

SALARY ADVANCES DON'T TRIGGER PAYE

A salary advance doesn't trigger PAYE but we need to establish why this is so. Keep on reading and we will shed more light on this aspect for you. In this article, words importing the masculine shall be deemed to include the feminine.

What is an advance?

In an employer-employee relationship, an advance refers to a payment made to an employee before the amount has been earned by them. This usually applies in cases where an employee has an emergency and then requests the employer to give them an advance of their future salary. The employer will basically be lending the employee money and such money should be paid back. The employer will only tax the salary in the month in which the salary is earned. An advance is technically a mere short-term loan.

How long is an advance?

This is the big question that is usually asked regarding advances. The reason why the question crops up that often is that the advances' policies differ per each employer. Some employers' policies require that advances be repaid in 3 months whilst some prescribe repayment periods of 12 months. The main reason why professionals as tax and human resources consultants want to know how long an advance should be is because the longer the period, the advance may end up being a loan, which has tax consequences.

We will be upfront with you and state that the matter is further complicated by the fact that the Income Tax Act does not have a definition of what constitutes an advance. So, employers find themselves with no legal backing to distinguish an advance from a loan. On the other hand, tax authorities usually provide guidance when something is not specifically covered in the applicable law. BURS has not issued any public notice through what they call Divisional Guidance Notes on advances.

Enter tax

Some taxpayers whom we have met have told us that they got rulings from the tax authority stating that an advance runs for not more than 12 months, but we have not seen such letters so don't bank on that. Therefore, from a tax perspective, since salaries are only taxed when they are earned, a salary advance doesn't trigger any PAYE implications. As stated above, such an advance is simply a loan which is advanced by an employer to an employee. Coincidentally, we hold the position that a salary advance switches to a loan after 12 months. In those instances, the employers who advance such monies to employees would need to subject the loans to PAYE. The PAYE is determined by reference to the difference between the prevailing market interest rate and the interest paid by the employees on such advances, in excess of the 12 months. Currently, the Bank of Botswana no longer determines the prime lending rate but instead, it sets the Monetary Policy Rate, which is presently pegged at 1.9%. Therefore, if an employer advances a salary over 15 months, interest-free,

then they have to determine 1.9% of the loan and then divide the answer by 12months to arrive at the benefit to be added to the employees' salaries as a taxable benefit.

Conclusion

Well, folks, we hope that was insightful. As we say goodbye, remember to pay Caesar what belongs to him. If you want to consult, join our free Tax WhatsApp group or to know about our 9 Tax e-books, send a text to +267 7181 5836 or email us at jhore@aupracontax.co.bw. You can read more tax articles on our website, www.aupracontax.co.bw under the 'Tax articles' tab.