

# Employer's Tax Obligation under MPF schemes and Recognized Occupational Retirement schemes

## Mandatory Provident Fund (MPF) Schemes

### ➤ Introduction

- ✧ With effect from 1 December 2000, employees and self-employed persons, except the exempt persons under the Mandatory Provident Fund Schemes Ordinance, are required to participate in an MPF Scheme.
- ✧ Both the employer and the employee have to make monthly contributions. The employer's contributions to the MPF Scheme do not constitute income of the employee for tax purposes.
- ✧ Normally the employee receives his salaries net of his MPF contribution. Therefore, the income to be reported on form I.R. 56s should be "the gross monthly salary" and not "the net pay" after deduction of the employee's MPF contributions. [Click here \(Example 1\)](#) for example.
- ✧ Some employers voluntarily pay the employee's contributions to the MPF Scheme. The employees do not have to make any contributions and they receive salary without deduction. In this circumstance, the "employee's contribution" becomes additional remuneration and should be reported as income of the employee. [Click here \(Example 2\)](#) for example.

### ➤ Mandatory and Voluntary contributions

- ✧ The **mandatory contribution** for both employees and employers is 5% of the employee's relevant income, subject to the maximum contribution. (Before June 2012, the maximum relevant income level is \$20,000, the maximum monthly contribution is \$1,000. Effective from June 2012, the maximum relevant income level is \$25,000 and the maximum monthly contribution is \$1,250.)

For employees earning less than \$5,000 per month, no contribution from the employee is required. The employer, however, has to make a contribution at 5% of the employee's income.

- ✧ Both employers and employees may elect to contribute more. Any contribution in excess of the mandatory requirement is called "**voluntary contribution**".

## ➤ Reporting of Accrued Benefits

- ✧ Usually withdrawal or *deemed* withdrawal of “accrued benefits” from the MPF Scheme will arise in the following circumstances :-
  - retirement
  - death
  - incapacity
  - termination of service where
    - ◆ service of the employee is 10 years or more
    - ◆ service of the employee is less than 10 years
  - other than those listed above.

The employer has to consider whether the “accrued benefits” as represents the *employer’s voluntary contributions* is taxable or not.

- ✧ Generally speaking, only in the case of *termination of employment where the employee’s service is less than 10 years and the employer has made “voluntary contribution”*, the employer has to report the “**accrued benefits**” (i.e. taxable under Salaries Tax). For details, [please click table of summary](#).
- ✧ Any taxable accrued benefits from the MPF scheme, being “*the amount in excess of the proportionate benefit*” must be reported on forms IR56s.
- ✧ Upon termination of service, if the employee chooses to retain his “accrued benefits”, representing the employer’s voluntary contributions within the MPF Scheme, or transfer them to another MPF Scheme, section 8(9) of the Inland Revenue Ordinance deems the employee to have received the “**accrued benefits**” at the date of termination of service. The employer has to report the amount in excess of the proportionate benefit.
- ✧ [Click here for an explanation on “proportionate benefit” and “calculation of the amount in excess of proportionate benefit”](#).

## Recognized Occupational Retirement Schemes (RORS)

### ➤ Background

- ✧ These are schemes approved by the relevant authorities and in operation prior to the passing of the Mandatory Provident Fund Schemes Ordinance.

- ✧ With the approval of the Mandatory Provident Fund Authority, RORS may continue to operate after 1 December 2000.
- ✧ Participants of RORS are exempt from the statutory obligation to join MPF Schemes. However, they may concurrently join both type of schemes.
- ✧ In a case where the employer makes contributions to RORS in an amount equivalent to or more than the aggregate of employer and employee's *mandatory contributions* under MPF Schemes, the employee may or may not make contribution to RORS.
- ✧ Similar to MPF Schemes, when an employee receives benefits upon termination of service and the period of employment is less than 10 years, *“the amount in excess of the proportionate benefit”* as represents the employer's contributions, is taxable and has to be reported on Forms IR56s.

➤ Reporting of Accrued Benefits

- ✧ Tax obligations in connection with the withdrawal of “accrued benefits” from RORS are similar to those under MPF Schemes. Usually withdrawal from RORS will arise in the following circumstances
  - retirement
  - death
  - incapacity
  - termination of service
    - ◆ service of the employee is 10 years or more
    - ◆ service of the employee is less than 10 years
  - other than those listed above.

The employer has to consider whether the received benefits as represents the employer's contributions is taxable or not. For details, please [click table of summary](#).

- ✧ Any taxable benefits from RORS only in the case of termination of employment where the employee's service is less than 10 years, the employer has to report **“the amount in excess of the proportionate benefit”** must be reported on forms IR56s.
- ✧ [Click here for an explanation on “proportionate benefit” and “calculation of the amount in excess of proportionate benefit” applicable to RORS.](#)

➤ How to Report on IR56B/56F/56G

✧ “*The amount in excess of proportionate benefit*” should be reported as the employee’s income under

- item 11 (g) on IR56B
- item 13 (e) on IR56F
- item 11 (e) on IR56G

**Example 1**

Employee’s annual income	<u>\$500,000</u>
Employee’s <i>mandatory contribution</i> to MPF	<u>\$ 12,000</u>
Net amount received by employee	<u>\$488,000</u>
Employer should report gross income in IR56B	<u>\$500,000</u>

**Example 2**

Employee’s annual income	<u>\$600,000</u>
Employee’s <i>contribution</i> paid by employer	<u>\$ 12,000</u>
Net amount received by employee	<u>\$600,000</u>
Employer should report gross income in IR56B	<u>\$612,000</u>

## Reporting of Taxable Accrued Benefits under MPF Schemes on Form IR56s

Table of Summary for reporting taxable accrued benefits related to MPF Schemes:

Relevant Portion of Accrued benefits	Circumstances of withdrawal	Whether taxable	Amount to be reported as income in Form I.R. 56s
Employee's contributions and related investment return	Under any circumstances	Exempt	No need to report
Employer's mandatory contributions	Retirement, death, incapacity or permanent departure from Hong Kong	Exempt	No need to report
Employer's voluntary contributions	(1) Retirement, death or incapacity	Exempt	No need to report
	(2) Termination of service with 10 years of service <b>or more</b>	Exempt	No need to report
	(3) Termination of service with <b>less than</b> 10 years of service	The amount not exceeding the Proportionate Benefit is exempt	Report any excess of the amount over the Proportionate Benefit
	(4) Other circumstances	Taxable	Report the whole amount of employer's voluntary contributions

### The Proportionate Benefit Rule for MPF Schemes

If an employee has worked for less than 10 years for an employer, the amount received under the scheme, upon termination of service, in respect of the employer's voluntary contributions is exempt to the following extent:

$$\text{Accrued benefit under the scheme (Note 1) x } \frac{\text{Completed month of service (Note 2)}}{120}$$

(Note 1) For an MPF Scheme, the accrued benefit is equal to the employer's voluntary contributions.

(Note 2) In relation to the proportionate benefit rule, it is the length of service with the employer and not the length of scheme membership that is taken into account in the calculation of the benefit.

For example, where the accrued benefit received under a MPF Scheme is \$100,000 and the number of complete months of service is 72

The proportionate benefit would be:

$$\$100,000 \times 72/120 = \underline{\$60,000}$$

Accordingly, the amount in excess of the proportionate benefit and to be reported would be

$$\begin{aligned} & (\text{Amount received} - \text{Proportionate Benefit}) \\ & = \$100,000 - \$60,000 \\ & = \underline{\$40,000} \end{aligned}$$

**Reporting of Taxable Accrued Benefits under Recognized Occupational Retirement Schemes on Form IR56s**

Table of Summary for reporting payments of taxable accrued benefits related to Recognized Occupational Retirement Schemes:

<b>Relevant Portion of Accrued benefits</b>	<b>Circumstances of withdrawal</b>	<b>Whether taxable</b>	<b>Amount to be reported as income in Form I.R. 56s</b>
Employee's contributions and related investment return	Under any circumstances	Exempt	No need to report
Employer's contributions	(1) Retirement, death or incapacity	Exempt	No need to report
	(2) Termination of service with 10 years of service <b>or more</b>	Exempt	No need to report
	(3) Termination of service with <b>less than</b> 10 years of service	The amount not exceeding the Proportionate Benefit is exempt	Report any excess of the amount over the Proportionate Benefit
	(4) Other circumstances	Taxable	Report the amount of employer's contributions

### The Proportionate Benefit Rule for Recognized Occupational Retirement Scheme

If an employee has worked for less than 10 years for an employer, the amount received under the scheme, upon termination of service, in respect of the employer's contributions is exempt to the following extent:

$$\text{Accrued benefit under the scheme} \times \frac{\text{Completed month of service (Note 1)}}{120}$$

(Note 1) In relation to the proportionate benefit rule, it is the length of service with the employer and not the length of scheme membership that is taken into account in the calculation of the benefit.

For example, where the accrued benefit received under a RORS is \$100,000 and the number of complete months of service is 72

The proportionate benefit would be:

$$\$100,000 \times 72/120 = \underline{\$60,000}$$

Accordingly, the amount in excess of the proportionate benefit and to be reported would be

$$\begin{aligned} & (\text{Amount received} - \text{Proportionate Benefit}) \\ & = \$100,000 - \$60,000 \\ & = \underline{\$40,000} \end{aligned}$$