. The words used in this Ruling have the following meanings:
 - 3.1 "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.
 - 3.2 "Individual " means a natural person.
 - 3.3 "Employer", in relation to an employment, means -
 - a. where the relationship of master and servant subsists, the master;
 - b. where that relationship 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.
 - 3.4 "Employee", in relation to an employment, means -
 - a. where the relationship of master and servant subsists, the servant;
 - b. where that relationship does not subsist, the holder of the appointment or office which constitutes the employment.
 - 3.5 "Reimbursement", in relation to any perquisite received by the employee, means an expense incurred by the employee which is subsequently reimbursed by the employer.
 - 3.6 "Employment" means -
 - a. employment in which the relationship of master and servant subsists;
 - b. any appointment or office, whether public or not and whether or not that relationship subsists, for which remuneration is payable.
 - 3.7 "Perquisite", 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.
 - 3.8 "Basis year", in relation to a year of assessment for an employment source, is the basis period for that year of assessment.

3.9 "Year of assessment" means the calendar year.

3.10 "Basis period", in relation to gross income from employment, is as ascertained by section 25 of the ITA.

3.11 "Not resident", for a basis year for a year of assessment in relation to an employee, means an employee other than a resident employee.

4. Income Tax Of The Employee Borne By The Employer - A Perquisite To The Employee

Income tax is a personal monetary liability of an employee. When the income tax liability of an employee is paid by the employer, this benefit falls within the definition of "perquisite" and is gross income from employment under paragraph 13(1)(a) of the ITA.

5. The Tax Treatment On Income Tax Of The Employee Borne By The Employer

The agreement by the employer to pay the income tax of the employee does not relieve the employee from tax liability on the amount of income tax borne by the employer. The tax treatment on income tax of the employee borne by the employer is as follows:

5.1 Computation Of Perquisite In Relation To 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 income of that employee in that basis year when the actual amount of tax for that year of assessment can be ascertained, that is in the following basis year. As such, an employee would not be taxed on the benefit in the basis year when his employment commences as the benefit only arises in the following year.

Example 1

Hendrik, a citizen of Sweden who is married and has a non-schooling child, arrives in Malaysia on 25.2.2005 to commence employment on 1.3.2005. The contract of service stipulates the following matters:

- 1) his employment in Malaysia is for 3 years;
- 2) he is paid a monthly salary of RM20,000 for the first 10 months and after that would receive an annual increment of RM12,000 until the cessation of the employment contract;
- 3) he is entitled to receive bonus based on the company's performance; and
- 4) his income tax would be borne entirely by the employer.

The computation of tax payable by Hendrik for the relevant years of assessment borne by the employer is as follows:

Year of assessment 2005	RM	RM
Salary RM20,000 X 10 (1.3.2005 - 31.12.2005)		200,000
Less:		
Deduction for self - section 46 ITA	8,000	
Deduction for wife - section 47 ITA	3,000	
Deduction for child - section 48 ITA	<u>1,000</u>	<u>12,000</u>
Chargeable income		<u>188,000</u>
Tax on the first RM150,000		27,975.00
Tax on the balance RM38,000 @ 27%		<u>10,260.00</u>
Income tax payable ¹		<u>38,235.00</u>

¹ Income tax payable by Hendrik for the year of assessment 2005 totalling RM38,235.00 borne by the employer is a perquisite to him and is treated as gross income from employment under paragraph 13(1)(a) of the ITA for year of assessment 2006, i.e. the year of assessment in which actual income tax for the year of assessment 2005 is ascertained.

Year of assessment 2006	RM	RM
Salary RM21,000 X 12 (1.1.2006 - 31.12.2006)		252,000
Tax for year of assessment 2005 borne by the employer ¹		<u>38,235</u>
Total income		290,235
Less:		
Deduction for self - section 46 ITA	8,000	
Deduction for wife - section 47 ITA	3,000	
Deduction for child - section 48 ITA	<u>1,000</u>	<u>12,000</u>
Chargeable income		<u>278,235</u>
Tax on the first RM250,000		54,975.00
Tax on the balance RM28,235 @ 28%		<u>7,905.80</u>
Income tax payable ²		<u>62,880.80</u>

² Income tax payable of RM62,880.80 by Hendrik for the year of assessment 2006 borne by the employer is a perquisite to him and is treated as gross income from employment under paragraph 13(1)(a) of the ITA for the year of assessment 2007.

5.2 Computation Of Perquisite If There Is An Additional Assessment

If there is additional tax for a year of assessment which is borne by the employer, this additional tax must be regarded as income of the employee for the year of assessment in which the additional assessment is made and this will not be related back to the year of assessment concerned.

Example 2

Using the facts in Example 1, where -

- 1) the employer declares bonus for 2005 amounting to RM40,000 for Hendrik in 2007;

- 2) the additional tax for year of assessment 2005 on the bonus is borne by the employer; and
 3) the additional assessment on the bonus is made in 2007, the computation of tax borne by the employer and the tax payable by Hendrik for the respective years of assessment are as follows:

Year of assessment 2005 - additional assessment	RM	RM
Salary RM20,000 X 10 (1.3.2005 - 31.12.2005)		200,000
Bonus ³		<u>40,000</u>
Total income		240,000
Less:		
Deduction for self - section 46 ITA	8,000	
Deduction for wife - section 47 ITA	3,000	
Deduction for child - section 48 ITA	<u>1,000</u>	<u>12,000</u>
Chargeable income		<u>228,000</u>
Tax on the first RM150,000		27,975.00
Tax on the balance RM78,000 @ 27%		<u>21,060.00</u>
Income tax payable		49,035.00
Less: original tax - year of assessment 2005		<u>38,235.00</u>
Additional tax i.e. tax on bonus 2005 ⁴		<u>10,800.00</u>

⁴ Additional tax for the year of assessment 2005 resulting from the receipt of bonus RM40,000³ is RM10,800. This amount of RM10,800 is a perquisite to Hendrik. It will not be related to the year of assessment 2006 but is regarded as gross income from employment under paragraph 13(1)(a) of the ITA for the year of assessment in which the additional assessment is made, i.e. for the year of assessment 2007.

Year of assessment 2006 - no change

Hendrik's tax for the year of assessment 2006 amounting to RM62,880.80 borne by his employer will not be revised and is maintained.

Year of assessment 2007	RM	RM
Salary RM22,000 X 12 (1.1.2007 - 31.12.2007)		264,000
Tax for the year of assessment 2006 borne by the employer		62,881
Additional tax for the year of assessment 2005 borne by the employer ⁴		<u>10,800</u>
Total income		337,681
Less:		
Deduction for self - section 46 ITA	8,000	
Deduction for wife - section 47 ITA	3,000	
Deduction for child - section 48 ITA	<u>1,000</u>	<u>12,000</u>
Chargeable income		<u>325,681</u>
Tax on the first RM250,000		54,975.00
Tax on the balance RM75,681 @ 28%		<u>21,190.68</u>
Income tax payable ⁵		<u>76,165.68</u>

⁵ The tax payable by Hendrik for the year of assessment 2007 amounting to RM76,165.68 borne by the employer is treated as gross income from employment under paragraph 13(1)(a) of the ITA for the following year of assessment, i.e. year of assessment 2008.

5.3 Computation Of Perquisite If There Is A Reduced Assessment

Where in a year of assessment there is a change which results in a reduced assessment for that year of assessment, the tax for that year of assessment and the following years of assessment (regardless whether it results in an additional or reduced assessment) has to be recomputed to ascertain the actual income tax which should be borne by the employer.

Example 3

Using Example 2, where Hendrik makes an appeal on the tax for year of assessment 2005 and the following years of assessment based on section 131 of the ITA as he has overlooked making claims for deduction in respect of life insurance premiums under section 49 of the ITA amounting to RM6,000 per year which has been expended, the tax for the respective years of assessment must be recomputed to ascertain the actual income tax to be borne by the employer.

The actual income tax payable by Hendrik for the respective years of assessment is computed as follows:

Year of assessment 2005 - reduced assessment	RM	RM
Salary RM20,000 X 10 (1.3.2005 - 31.12.2005)		200,000
Bonus		<u>40,000</u>
Total income		240,000
Less:		
Deduction for self - section 46 ITA	8,000	
Deduction for wife - section 47 ITA	3,000	
Deduction for child - section 48 ITA	1,000	
Deduction for life insurance premiums - section 49 ITA	<u>6,000</u>	<u>18,000</u>
Chargeable income		<u>222,000</u>
Tax on the first RM150,000		27,975.00
Tax on the balance RM72,000 @ 27%		<u>19,440.00</u>
Income tax payable ⁶		47,415.00
Less: tax for the year of assessment 2005 - see Example 2		<u>49,035.00</u>
Tax discharged as a result of claim for life insurance premiums		<u>1,620.00</u>

⁶ The actual tax for the year of assessment 2005 borne by the employer after taking into account the deduction for life insurance premiums allowable to Hendrik is RM47,415.00. This amount is a perquisite to Hendrik and must be treated as gross income from employment under paragraph 13(1)(a) of the ITA for the year of assessment 2006. As such, the income tax payable by Hendrik for the year of assessment 2006 must be recomputed to ascertain the actual income tax borne by the employer for that year of assessment.

	RM	RM
Year of assessment 2006 - additional assessment		
Salary RM21,000 X 12 (1.1.2006 - 31.12.2006)		252,000
Tax for year of assessment 2005 borne by the employer ⁶		<u>47,415</u>
Total income		299,415
Less:		
Deduction for self - section 46 ITA	8,000	
Deduction for wife - section 47 ITA	3,000	
Deduction for child - section 48 ITA	1,000	
Deduction for life insurance premiums - section 49 ITA	<u>6,000</u>	<u>18,000</u>
Chargeable income		<u>281,415</u>
Tax on the first RM250,000		54,975.00
Tax on the balance RM31,415 @ 28%		<u>8,796.20</u>
Income tax payable ⁷		63,771.20
Less: original assessment - year of assessment 2006 - see Example 1		<u>62,880.80</u>
Additional tax payable as a result of claim for life insurance premiums		<u>890.40</u>

⁷ The actual income tax borne by the employer for the year of assessment 2006 after taking into account the life insurance premiums allowed to be claimed by Hendrik is RM63,771.20. This amount is a prerequisite to Hendrik and must be treated as gross income from employment under paragraph 13(1)(a) of the ITA for the year of assessment 2007. Therefore, the income tax payable for the year of assessment 2007 is recomputed to ascertain the actual income tax to be borne by the employer for that year of assessment.

	RM	RM
Year of assessment 2007 - reduced assessment		
Salary RM22,000 X 12 (1.1.2007 - 31.12.2007)		264,000
Tax for the year of assessment 2006 borne by the employer ⁷		<u>63,771</u>
Total income		327,771
Less:		
Deduction for self - section 46 ITA	8,000	
Deduction for wife - section 47 ITA	3,000	
Deduction for child - section 48 ITA	1,000	
Deduction for life insurance premiums - section 49 ITA	<u>6,000</u>	<u>18,000</u>
Chargeable income		<u>309,771</u>
Tax on the first RM250,000		54,975.00
Tax on the balance RM59,771 @ 28%		<u>16,735.88</u>
Income tax payable		71,710.88
Less: original tax for year of assessment 2007 - see Example 2		<u>76,165.68</u>
Tax discharged as a result of the claim for life insurance premiums		<u>4,454.80</u>

5.4 Computation Of Perquisite In The Case Where The Employer Agrees To Pay Only A Portion Of The Employee's Tax

Where the employer agrees to pay only a portion of the employee's tax for a year of assessment, only that portion of tax borne by the employer is treated as gross income from employment of the employee under paragraph 13(1)(a) of the ITA.

Example 4

Miyamoto, a Japanese citizen, starts work in Malaysia with a Japanese company from 1.7.2005. According to the employment contract signed with the employer, it was agreed that -

- 1) he is to work in Malaysia for 2 years;
- 2) he is paid salary of RM18,000 per month;
- 3) the employer will bear half (1/2) of his income tax liability; and
- 4) he is provided amenities as follows:
 - telephone - RM600 per year;
 - car and petrol - RM7,800 per year;
 - free living accommodation. The rent paid by the employer for the provision of the accommodation is RM3,000 per month.

The computation of tax payable by Miyamoto for the years of assessment 2005 and 2006 is computed as follows:

Year of assessment 2005	<i>RM</i>	<i>RM</i>
Paragraph 13(1)(a) ITA		
Salary RM18,000 X 6 (1.7.2005 - 31.12.2005)		108,000
Paragraph 13(1)(b) ITA		
Telephone	300	
Car and petrol	<u>3,900</u>	4,200
Paragraph 13(1)(c) ITA		
30% X 108,000 = RM32,400		
Or		
Defined value of accommodation = RM3,000 X 6 = RM18,000		
Whichever is the lower		<u>18,000</u>
Gross / adjusted /statutory income from employment / total income		130,200
Less :		
Deduction for self- section 46 ITA		<u>8,000</u>
Chargeable income		<u>122,200</u>
Tax on the first RM100,000		14,475.00
Tax on the balance RM22,200 @ 27%		<u>5,994.00</u>
Income tax payable ⁸		<u>20,469.00</u>

⁸ As the employer only agrees to bear half ($1/2 \times RM20,469$) of the income tax payable by Miyamoto, only RM10,234.50 is perquisite to Miyamoto that is regarded as gross income from employment under paragraph 13(1)(a) of the ITA for the year of assessment 2006 i.e. the year of assessment in which the actual income tax for the year of assessment 2005 can be ascertained.

Year of assessment 2006	RM	RM
Paragraph 13(1)(a) ITA		
Salary RM18,000 X 12 (1.1.2006 - 31.12.2006)		216,000
Income tax for the year of assessment 2005 ⁸		<u>10,235</u>
		226,235
Paragraph 13(1)(b) ITA		
Telephone	600	
Car and petrol	<u>7,800</u>	8,400
Paragraph 13(1)(c) ITA		
30% X RM226,235 = RM67,871		
Or		
Defined value of accommodation = RM3,000 X 12 = RM 36,000		
Whichever is the lower		<u>36,000</u>
Gross / adjusted / statutory income from employment / total income	270,635	
Less :		
Deduction for self - section 46 ITA		<u>8,000</u>
Chargeable income		<u>262,635</u>
Tax on the first RM250,000		54,975.00
Tax on the balance RM12,635 @ 28%		<u>3,537.80</u>
Income tax payable ⁹		<u>58,512.80</u>

⁹ As the employer agrees to bear only half ($1/2 \times RM58,512.80$) of the income tax payable by Miyamoto for the year of assessment 2006, only RM29,256.40 is a perquisite to him and this amount must be treated as gross income from employment under paragraph 13(1)(a) of the ITA for the year of assessment 2007.

5.5 Computation Of Perquisite Where An Employee Defaults In Furnishing The Return Form

Where an employee has defaulted or has not furnished the Return Form B or BE within the stipulated time, the tax payable by the employee includes the penalty imposed on him under subsection 112(3) of the ITA. The total amount of tax payable by the employer is a perquisite to the employee and must be treated as gross income from employment under paragraph 13(1)(a) of the ITA.

Example 5

Using the facts in Example 4, where Miyamoto is late in furnishing the Return Form BE for 2005 within the time stipulated and he is charged with a penalty under subsection 112(3) of the ITA, the income tax of Miyamoto which is

borne by the employer for the respective years of assessment is computed as follows:

Year of assessment 2005

Tax payable by Miyamoto must include the penalty imposed on him under subsection 112(3) of the ITA. Therefore, the tax payable by Miyamoto for the year of assessment 2005 is RM20,469 + penalty RM100 = RM 20,569.00. As Miyamoto's employment has just commenced in 2005, the tax benefit borne by the employer does not arise in the year of assessment 2005 but will arise in the following year of assessment i.e. in the year of assessment 2006 when the actual tax payable for the year of assessment 2005 can be ascertained.

Year of assessment 2006

As the employer agrees to bear only half ($1/2 \times RM20,569.00$) of the income tax payable by Miyamoto, the amount of perquisite to be added to the gross income from employment for Miyamoto under paragraph 13(1)(a) of the ITA for the year of assessment 2006 is only RM10,284.50.

5.6 Computation Of Perquisite In Leaver Cases

5.6.1 In the case of an employee who has left or intends to leave Malaysia (leaver case) and is entitled to the tax benefit under paragraph 13(1)(a) of the ITA, the provisions of subsections 25(5) and 25(6) of the ITA must be applied in accordance with the situations as follows:

i. Application of subsection 25(5) of the ITA

According to this provision, where the tax benefit receivable for a later period is received in an earlier period, the tax benefit will be deemed to have been received in the earlier period and will therefore become taxable in that earlier period.

ii. Application of subsection 25(6) of the ITA

Where an employee -

- has left Malaysia in the basis year for a year of assessment;
- is not resident in Malaysia for the basis year for the following year and does not derive any pension from Malaysia for that basis year; and
- ceases to derive gross income from employment from Malaysia on the expiration of a period of leave following his departure from Malaysia,

the tax benefit for the basis period following the year of his departure shall be treated as income for the basis period in which he leaves Malaysia.

For the purposes of the application of the above subsection, the determination of the residence status of an individual is explained in

detail in APPENDIX A of the Public Ruling No.2/2005: Computation Of Income Tax Payable By A Resident Individual dated 6 June 2005.

- 5.6.2 For leaver cases in paragraph 5.6.1 above, the computation of tax has to be made twice for the final year the employee is in Malaysia to determine the actual amount of tax payable by the employer on behalf of the employee.

Example 6

Sam, who is single, commences employment in Malaysia on 1.7.2005. According to the agreement signed with his employer:

- 1) his employment in Malaysia is for 2 ½ years;
- 2) his monthly salary is RM10,000 for the first six (6) months and after which he is given a salary increase at the rate of RM12,000 a year until the employment contract ceases on 31.12.2007; and
- 3) his income tax is borne entirely by the employer.

Sam goes on paid leave commencing on 1.12.2007 and he leaves Malaysia on 1.12.2007.

The tax payable by Sam which is borne by his employer for the respective years of assessment is computed as follows:

Year of assessment 2005	RM
Salary RM10,000 X 6 (1.7.2005 - 31.12.2005)	60,000
Less :	
Deduction for self - section 46 ITA	<u>8,000</u>
Chargeable income	<u>52,000</u>
Tax on the first RM50,000	3,475.00
Tax on the balance RM2,000 @ 19%	<u>380.00</u>
Income tax payable ¹⁰	<u>3,855.00</u>

¹⁰ The tax payable by Sam for the year of assessment 2005 amounting to RM3,855.00 borne by the employer is a perquisite to him and must be treated as gross income from employment under paragraph 13(1)(a) of the ITA for the year of assessment 2006, i.e. the year in which actual tax for year of assessment 2005 is ascertained.

The tax payable by Sam for the year of assessment 2006 borne by the employer is computed as follows:

Year of assessment 2006	RM
Salary RM11,000 X 12 (1.1.2006 - 31.12.2006)	132,000
Tax for the year of assessment 2005 borne by the employer ¹⁰	<u>3,855</u>
Total income	135,855
Less:	
Deduction for self - section 46 ITA	<u>8,000</u>
Chargeable income	<u>127,855</u>
	RM
Tax on the first RM100,000	14,475.00
Tax on the balance RM27,855 @ 27%	<u>7,520.85</u>
Income tax payable ¹¹	<u>21,995.85</u>

¹¹ The income tax payable for the year of assessment 2006 amounting to RM21,995.85 borne by the employer on behalf of Sam is a perquisite to him and must be treated as gross income from employment under paragraph 13(1)(a) of the ITA for the year of assessment 2007.

Consequently, the tax payable by Sam for the year of assessment 2007 borne by the employer after taking into account the above is computed as follows:

- (1) As Sam left Malaysia on 1.12.2007, the income tax for the year of assessment 2007 borne by the employer (which should be the income for the year of assessment 2008) is also treated as gross income from employment under paragraph 13(1)(a) of the ITA for the year of assessment 2007. This is in accordance with subsection 25(5) of the ITA which provides that, where an employment income for a later basis period is received in the earlier period, the employment income is deemed to have been received in the earlier period and is assessed in that period.
- (2) For this purpose, the computation of tax has to be made twice to ascertain the actual amount of tax payable by the employer for the year of assessment 2007.

Year of assessment 2007	RM
Computation of tax for purposes of the final computation	
Salary RM12,000 X 11 (1.1.2007 - 30.11.2007)	132,000
Leave pay RM12,000 (1.12.2007 - 31.12.2007)	12,000
Tax for year of assessment 2006 borne by the employer ¹¹	<u>21,996</u>
Total income	165,996
Less:	
Deduction for self - section 46 ITA	<u>8,000</u>
Chargeable income	<u>157,996</u>

<i>Tax on the first RM150,000</i>	<i>27,975.00</i>
<i>Tax on the balance RM7,996 @ 27%</i>	<u><i>2,158.92</i></u>
<i>Income tax payable</i> ¹²	<u><i>30,133.92</i></u>

Final computation:

<i>Salary 12,000 X 11 (1.1.2007 - 30.11.2007)</i>	<i>132,000</i>
<i>Leave pay RM12,000 X 1 (1.12.2007 - 31.12.2007)</i>	<i>12,000</i>
<i>Tax for the year of assessment 2006 borne by the employer</i> ¹¹	<i>21,996</i>
<i>Tax for the year of assessment 2007 borne by the employer</i> ¹²	<u><i>30,134</i></u>
<i>Total income</i>	<i>196,130</i>
<i>Less:</i>	
<i>Deduction for self - section 46 ITA</i>	<u><i>8,000</i></u>
<i>Chargeable income</i>	<u><i>188,130</i></u>

<i>Tax on the first RM150,000</i>	<i>27,975.00</i>
<i>Tax on the balance RM38,130 @ 27%</i>	<u><i>10,295.10</i></u>
<i>Income tax payable</i> ¹³	<u><i>38,270.10</i></u>

¹³ The actual tax payable by Sam for the year of assessment 2007 (i.e. the final year of assessment for which he is in Malaysia) borne by the employer is RM38,270.10.

Example 7

Using the facts in Example 6, if -

- i. Sam's employment contract ceases on 31.1.2008;*
- ii. Sam leaves Malaysia on 30.11.2007; and*
- iii. is given full paid leave from 1.12.2007 to 31.1.2008 where his salary was paid at the end of each month,*

the provision of subsection 25(6) of the ITA is applicable as Sam -

- left Malaysia on 30.11.2007;*
- is not resident in Malaysia for the following basis year;*
- does not derive pension from Malaysia for the following basis year;*
and
- ceases to receive gross income from employment from Malaysia at the end of the leave period following his departure from Malaysia.*

This means, the income tax payable by Sam for the year of assessment 2007 borne by his employer (which should be a perquisite and treated as

gross income from employment under paragraph 13(1)(a) of the ITA for the basis year 2008) is treated as income for the basis period in which he left Malaysia, i.e. for the year of assessment 2007.

The tax payable by Sam for the respective years of assessment is computed as follows:

Years of assessment 2005 & 2006 - as explained in Example 6

Year of assessment 2007 - Resident RM

Computation of tax for purposes of the final computation:

Salary RM12,000 X 11 (1.1.2007 - 31.11.2007)	132,000
Leave pay RM12,000 X 1 (1.12.2007 - 31.12.2007)	12,000
Leave pay:	
RM13,000 X 1 (1.1.2008 - 31.1.2008) - subsection 25(6) ITA	13,000
Tax for the year of assessment 2006 borne by the employer ¹²	<u>21,996</u>
Total income	178,996
Less:	
Deduction for self - section 46 ITA	<u>8,000</u>
Chargeable income	<u>170,996</u>
Tax on the first RM150,000	27,975.00
Tax on the balance RM20,996 @ 27%	<u>5,668.92</u>
Income tax payable ¹⁴	<u>33,643.92</u>

Final computation:

Salary RM12,000 X 11 (1.1.2007 - 31.12.2007)	132,000
Leave pay RM12,000 X 1 (1.12.2007 - 31.12.2007)	12,000
Leave pay:	
RM13,000 X 1 (1.1.2008 - 31.1.2008) - subsec 25(6) ITA	13,000
Tax for the year of assessment 2006 borne by the employer ¹²	21,996
Tax for the year of assessment 2007 borne by the employer ¹³	<u>33,644</u>
Total income	212,640
Less:	
Deduction for self - section 46 ITA	<u>8,000</u>
Chargeable income	<u>204,640</u>
Tax on the first RM150,000	27,975.00
Tax on the balance RM54,640 @ 27%	<u>14,752.80</u>
Income tax payable ¹⁵	<u>42,727.80</u>

¹⁵ The income tax payable by Sam for 2007 (the last year of assessment in which he is in Malaysia) borne by his employer is RM42,727.80.

However, Sam has the right to elect that subsection 25(6) of the ITA should not be applied on him. In this situation, Sam's income is assessed on a normal basis and the computation is as follows:

Years of assessment 2005 & 2006 - as in Example 6

Year of assessment 2007 - Resident	RM
Salary RM12,000 X 11 (1.1.2007 - 31.12.2007)	132,000
Leave pay RM12,000 X 1 (1.12.2007 - 31.12.2007)	12,000
Tax for the year of assessment 2006 borne by the employer ¹²	<u>21,996</u>
Total income	165,996
Less:	
Deduction for self - section 46 ITA	<u>8,000</u>
Chargeable income	<u>157,996</u>
Tax on the first RM150,000	27,975.00
Tax on the balance RM7,996 @ 27%	<u>2,158.92</u>
Income tax payable ¹⁶	<u>30,133.92</u>

¹⁶ The tax payable by Sam for the year of assessment 2007 borne by the employer is a perquisite to him and must be treated as gross income from employment under paragraph 13(1)(a) of the ITA for the year of assessment 2008.

Year of assessment 2008 : Not resident	RM
Computation of tax for purposes of the final computation:	
Leave pay RM13,000 X 1 (1.1.2008 - 31.1.2008)	13,000
Tax for the year of assessment 2007 borne by employer ¹⁶	<u>30,134</u>
Total income / Chargeable income	<u>43,134</u>
Income tax payable RM43,134 @ 28% ¹⁷	<u>12,077.52</u>

Final computation:

Leave pay RM13,000 X 1 (1.1.2008 - 31.1.2008)	13,000
Tax for the year of assessment 2007 borne by the employer ¹⁶	30,134
Tax for the year of assessment 2008 borne by the employer ¹⁷	<u>12,078</u>
Total income / Chargeable income	<u>55,212</u>
Income tax payable RM55,212 @ 28% ¹⁸	<u>15,459.36</u>

¹⁸ The tax payable by Sam as an individual who is not resident for the year of assessment 2008 borne by the employer i.e. for the final year in which he is in Malaysia is RM15,459.36.



6. Schedular Tax Deduction (STD)

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 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 deductions on the perquisite, the employer has to obtain the approval of Collection Branch to allow the employee to pay tax on the perquisite by instalments with the issuance of the Directive of Tax Deduction (CP38).

7. This Ruling is effective for the year of assessment 2005 and subsequent years of assessment.

**Director General
of Inland Revenue**