

FREE OR SUBSIDISED MEALS ARE TAXABLE: By Jonathan Hore

It often happens that employers provide their employees with free or subsidised meals for various reasons ranging from improving staff welfare to security concerns. In some industries, employees are not allowed to carry food to work for security reasons and the employer is then forced to provide meals. Some employers are compelled by law to provide employees with food whilst on duty. I want to show you that such meal arrangements may result in PAYE in the hands of the employees. The meals are taxed as free benefits as there is no cash involved as the employees enjoy a benefit or advantage, being the meal benefit. For the avoidance of doubt, the tax under discussion today is PAYE or employees' tax as the benefit arises from an employer-employee arrangement. In this article, words importing the masculine shall be deemed to include the feminine.

FRINGE BENEFITS

Every employee is taxable on any employer-provided free/fringe benefits they enjoy. The tax is payable by the employees but is supposed to be deducted by the employer. For your information, whenever an employee enjoys an 'advantage' or 'free benefit' from a facility provided by an employer, that employee is potentially taxable. I must also state that free benefits are non-monetary items availed to employees which result in the employees enjoying an advantage that they would otherwise not enjoy had it not been availed by the employer.

THE MEAL BENEFIT

You may be interested in knowing that a 'meal allowance' is not, per a BURS' concession, taxable. Such 'allowances' are usually provided to employees when they are away from their workstation. What must be clear is that a 'meal allowance' is a monetary payment that is given to an employee for them to have a meal whilst a 'meal benefit' is not money but an arrangement where an employee gets a meal provided by an employer. Therefore, these two are different, albeit closely related.

Some of the most common arrangements which result in meal benefits are detailed below:

- **Subsidised meals:** Employers may provide employees with meals at subsidized prices. If a meal costs P50 and employees pay P20 towards that meal, then the benefit will be P30 per meal for each employee.
- **Free meals:** Employees are also taxable when an employer provides them with free meals. The benefit taxable in the hands of the employees is equivalent to the market value of such meal. In other words, the employees are taxed using the value of the meal that would otherwise be charged if such meal was to be sold on an open market. The benefit arising from the free meal is added to that employees' salaries and then tax is applied.
- **Food vouchers:** Sometimes, employers provide their employees with meal vouchers which they redeem by getting meals and that triggers PAYE. The fact that the employee enjoys the meal provided by the employer makes the benefit taxable. I must point out that it does not matter whether the meal

vouchers are redeemed at the employer's facilities or at third party's facilities; PAYE still arises.

CONCLUSION

From a practical perspective, the main challenge with this benefit is the implementation part as it is not always easy to determine who had a meal and when. However, the truth of the matter is that if employers want to monitor the benefit enjoyed, they certainly can. It will be administratively burdensome but it can be done. This could be done by ensuring that proper records of who enjoyed a meal are maintained. The other issue to note is that non-deduction of the tax makes employers personally liable for the PAYE, before a possible 200% penalty that BURS may charge. Where employers intend to avoid passing the tax to employees, they may consider grossing-up the benefit, essentially bearing the tax themselves.

However, it must be noted that grossing-up may even make compliance with this tax more complex than just subjecting the benefit to tax.

Well folks, I hope that was insightful. As Yours Truly says goodbye, remember to pay to Caesar what belongs to him. If you want to join our Tax Whatsapp group, send me a text on the cell number below.

Jonathan Hore is the Managing Tax Consultant of Aupracon Tax Specialists and feedback can be relayed to jhore@aupracontax.co.bw or 7181 5836. This article is of a general nature and is not meant to address particular matters of any person.