



## **Tax & Legislative Information Series...**

**... about Free and Cheap Services**



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By – J Martin

- **Some Background**

- Often, Employers provide employees with **free or cheap services**, which include, for example, **Employee Wellness Programs**.
- These benefits **fall under the Seventh Schedule of the Income Tax Act**, which deals with how various types of benefits provided by employers **are to be taxed** in the hands of the employee.
- Specifically, the benefits covered include:
  - Services provided to employees either free or at a reduced rate (e.g., **travel, communication, or workplace facilities**).
  - Special rules for employer-provided **residential accommodation** linked to future purchase rights.



- **Definition and Legal Basis**
  - **Taxable benefit:** is a non-cash benefit provided by an employer that **has a monetary value**, and which must be included in the employee's taxable income.
  - **Relevant law:**
    - Income Tax Act, Seventh Schedule, Paragraphs 10 and 10A.
    - Section 1 (definition of gross income, fringe benefits).
  - **Recent amendments:** Long-service awards (which now includes employer provided services up to the value R5 000) was included from 1 March 2022.
- **Purpose and Importance**
  - Ensures that employees receiving non-cash services or benefits are **taxed fairly**, thus preventing tax avoidance through perks, as apposed to the declaration of these benefits as part of the employees' salary.
  - Provides **clarity** on when certain benefits should not create a tax liability (e.g., workplace transport, business-related communication services).
  - **Protects** employees and employers from **inconsistent tax treatment**.

- **What does the Income Tax Act say?**

- 10. Free or cheap services
- (1) The **cash equivalent of the value of any taxable benefit** derived from the rendering of a service to any employee as contemplated in paragraph 2(e) shall be—
  - (a)in the case of any travel facility granted by any employer who is engaged in the business of conveying passengers for reward by sea or by air to enable any employee or any relative of such employee to travel to any destination outside the Republic for his or her private or domestic purposes, an amount equal to the lowest fare payable by a passenger utilising such facility (had he or she paid the full fare), less the amount of any consideration given by the employee or his or her relative in respect of such facility: Provided that for the purposes hereof a forward journey and a return journey shall be regarded as one journey; or
  - (b)in the case of the rendering of any other service as contemplated in the said paragraph, the cost to the employer in rendering such service or having such service rendered, less the amount of any consideration given by the employee in respect of such service.

- **What does the Income Tax Act say?**

- 10. Free or cheap services
- **(2) No value shall be placed under this paragraph on—**
  - (a) any travel facility granted by any employer who is engaged in the business of conveying passengers for reward by land, sea or air to enable any employee in his employment or such employee's spouse or minor child to travel—
    - (i) to any destination in the Republic or to travel overland to any destination outside the Republic; or
    - (ii) to any destination outside the Republic if such travel was undertaken on a flight or voyage made in the ordinary course of the employer's business and such employee, spouse or minor child was not permitted to make a firm advance reservation of the seat or berth occupied by him or her;
  - (b) any transport service rendered by any employer to his employees in general for the conveyance of such employees from their homes to the place of their employment and vice versa;
  - (bA) any communication service provided to an employee if the service is used mainly for the purposes of the employer's business;

- **What does the Income Tax Act say?**

- 10. Free or cheap services
- **(2) No value shall be placed** under this paragraph on—
  - (c) any services rendered by an employer to his employees at their place of work for the better performance of their duties or as a benefit to be enjoyed by them at that place or for recreational purposes at that place or a place of recreation provided by the employer for the use of his employees in general;
  - (d) any travel facility granted by an employer to the spouse or any minor child of an employee if—
    - (i) that employee is for the duration of the term of his or her employment stationed for purposes of the business of that employer at a specific place in the Republic further than 250 kilometers away from his or her usual place of residence in the Republic;
    - (ii) that employee is required to spend more than 183 days during the relevant year of assessment at that specific place for purposes of the business of that employer; and

- **What does the Income Tax Act say?**
  - 10. Free or cheap services
  - **(2) No value shall be placed** under this paragraph on—
    - (d) any travel facility granted by an employer to the spouse or any minor child of an employee if—
      - (iii) that facility is granted in respect of travel between that employee's usual place of residence in the Republic and that specific place where the employee is so stationed; or
    - (e) any services granted by an employer to an employee for long service as defined in paragraph 5(4) to the extent that it does not exceed R5 000: Provided that the aggregate value of an amount determined under this paragraph together with all amounts determined under paragraph (vii) of the proviso to paragraph (c) of the definition of "gross income" in section 1 and paragraphs 5(2)(b) and 6(4)(d) of the Seventh Schedule does not exceed R5 000.

- **What does the Income Tax Act say?**
  - 10A.
  - (1) Where—
    - (a) any employee has been granted the right to occupy residential accommodation owned by his employer or by any associated institution in relation to his employer;
    - (b) the employee, his spouse or minor child is in terms of an agreement entered into with such employer or associated institution, entitled or obliged to acquire such residential accommodation at a future date at a price stated in such agreement; and
    - (c) the employee is required to pay in respect of his occupation of such residential accommodation a rental which is calculated wholly or partly as a percentage of the price referred to in item (b),
  - it shall be deemed for the purposes of this Schedule that the employer or, where the residential accommodation is owned by such associated institution, the associated institution, has granted to the employee a loan equal to the price referred to in item (b) and that interest is payable on such loan at a rate equal to the percentage referred to in item (c).

- **What does the Income Tax Act say?**
  - 10A.
  - (2) The provisions of paragraph 2(d) shall not apply to any residential accommodation with which an employee has been provided in the circumstances contemplated in subparagraph (1), and the provisions of paragraph 2(a) shall not apply where any such residential accommodation is acquired by the employee in terms of an agreement referred to in item (b) of that subparagraph at a price which is not lower than the market value of such residential accommodation on the date such agreement is concluded.”



- **What does all this mean?**

- Paragraph 10 – Free or Cheap Services:
  - **Taxable value of services**
    - If an employee (or their relative) gets a **travel facility outside South Africa** from an employer in the air/sea passenger business:
      - The value of the benefit is the lowest public fare for the journey (return trip counts as one journey), minus what the employee/relative paid.
    - **For any other service provided:**
      - The value of the benefit is the **employer's cost** to provide the service, minus what the employee paid.



- **What does all this mean?**

- Paragraph 10 – Free or Cheap Services
- **Exemptions (no taxable value):**
  - **Travel facilities** within South Africa, or overland travel outside SA, **provided by transport employers.**
  - Travel outside SA on normal business flights/voyages if the employee/spouse/child **couldn't book a firm advance seat.**
  - Employer transport provided **to all staff between home and work.**
  - **Communication** services if mainly for **business** purposes.
  - **Services at the workplace** that help employees do their job better, or for recreation at work/employer facilities.
  - **Travel for an employee's spouse/minor child** if:
    - Employee works more than 250 km away from home,
    - Spends more than 183 days in a year at that place, and
    - Travel relates to trips between home and the workplace.
  - **Long service awards (services)** up to R5 000, provided the combined value of all long service-related awards under different provisions does not exceed R5 000. (Effective 1 March 2022.)

- **What does all this mean?**

- Paragraph 10A – Residential Accommodation Linked to Future Purchase
  - **Special case where:**
    - Employer (or related institution) owns residential accommodation.
    - Employee/spouse/minor child has an agreement to buy it later at a set price.
    - Employee pays rent that is based on a percentage of that future purchase price.
  - **Treatment:**
    - Considered as if the employer granted the employee a **loan equal to the agreed purchase price**.
    - **Interest** on that “loan” is calculated at the rental percentage.
  - **Exclusions:**
    - Normal accommodation benefit rules (para 2(d)) don’t apply in this situation.
    - Normal asset acquisition rules (para 2(a)) don’t apply if the employee buys the property at no less than its market value at the time the agreement was made.

- **Why It Matters**

- These rules impact whether the **benefits are taxable or exempt from tax**.
- Misclassification could result in:
  - **Underpayment of PAYE** (risk to the employer).
  - **Employee tax liability** arising later through assessment.
- Understanding the scope of exemptions **reduces unnecessary payroll burdens**.



- **Practical Example**

- Employer ABC Ltd. provides its employees with free access to counselling sessions through an Employee Assistance Program (EAP). These sessions are permitted during office hours, recognising the high-paced and stressful nature of the industry in which the company operates. The program is offered to support employee well-being and performance.

The program costs the Employer R 50 a month per employee, and they need to establish if this is a taxable benefit to the employee.

- The following section from legislation applies to this scenario:  
***“(2) No value shall be placed under this paragraph on—  
(c) any services rendered by an employer to his employees at their place of work for the better performance of their duties or as a benefit to be enjoyed by them at that place or for recreational purposes at that place or a place of recreation provided by the employer for the use of his employees in general;”***

- **Practical Example**

- EAP services are **generally not treated as taxable fringe benefits** when the following **conditions** are met:
  - **Business Purpose:** The services are offered primarily for the benefit of the employer, for example, to maintain employee health, morale, and productivity.
  - **Non-Cash Benefit:** The employee does not receive any cash or voucher and cannot convert the service into a monetary benefit.
  - **Widely Available:** The program is accessible to all employees, not just to select individuals.
  - **Not Part of a Salary Package:** The benefit is not provided as part of an employee's remuneration structure or negotiated as part of their salary.
  - Under these conditions, the benefit is considered **incidental** to the employer's operational needs and is **not subject to employee tax**.

- **Practical Example**

- **When Tax May Apply – i.e. considered as a taxable fringe benefit:**
  - If the EAP is **structured** as:
    - a cash allowance,
    - a reimbursement,
    - or part of a negotiated remuneration package.
  - Similarly, it **could trigger a tax obligation** if the benefit is deemed:
    - **exclusive** to certain levels/groups of individuals,
    - **not broadly available**.



- **Practical Risks and Concerns**

- Incorrect valuation of services may lead to **understatement** of taxable income.
- Employers may assume benefits like communication services are always exempt; however, this is only true if **usage** is mainly for business. This type of benefit **must be carefully reviewed**, given that so many employers now have a “work from home” policy.
- **Audit risk:** SARS could challenge whether travel or services qualify as exempt, especially for mixed-use or partial business/private benefits.
- Another benefit that often causes employers to fall foul of SARS is that of Residential Accommodation (i.e. rule (10A)). It is **complex**, and many payroll teams overlook the “deemed loan” treatment.

*As with all things tax-related...  
... get advice if something is not clear!*



- Why is this important from a payroll perspective
  - Payroll teams are responsible for correctly **identifying, valuing, and taxing** fringe benefits.
  - PAYE must be withheld on the **taxable portion** of these benefits.
  - Misinterpretation creates risks of **penalties, interest**, and reputational damage during SARS audits.
  - Correct classification of exempt vs taxable services ensures **compliance** and avoids unnecessary employee tax burdens.



- **In Summary**

- Taxable value of services is **based on employer cost or the lowest public fare (for travel)**, less any employee contribution.
- Exemptions include local travel, work shuttles, business-use communication, workplace services (performance/recreation), certain family travel, and long-service awards up to R 5 000.
- Residential accommodation with **future purchase rights** is treated as a deemed loan benefit, **not a standard housing benefit**, if rent is linked to the purchase price.
- Payroll must **assess and classify benefits correctly** to ensure PAYE compliance and avoid penalties or audit risks.



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