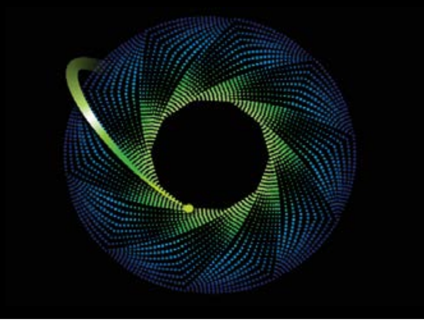

GES Tax Newsflash
Reporting of Fringe Benefits

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Overview

As part of a comprehensive reward strategy, remuneration packages often include non-cash benefits provided to employees and directors. These may encompass, but are not limited to, accommodation, education for children, motor vehicles, low-interest or interest-free loans, insurance coverage, share-based awards and other additional perks.

Under Section 9(1) of the Inland Revenue Ordinance ("IRO"), income from any office or employment includes wages, salary, leave pay, fees, commissions, bonuses, gratuities, perquisites, and allowances – all of which are generally subject to Hong Kong Salaries Tax. While the term "perquisite" is not explicitly defined in the IRO, Department Interpretation and Practice Note No. 16 provides guidance, indicating that it typically covers:

- money which can be obtained from property which is capable of being converted into money; and
- money which is paid in discharge of a debt of the employee

In the meantime, a "liability test" is outlined in Section 9(1)(a)(iv) which excludes a benefit from taxation if the obligation to pay is solely that of the employer and not the employee, with certain exceptions.

Common employee fringe benefits – tax treatment

Below is a summary of the general tax treatment of commonly provided fringe benefits. The actual tax treatment depends on the specific facts and circumstances of each case.

Benefit provided by employer	General basis
Cash allowances /reimbursements	Generally taxable unless they constitute a genuine reimbursement of actual business expenses
Housing	Taxable, depending on the nature and structure of the arrangement
Use of company cars / recreational facilities / holiday homes	Generally not taxable, provided the benefit does not discharge an employee's personal debt and cannot be converted into cash
Low-interest / interest-free loans	Generally not taxable, provided the benefit does not discharge an employee's personal debt and cannot be converted into cash
Club membership	Could be taxable, depending on the arrangement
Group medical benefits	Generally not taxable, provided the benefit does not discharge an employee's personal debt and cannot be converted into cash

Child education benefits	Generally taxable
Holiday journey	Generally taxable
Relocation benefits	Could be taxable, depending on the arrangement

Tax reporting obligations

Employers are statutorily required to accurately report all remuneration paid to employees or directors by completing the relevant Employer's Return under the IRO. Failure to comply with these reporting obligations may result in significant penalties.

Our observation

In practice, certain fringe benefits may be inadvertently omitted from reporting due to various factors – such as being managed outside payroll systems, misunderstandings about reporting requirements, or benefits provided through associated entities of which the employer is unaware. Such omission may come to light during the IRD's review of a company's financial statements or tax deductions, particularly where substantial business expenses are claimed, or during routine examinations of employer/individual tax filings.

The IRD may raise queries regarding how unreported benefits have been treated in the Employer's Return. It is important to note that the IRD has up to six years from the end of the relevant assessment year to conduct a review and issue an assessment or additional assessment to taxpayers.

Employers should maintain a clear understanding of the correct tax treatment of fringe benefits and adhere to statutory filing requirements. Regular compliance reviews supported by professional advice, when necessary, are strongly recommended to uphold good governance.

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