



**LEMBAGA HASIL DALAM NEGERI
INLAND REVENUE BOARD**

PUBLIC RULING

PERQUISITES FROM EMPLOYMENT

Translation from the original Bahasa Malaysia text.

PUBLIC RULING NO. 1/2006

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**LEMBAGA HASIL DALAM NEGERI
MALAYSIA**

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Public Ruling No. 1/2006

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A Public Ruling may be withdrawn, either wholly or in part, by notice of withdrawal or by publication of a new ruling which is inconsistent with it.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



PERQUISITES FROM EMPLOYMENT

**LEMBAGA HASIL DALAM NEGERI
MALAYSIA**

**Public Ruling No. 1/2006
Date of Issue: 17 January 2006**

1. This Ruling explains:
 - i. the distinction between perquisites and benefits-in-kind (BIK);
 - ii. the meaning of perquisites in relation to an employment;
 - iii. types of perquisites and the tax treatment;
 - iv. the employer's responsibilities upon the granting of perquisites to the employee; and
 - v. the employee's responsibilities on receiving such perquisites.
2. The provisions of the Income Tax Act, 1967 (ITA) related to this Public Ruling are sections 2, 4(b), 7, 13, 25, 77, 82, 82A, 83, 112, 113, 119A, 120 and Schedule 6.
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 "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 return.
 - 3.3 "Individual" means a natural person.
 - 3.4 "Employer", in relation to an employment, means -
 - a. where the relationship of master and servant subsists, the master;
 - b. where the 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.
 - 3.5 "Market value", in relation to any thing, means the price which that thing would fetch if sold in a transaction between independent persons dealing at arm's length.
 - 3.6 "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.
 - 3.7 "Reimbursement", in relation to any perquisite received by the employee, means an expense incurred by the employee which is subsequently reimbursed by the employer.

- 3.8 "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.
- 3.9 "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.
- 3.10 "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.
- 3.11 "Basis year", in relation to a year of assessment for an employment source, is the basis period for that year of assessment.
- 3.12 "Year of assessment" means the calendar year.
- 3.13 "Basis period", in relation to gross income from employment, is as ascertained by section 25 of the ITA.
- 3.14 "Not resident", for a basis year for a year of assessment in relation to an employee, means an employee other than a resident employee.

4. **The distinction between perquisites and benefits-in-kind (BIK)**

- 4.1 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 and is taxable under section 4(b) of the ITA. However, there are differences between these benefits.
- 4.2 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 section 4(b) of the ITA as part of the gross income from employment under paragraph 13(1)(a) of the ITA.
- 4.3 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. The tax

treatment on BIK is explained in detail in the Public Ruling No. 2/2004: Benefits-In-Kind dated 8 November 2004.

- 4.4 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. 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.
- 4.5 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 or a BIK under paragraph 13(1)(b) of the ITA. The distinction is important as the gross income from employment under paragraph 13(1)(a) of the ITA will affect the computation of the value of living accommodation enjoyed by the employee under paragraph 13(1)(c) of the ITA.

5. Perquisites

- 5.1 Paragraph 13(1)(a) of the ITA 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 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.
- 5.2 All perquisites are gross income under paragraph 13(1)(a) of the ITA and are chargeable to tax under section 4(b) of the ITA. Perquisites have the following characteristics:
 - i. Perquisites can be received regularly or casually.
 - ii. 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.
 - iii. 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 Income Tax Form BE or B.
 - iv. Notwithstanding the above, a perquisite is subject to tax only if it arises in respect of having or exercising an employment.

Example 1

On 1.4.2005, 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 1.9.2005 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 -

- have money's worth; and*
- 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 under paragraph 13(1)(a) of the ITA which is taxable under section 4(b) of the ITA. As the perquisites arose on 1.4.2005, when Alfred received them (subsection 25(1) of the ITA), the amount that is chargeable to tax for the year of assessment 2005 is $RM4.50 \times 1,000 = RM4,500$.

However, the subsequent profits arising from the sale of shares on 1.9.2005 are capital profits 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 the Public Ruling No. 4/2004 - Employee Share Option Scheme Benefit dated 9 December 2004).

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 2005, Mei Hwa receives 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 are perquisites 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 under paragraph 13(1)(a) of the ITA 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 for the year of assessment 2005 (subsection 25(1) of the ITA).

- 5.3 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 1.7.2005, at the Annual General Meeting of the company, the shareholders of the company passed a resolution for part payment 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 by the company for each membership is RM16,000 and the payment was made on 30.9.2005. 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 benefit, in addition to the ordinary fee;*
- *paid to a recreational club for part settlement in respect of the individual membership entrance fees for Alex; and*
- *related to an appointment resulting in an employment.*

The perquisite is Alex's gross income from employment under paragraph 13(1)(a) of the ITA to be taxed for the year of assessment 2005, even though Alex (as a director but not a service director of a controlled company) is not actively involved in the performance of any duties.

- 5.4 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).
- 5.5 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.

Example 4

Norman, is a sales manager with a trading company. On 27.12.2005, at the company's Annual Dinner, he received the following:

- i. A watch costing RM5,000 for serving the company for 20 years; and
- ii. Letter of appreciation and cash gift of RM10,000 for successfully securing an important contract for the company in April 2005. This award was made voluntarily by his employer.

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

- i. *The watch, valued at RM5,000, is a perquisite to Norman and is his gross income from employment under paragraph 13(1)(a) of the ITA. The amount is chargeable to tax under section 4(b) of the ITA when received i.e for the year of assessment 2005 as the watch has a cash value, can be sold, assigned or convertible into cash and is received in appreciation for past services performed.*
- ii. *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.*
- iii. *The cash of RM10,000 is a perquisite and is Norman's gross income from employment under paragraph 13(1)(a) of the ITA chargeable to tax under section 4(b) of the ITA for the year of assessment 2005. The cash of RM10,000 is in appreciation of the excellent service rendered even though it is given by the employer voluntarily.*

5.6 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 -

- Wedding gifts whether in the form of cash, jewellery or other items given to an employee by the employer;
- Cash given to an employee by the employer for passing the professional examination with excellent results;
- 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.
- Cash, other items and certificate of appreciation given to an employee for having achieved some extraordinary feats -
 - swimming across the English Channel;
 - sailing around the world within a specified period of time;
 - climbed the highest mountain in the world;
 - other similar feats.

6. Types of perquisites and the tax treatment

6.1 Among the types of perquisites commonly given to an employee by the employer are:

- Pecuniary liability of employees paid by the employer, such as income tax payment, electricity bills, water and telephone bills;
- Credit card facilities
- Loan interest
- Recreational club membership

- Tuition or school fees of child
- Life insurance premiums
- Gardener, driver, domestic help or guard
- Waiver of loan or advance
- Scholarship
- Assets given free of charge or sold at a discount
- Gift vouchers
- Gift of personal computer to the employee by the employer
- Excellent public service award
- Professional subscriptions

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

Market value of the perquisite	RM 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:

Amount of the perquisite	RM 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>

6.3 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 under paragraph 13(1)(a) of the ITA, irrespective whether the payment -

- is made direct to the person who should receive the amount owing;
- given to the employee so that the employee can settle his pecuniary liability; or
- 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 certification by the employer.

6.3.1 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 under paragraph 13(1)(a) of the ITA in that year of assessment when the actual amount of tax for that year of assessment can be ascertained, that is in the following basis year. The computation of the 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 dated 17 January 2006.

6.3.2 Electricity bill, water and telephone bills

For electricity bills, water bills and telephone bills, where such bills are under an employee's name and where the employer -

- gives an amount of money to the employee for the employee to settle the amounts owing as shown in those bills; or
- 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 and is gross income from his employment under paragraph 13(1)(a) of the ITA taxable under section 4(b) of the ITA. 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). However, where -

- the employer subscribes to these utilities (electricity, water and telephone);
- the bills for these utilities are under the name of the employer and not that of the employee; and
- 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, as these benefits are not convertible into money although having money's worth.

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

The amount to be taken as perquisites under paragraph 13(1)(a) of the ITA for the above items, is the amount of car insurance premiums, road tax, parking fees and car maintenance charges (personal liability of the employee) paid by the employer.

6.4 Credit card facilities

Where the 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 fees of the credit card are 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 in respect of such private purchases and payments, including the annual membership fee are perquisites under paragraph 13(1)(a) of the ITA.

6.5 Loan interest

6.5.1 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 forming part of the gross income from employment under paragraph 13(1)(a) of the ITA based on the cost borne by the employer when the employer provides the loan to the employee whether for:

- interest free loan;
- loan where only part of the interest is borne by the employer; or
- 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.

6.5.2 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.

6.5.3 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 forming the

gross income from employment under paragraph 13(1)(a) of the ITA 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 under paragraph 13(1)(a) of the ITA 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:

	RM
Amount of interest charged on the employer by the loan provider	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 staff housing loan in 2005 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 2005 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 as gross income from employment under paragraph 13(1)(a) of the ITA for the year of assessment 2005 is computed as follows:

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

- 6.5.4 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.

- 6.5.5 In summary, perquisites related to this benefit would arise only where -
- the funds for providing the loan facility originate from external funds; and
 - 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.

6.6 Recreational club membership

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

6.6.1 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 and is his gross income from employment under paragraph 13(1)(a) of the ITA.

6.6.2 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 and is not a perquisite under paragraph 13(1)(a) of the ITA as this benefit is not convertible into money even though there is money's worth.

6.7 Tuition or school fees of child

- 6.7.1 Payment or reimbursement to an employee by the employer in respect of tuition or school fees for the employee's children whether studying in or outside Malaysia is a perquisite to the employee and is his gross income from employment under paragraph 13(1)(a) of the ITA.

- 6.7.2 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, 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.

6.8 Insurance premiums

6.8.1 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 and is his gross income from employment under paragraph 13(1)(a) of the ITA.

6.8.2 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 -

- insurance premiums which are obligatory for foreign workers as a replacement to SOCSO contributions.
- group insurance premiums to cover workers in the event of an injury or accident.
- insurance premiums on insurance policies under the Aviation Travel Insurance for employees for coverage of employees for travelling on official duty.
- contributions by employer to the health care management organisation for payment of the medical and treatment costs of employees.

6.9 Gardener, driver, domestic help or guard

6.9.1 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 and is his gross income from employment under paragraph 13(1)(a) of the ITA.

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.

6.9.2 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 and is his gross income from employment under paragraph 13(1)(b) of the ITA.

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:

<i>Item</i>	<i>Provision in the ITA</i>	<i>Amount to be taxed (RM)</i>
<i>House</i>	<i>Paragraph 13(1)(c)</i>	<i>30% X paragraph 13(1)(a) of the ITA Or Defined value of the living accommodation, whichever is the lower</i>
<i>Driver's salary</i>	<i>Paragraph 13(1)(b)</i>	<i>Amount expended by the employer Or Prescribed value i.e. RM600 per month per person (concession)</i>
<i>Domestic help's salary</i>	<i>Paragraph 13(1)(b)</i>	<i>Amount expended by the employer Or Prescribed value i.e. RM400 per month per person (concession)</i>

- 6.9.3 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.

6.10 Scholarship

Paragraph 24, Schedule 6 of the ITA 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.

6.11 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 under paragraph 13(1)(a) of the ITA 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 2002, 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 2005 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 under paragraph 13(1)(a) of the ITA as it is payment for services performed. The perquisite is taxable for the year of assessment 2005 i.e in the year in which the loan is waived (subsection 25(2) of the ITA).

6.12 Assets provided free of charge or sold at discounted prices

6.12.1 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.

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 (RM)	Discount given (%)
Car Model AMV Superclass	1,100,000	10

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

- *the car has money's worth and can be convertible into money; and*
- *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.

6.13 Gift vouchers

6.13.1 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.

6.13.2 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 and it is his gross income from employment under paragraph 13(1)(a) of the ITA.

6.14 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 and the amount is gross income from employment under paragraph 13(1)(a) of the ITA in the year the benefit is received (subsection 25(2) of the ITA).

The exemption from income tax on an amount equal to the value of the benefit of one new personal computer received as a gift by an employee from his employer was effective from the year of assessment 2001 until the year of assessment 2003 (inclusive) - *P.U.(A) 503, Income Tax (Exemption) Order (No. 56) Order 2000 dated 22 December 2000.*

6.15 Excellent Public Service award

The performance award given to the 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 and is subject to tax.

6.16 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 under paragraph 13(1)(a) of the ITA.

7. Employer's responsibilities

7.1 In accordance with subsection 83(1) of the ITA, 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.

7.2 In accordance with section 82 of the ITA, 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 Income Tax Form 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.

8. Employee's responsibilities

8.1 In accordance with subsection 77(1) of the ITA, the employee is required to report in the Income Tax Form 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. Where the employee under declares his income, he is liable to prosecution or penalty under section 113 of the ITA.

8.2 In accordance with section 82A of the ITA, 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 Income Tax Form is furnished for purposes of verification during a tax audit.

9. 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 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 has to obtain the approval of the Collection Branch to allow the employee to pay tax on the perquisite by instalments with the issuance of the Directive of Tax Deduction (CP 38).

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

**Director General
of Inland Revenue**