

Understanding the enhanced and taxable utilities benefit

The new Income Tax Act (ITA) brings within the scope of taxation all employment income accruing to an employee, except for income that is specifically exempted under the Act. Employment income is not limited to cash payments such as salaries, wages and allowances. It can also take the form of non-cash benefits provided to an employee by virtue of their employment. Unless specifically exempted, both cash and non-cash benefits form part of an employee's taxable employment income. We will analyse this matter in detail below. In this article, words importing the masculine shall be deemed to include the feminine.

Non-cash benefits

The ITA recognises the above-stated broader meaning of employment income by providing that it includes "the value of a non-cash benefit provided to the employee, in such manner as may be prescribed." This means that an employee may have taxable income even where they do not receive the benefit in cash. Where an employer pays an expense on behalf of an employee or provides a benefit for the employee's personal use, the value of that benefit may be treated as employment income and subjected to PAYE.

One area where the new Act provides greater clarity is the treatment of utility benefits. Under the new Act, a utility benefit is expressly identified as one of the non-cash benefits that forms part of employment income. This is different from the position under the old Act, where utilities were arguably captured under the more general provision referring to the "value of any other benefit or advantage granted to an employee." Because the old provision was broad and did not specifically mention utilities, it was easier for employers to overlook or exclude utility benefits when determining an employee's taxable income. The new Act removes much of this uncertainty by specifically bringing utility benefits within the definition of taxable employment income.

The law's precepts

The position is further clarified by Income Tax Regulation 25, which sets out when a utilities benefit arises. That benefit arises where an employer bears, pays or reimburses the cost of utilities on behalf of an employee. The regulation covers a range of benefits, including water, electricity, meals, security, internet and cellphone services. In other words, an employer does not necessarily have to pay the benefit directly to the employee for it to be taxable. If the employer settles the expense on the employee's behalf or reimburses the employee for the expense, the employee may still be regarded as having received a taxable benefit.

Enter the value

The value of the benefit is determined by reference to the cost incurred by the employer or the market value of the benefit, whichever is greater. For example, if an employer pays P1,500

for electricity on behalf of an employee and the market value of the benefit is P1,800, the taxable benefit would be based on the higher amount, being P1,800, subject to the specific rules under the regulations.

As Yours Truly and team say goodbye, remember to pay to Ceaser what belongs to him!

Tax hint: If you have never had a tax audit/review conducted by a tax consultancy firm to check whether you are tax compliant, or should it be apparent that you are not certain that your tax affairs are good order, then don't wait for the taxman to pounce on you, as that can be very costly. Contact us today so we can help you fix your tax affairs whilst you still have time.

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