How to tax
the provision of a place of residence to the employee

“rental value”, types of accommodation,
treatment of rent paid by the employee
and
whether the employer has exercised proper control
Foreword

This leaflet explains how the provision of a place of residence to the employee is assessed to Salaries Tax.

Under Salaries Tax, there are far too many kinds of benefits connected with housing to be described in one leaflet. If the Assessor accepts that what the employer provides to the employee is a place of residence, only the “Rental Value” (RV) will be computed and charged to tax. If not so acceptable, the benefit provided by the employer must be assessed as a perquisite at its cash value.

Examples of perquisites are –

- rent allowance,
- refunds of mortgage payments, and
- subsidies on mortgage interest payments.

Employee is provided with a place of residence

Housing benefits arising from employment are part of the employee’s income. If the employee is provided with a place of residence by the employer or an associated corporation of the employer, the RV of that place of residence should be included in his/her Assessable Income. The RV is calculated at 4%, 8% or 10% of his/her total net income from the employer and the associated corporation after deducting outgoings and expenses (excluding expenses of self-education), depending on the type of accommodation provided. See the table below and also Example 3.

<table>
<thead>
<tr>
<th>Type of Accommodation</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>A residential unit / serviced apartment</td>
<td>10%</td>
</tr>
<tr>
<td>2 rooms in a hotel, hostel or boarding house</td>
<td>8%</td>
</tr>
<tr>
<td>1 room in a hotel, hostel or boarding house</td>
<td>4%</td>
</tr>
</tbody>
</table>

Serviced apartments are popular nowadays. Typically they are fully furnished units or apartments with domestic facilities such as cooking and laundry available and a minimum period of stay is usually required. The Inland Revenue Department (“IRD”) generally does not regard serviced apartments as rooms in hotels, hostels or boarding houses, although individual cases may be examined in detail to determine the nature of the accommodation. Accordingly, where the place of residence is a serviced apartment, the rate of 10% will generally be applied in computing the RV.
To compute the RV, rent paid by the employee to the employer or the landlord can be deducted to arrive at the RV. Furthermore, if the place of residence is a residential property, the employee may elect to include the “Rateable Value” of the property instead of the RV, if that can reduce the amount of tax to be paid.

See analysis below.

<table>
<thead>
<tr>
<th>Scenario</th>
<th>Adjustment</th>
</tr>
</thead>
<tbody>
<tr>
<td>No rent paid</td>
<td>No adjustment</td>
</tr>
<tr>
<td>Rent paid</td>
<td>Deduct net rent paid from RV</td>
</tr>
<tr>
<td>If the employee’s tax liability can be reduced</td>
<td>The employee may elect to include the Rateable Value of the residential unit instead of the RV</td>
</tr>
</tbody>
</table>
Example 1

Mr. Chan earned $600,000 in a year. His employer Success Co Ltd provided a flat to him as his place of residence. He claimed deductions for annual subscription to the Hong Kong Institution of Engineers $2,000, contributions to Mandatory Provident Fund (MPF) $18,000 and expenses of self-education $27,500 in that year.

Mr. Chan’s Assessable Income would be $612,300, computed as follows -

<table>
<thead>
<tr>
<th>Income</th>
<th>$600,000</th>
</tr>
</thead>
<tbody>
<tr>
<td>RV</td>
<td>$(600,000 – 2,000) x 10%</td>
</tr>
<tr>
<td><strong>Less:</strong> Outgoings and expenses</td>
<td></td>
</tr>
<tr>
<td>MPF contributions</td>
<td>(18,000)</td>
</tr>
<tr>
<td>Expenses of self-education</td>
<td>(27,500)</td>
</tr>
<tr>
<td><strong>Assessable Income</strong></td>
<td>612,300</td>
</tr>
</tbody>
</table>

Mr. Chan’s Tax Return — Individuals (BIR60)

Mr. Chan’s Employer’s Return of Remuneration and Pensions (IR56B)
Example 2

What would be the case if the Mr. Chan in Example 1 was required to pay monthly rent of $3,000 to his employer?

Mr. Chan’s Assessable Income would be $576,300, computed as follows –

\[
\text{Income} \quad 600,000 \\
\text{RV} \quad (600,000 - 2,000) \times 10\% - (3,000 \times 12) \quad 23,800 \\
\text{Assessable Income} \quad 576,300
\]

Mr. Chan’s Tax Return — Individuals (BIR60)

Mr. Chan’s Employer’s Return of Remuneration and Pensions (IR56B)
Example 3

Mr. Lee came to work in Hong Kong on 1 April 2020. He was remunerated at salaries of $50,000 per month, plus a place of residence. During his first month in Hong Kong, he occupied one room in a hotel and the monthly rent was $8,000. On 1 May 2020, his wife and children arrived and the family moved into a 2-bedroom suite in the hotel and the monthly rent is $16,000. On 1 July 2020, he and his family moved into a flat owned by the employer.

The RV should be computed as follows –

1 April 2020 - 30 April 2020  ($50,000 x 1 x 4%)  2,000
1 May 2020 - 30 June 2020  ($50,000 x 2 x 8%)  8,000
1 July 2020 - 31 March 2021  ($50,000 x 9 x 10%)  45,000

RV  55,000

Mr. Lee’s Tax Return – Individuals (BIR60)

Mr. Lee’s Employer’s Return of Remuneration and Pensions (IR56B)
Example 4

Mr. Cheung was a waiter of a restaurant and his annual income is $120,000. He and 5 other colleagues lived in a 3-bedroom flat provided by the employer, Good Taste Restaurant. He and his colleague, Mr. Ng, occupied one of the bedrooms. How should his RV be computed?

This form of housing benefit is rather common in Hong Kong. This would be regarded as similar to occupying a room in a boarding house and Mr. Cheung’s RV would be computed at 4% of his income i.e. 4% x $120,000 = $4,800.

Mr. Cheung’s Tax Return — Individuals (BIR60)

Mr. Cheung’s Employer’s Return of Remuneration and Pensions (IR56B)
Example 5

Ms Lam was employed by a foreign company, Success (Overseas) Co Ltd. During the year of assessment 2020/21, her annual income was $600,000 and she stayed in Hong Kong for 250 days. Whilst in Hong Kong she lived in a flat provided by the employer throughout the year. Rent at $1,000 per month was deducted from her salary.

If the Assessor accepted Ms Lam’s offshore claim and would assess her income on a day-in-day-out basis, Ms Lam’s Assessable Income would be computed as follows –

\[
\begin{align*}
\text{Income computed on the} & \quad \$ (600,000 \times \frac{250}{365}) \quad 410,958 \\
\text{day-in-day-out basis} & \\
\text{RV} & \quad (410,958 \times 10\% - 1,000 \times 12) \quad 29,095 \\
\text{Assessable Income} & \quad 440,053
\end{align*}
\]

Ms Lam’s Tax Return — Individuals (BIR60)

Ms Lam’s Employer’s Return of Remuneration and Pensions (IR56B)
**Employer refunds all or part of the rent paid by employee**

Provided that the employer has established clear guidelines to control and has exercised proper supervision over the reimbursements of either the whole or a part of the rent paid by the employee as tenant to the landlord, the Assessor will accept such arrangement as if the employer directly providing a place of residence to the employee. RV will be calculated and included in the employee’s Assessable Income and the reimbursements of rent will not be treated as income.

However, if the employer does not control how the employee would spend the money or has not exercised proper control over the expenditures, the Assessor will regard the reimbursements as cash allowance and include the full amount as income in the Assessable Income.

Proper control means –

- a clearly defined system is in place, under which the ranks of those officers who are entitled to rental reimbursements and the limit of their respective entitlements are clearly laid down;

- the mode of housing benefit entitled by the employee and the limit of rental reimbursement are clearly specified in the contract of employment; and

- the employer will examine the tenancy agreement and rental receipts and verify the actual payment of rent against the tenancy agreement at regular intervals, and also retain the relevant documents for record purpose.
Example 6

Apart from paying salary of $50,000 every month, Ms Wong’s employer would also grant a full refund of the rent that she had paid for her flat, $10,000, upon inspection of the rental receipts.

Ms Wong’s Assessable Income would be computed as follows –

\[
\begin{array}{ccc}
\text{Income} & (50,000 \times 12) & 600,000 \\
\text{RV} & 600,000 \times 10\% & 60,000 \\
\hline \\
\text{Assessable Income} & 660,000 \\
\end{array}
\]

Ms Wong’s Tax Return — Individuals (BIR60)

Ms Wong’s Employer’s Return of Remuneration and Pensions (IR56B)
Example 7

If Ms Wong in Example 6 was granted a partial refund of rent of $8,000 per month, how should her Assessable Income be computed?

The rent “suffered” by Ms Wong (i.e., $10,000 - $8,000 = $2,000 per month) can be deducted from the RV. Computation is as follows –

\[
\begin{align*}
\text{Income} & \quad 600,000 \\
\text{RV} & \quad \$600,000 \times 10\% - (2,000 \times 12) \\
\text{Assessable Income} & \quad 636,000
\end{align*}
\]

Ms Wong’s Tax Return — Individuals (BIR60)

Mr Wong’s Employer’s Return of Remuneration and Pensions (IR56B)

Example 8

Ms Ho was remunerated at salary of $50,000 and accommodation benefit of $10,000 per month. She occupied a flat for which she had paid $8,000 per month. How should her Assessable Income be computed?

If Ms Ho’s employer has implemented proper controlling procedures over how employees’ housing benefits were actually utilized, the Assessor would accept
that Ms Ho was provided with a place of residence by her employer. However, as Ms Ho only used $8,000 on payment of rent, the remaining $2,000 would be regarded as cash allowance. Her Assessable Income would be computed as follows –

<p>| | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Salary</strong></td>
<td>$500,000</td>
</tr>
<tr>
<td><strong>Cash allowance</strong></td>
<td>24,000</td>
</tr>
<tr>
<td><strong>RV</strong></td>
<td>624,000</td>
</tr>
<tr>
<td><strong>Assessable Income</strong></td>
<td>686,400</td>
</tr>
</tbody>
</table>

Ms Ho’s Tax Return — Individuals (BIR60)

On the contrary, if the employer has not implemented proper controlling procedures over housing benefits, the Assessor will treat the full amount of $10,000 as cash allowance. Ms Ho’s assessable income would then be computed as follows –

<p>| | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Salary</strong></td>
<td>600,000</td>
</tr>
<tr>
<td><strong>Cash allowance</strong></td>
<td>120,000</td>
</tr>
<tr>
<td><strong>Assessable Income</strong></td>
<td>720,000</td>
</tr>
</tbody>
</table>
Special Cases

In the following types of cases, the Assessor will examine the cases critically before accepting/rejecting the arrangement as a place of residence provided by the employer –

1. the employee lets his own property to himself or rents the property from some connected persons (such as spouse) and then claims rental reimbursements from his employer; or

2. the employee lets his own property or connected person’s property to his employer and the employer provides that property to him for use as his place of residence.

The Assessor will request the employee and/or the employer to provide information and evidence to show that there exists a genuine landlord and tenant relationship between the contracting parties. The Assessor will take into account the following factors before making his decision:

- whether the rent is above the market rent;
- whether the normal letting formalities (such as stamping of tenancy agreement and periodic issue of rental receipts) have been executed; and
- whether the rights and obligations between ordinary landlord and tenant have been observed.

Retention of documents

When filing the Tax Return, there is no need to attach the tenancy agreement, rental receipts, or other documents evidencing payments of rent. Such documents, however, should be retained so that they can be produced to the Assessor for review upon request.

Further Information and Assistance

You may
(a) visit our website at www.ird.gov.hk; or
(b) telephone 187 8022.

[The contents of this leaflet are for guidance only.]