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Taxable Benefits for Employees

Income from an office or employment is among the many sources that constitute an individual's income for tax purposes under paragraph 3(a) of the *Income Tax Act* ("ITA"). Subsection 5(1) provides that an individual's income for a taxation year from an office or employment is the salary, wages, and *other remuneration*, including gratuities, received. Since salary, wages, and remuneration are not defined in the ITA, these terms should be interpreted according to their ordinary meanings.

Since employees can enjoy benefits from their employment other than standard cash compensation, section 6 of the ITA ensures that these benefits are also included in income. The meaning of the expression "other benefits of any kind whatever" in paragraph 6(1)(a) is very broad, and includes many types of fringe benefits. In general, if a material acquisition confers an economic benefit on the taxpayer and is not subject to an exemption, the benefit is taxable. In most cases, the amount of the benefit is the fair market value ("FMV") of the goods or services (including appli-

cable sales taxes), less any amount reimbursed to the employer.

Vehicle Benefits

Employees who receive a vehicle operating expense benefit from their employer in the form of a payment or reimbursement of their operating expenses must include the benefit in their income. Where the employer provides the employee access to a vehicle, whether owned or leased by the employer, the employee must also include what's known as a "standby charge" as a benefit, reflecting the benefit the employee gets by having the vehicle "standing by" for their personal use. Any reimbursements the employer gets from the employee, other than expenses relating to the operation of the vehicle, will decrease the standby charge.

Parking

Employer-provided parking generally constitutes a taxable benefit. However, there are certain exceptions to the taxability of parking. The parking

benefit is generally not taxable for employees with a disability. The benefit is also not taxable for employees provided with parking for business purposes by their employer and regularly using (three or more days for a five-day work week) their own vehicle or employer-provided parking to perform their employment duties, such as travelling off-site to attend meetings or answering service calls.

Computers, Cellphones, Internet Provided to Employees

There are no rules in the ITA which deal specifically with whether a benefit arises where an employer makes a computer, cellphone, or internet access available to the employee, so the general rule applies. If the employee enjoys a benefit, the value of the benefit is taxable. However, the CRA will not seek to tax a personal benefit which arises because of incidental use.

If the employee receives an allowance for Internet services, the allowance must be included in income. If the employee is reimbursed by the employer for the cost of the cell phone, the FMV of the cell phone is considered a taxable benefit. If the employee receives an allowance for cellular phone services, the allowance must be included in income.

Education Benefits

Payments made by an employer for courses taken for maintaining or upgrading employment-related skills, when it is reasonable to assume the employee will resume employment for a reasonable period of time after completion of the courses, are considered primarily a benefit to the employer, as opposed to a benefit to the employee, and therefore are not taxable.

Loyalty and Frequent Flyer Programs

Where an employer collects and controls accumulated points derived from a loyalty or other points program (e.g., if points accumulate and can only be claimed on a company credit card), the benefit is taxable. Where employees collect points

derived from a loyalty or other points program, the benefit is not taxable if all the following conditions are met:

- The points are not controlled by the employer;
- The points are not converted to cash or, if they are, the cash is reported on the employees' tax return;
- The plan or arrangement is not undertaken for tax avoidance purposes; and
- The plan or arrangement does not indicate an alternative form of remuneration.

Discounts on Merchandise or Services

Any benefit received by employees from merchandise sold to them at a discount by their employer is generally not taxable. However, the benefit is taxable if merchandise is sold to employees at a price below its cost. Furthermore, any benefit received by employees from services sold to them at a discount by the employer is taxable.

Subsidized Meals

Subsidized meals provided by an employer (say at a dining room or cafeteria) are not considered to be a taxable benefit if the employees are required to pay a reasonable charge for the food. Where less than a reasonable charge is imposed, the value of the benefit is the employer's cost less any payment made by the employees.

Uniforms and Special Clothing

Where an employer supplies, reimburses the employees for, or pays them an accountable advance to purchase distinctive uniforms and special clothing that employees are required to wear to carry on their employment duties, or the employer pays for, or pays the employee a reasonable allowance, or reimburses expenses for the laundry or dry cleaning costs for those uniforms or special clothing, no taxable benefit is considered to arise.

Transportation to the Job

Normally, an employee's journey between a regular place of work and home is personal in nature

and therefore, if the transport is reimbursed by the employer, a taxable benefit. However, transportation provided to a regular place of employment may not be a taxable benefit if either of the following applies:

- Public and private vehicles are neither allowed nor practical at the employment location because of security or other reasons; or
- The employee works at a special work site¹ or a remote location.²

Company Parties and Other Social Events

If an employer provides a hospitality function or other social event to all its employees, at a cost of \$150 per person (including spouse or common-law partner) or less, no taxable benefit arises. The \$150 limit does not include the cost of overnight accommodation or transportation home, the cost of which can increase the limit without rendering the benefit taxable. However, if the cost of the event itself exceeds the \$150 limit, the benefit (including the cost of overnight accommodation, transportation home, and taxi fares) is taxable. There is a maximum limit of six employer-paid in-person and virtual social events per year.

Professional Dues

If an employer pays an employee's professional dues, there is no taxable benefit if the employer is the primary beneficiary.

Premiums Under Provincial Hospitalization or Medical Services Programs

Premiums paid by an employer on the employee's behalf under any provincial hospitalization or medical services plan are a taxable benefit if, un-

der the provincial plan, the employee is required to pay the premium personally. However, any payments made by the employer to those plans for amounts other than contributions or premiums owed by the employees do not result in a taxable benefit for those employees. Premiums paid by an employer under a private health services plan, or a group sickness or accident insurance plan for employees, are not taxable benefits. Also, benefits paid under a hospital or medical insurance plan are not taxable.

Premiums on Group Term Life Insurance Coverage

If an employer pays all or part of the premiums on a group term life insurance policy, the prescribed portion of the employer's payment relating to the coverage is a taxable benefit to the employee. Premiums paid by an employer with respect to group life insurance which is not term insurance also give rise to a taxable benefit.

Sickness, Accident, or Disability Payments

Contributions by an employer to a group sickness or accident insurance plan which provides only for periodic payments to the employee do not constitute a benefit and therefore are not included in income. However, the contribution is a taxable benefit to the extent the related coverage can be paid to the employee in a lump sum.

Periodic payments the employee receives in respect of a loss of employment income under a sickness, accident, disability, or income maintenance insurance plan are included in the employee's income if the employer contributed to the plan. If the employee and employer both contribute to the plan, the employee's contributions are

¹ An area where temporary duties are performed by an employee who keeps a principal residence at another location. Because of the distance between the two areas, the employee is not expected to return daily from the work site to their principal place of residence.

² A work location 80 km or more from the nearest established community with a population of at least 1,000 people.

returned first tax-free, and all remaining receipts are taxable. Such benefits are not included in income if the employer made no contributions to the plan, nor are lump-sum payments taxable whether the employer contributed to the plan or not.

Interest-Free Loans, Low-Interest Loans, and Loan Forgiveness

A loan from an employer which bears interest at less than the prescribed rate may result in the inclusion of a benefit in the employee's income. If an employer forgives some or all of a loan made to an employee, the forgiven amount is a taxable benefit.

Contributions Made to RRSPs, TFSAs, and RESPs

Employees having contributions made by their employer to their RRSP, RESP, or TFSA receive a taxable financial benefit equal to the amount of the contribution paid by the employer.

Moving Expenses

The amount the employee is paid or reimbursed for certain moving expenses is usually not a taxable benefit.

Child Care Services

Child care provided by an employer is not taxable if all of the following conditions are met:

- the services are provided at the employer's place of business;
- the services are managed directly by the employer;
- the services are provided to all employees at minimal or no cost; and
- the services are not available to the general public, only employees.

If an employer subsidizes a facility operated by a third party in exchange for subsidized rates for its employees, or if it makes facilities available to non-employees for a higher rate than it charges

its employees, the difference is a taxable benefit to the employees.

Gifts From Employer, Including Suggestion Awards

All gifts and awards, whether in cash, near-cash, or non-cash (including suggestion awards), made or granted to an employee by the employer are income in the employee's hands. However, as a matter of policy, the CRA will make certain concessions and not tax certain non-cash gifts and awards:

- Non-cash gifts, regardless of their number, are not taxable if their total value is \$500 or less (including taxes) annually. The employer non-cash gift and award policy does not apply to items won in a prize draw only open to the employees. In this case, the value of the prize is fully taxable to the employee
- A separate non-cash long service/anniversary award worth \$500 or less may also qualify for non-taxable status.
- Items of nominal value, such as coffee, tea, T-shirts with employer logos, mugs, plaques, trophies, and so on, are not to be considered for purposes of the \$500 dollar limit to determine if there is a taxable benefit.

Taxable Recreation Benefits

An employee will normally receive a taxable recreation benefit if the employer pays, reimburses, or subsidizes a membership at a social, activities, sports, fitness, or athletic club, or recreational facility. A taxable benefit is also incurred if an employer provides recreational facilities only to a select group of employees for free or for a minimal fee, while all other employees must pay the full fee.

An employee does not receive a taxable recreation benefit in the following situations:

- The employer provides employees with in-house recreational facilities for their use or enjoyment and those facilities are available to all employees,

- The employer pays a fee or membership in a social or athletic club to enable all employees to use the club's facilities and the membership is in the name of the employer, not the employee, or
- The employer pays, reimburses, or subsidizes the cost of club dues or membership fees for the employee's use and the employer, not the employee, is the primary beneficiary of the membership.

Retiring Allowances

A retiring allowance is an amount received upon or after retirement from an office or employment in recognition of long service, or in respect of loss of office or employment. Generally, a retiring allowance must be included in the recipient's income. However, there are provisions that allow the amounts to be rolled over into an RRSP or RRP in certain situations, and to deduct the legal fees incurred to obtain the retiring allowance.