



MINISTRY OF FINANCE AND ECONOMIC MANAGEMENT
GOVERNMENT OF THE COOK ISLANDS

COLLECTOR'S RULING 2013/01

SUBJECT Accommodation Provided To Employees

Background

It is common for employers to provide employees with an accommodation allowance. Accommodation allowances are paid in a number of ways, including:

1. The employee receives a cash allowance with their regular pay.
2. The employee is provided with an employer owned house free of charge.
3. The employee rents a property and the employer pays the rent on their behalf.
4. The employee is provided with board or lodging, and food.

The Collector last reviewed his Policy on this area in 2006. The following ruling formalises the Collector's existing view.

Tax Laws

All legislative references are to the *Income Tax Act 1997*, unless otherwise stated.

Section 46 Items included in assessable income
(1)(b) all salaries, wages or allowances (whether in cash or otherwise), and all sums receivable by way of bonus, gratuity, extra salary, or emolument of any kind in respect of or in relation to the employment or service of the taxpayer;

*(2) For the purposes of paragraph (b) of subsection (1)-
(b) without limiting the meaning of the term "allowances" as used in that paragraph the said term shall be deemed to include (in the case of a taxpayer who in any income year has been provided in respect of any office or position held by the taxpayer with board or lodging, or the use of house or quarters, or has been paid an allowance in lieu of being so provided with board or lodging or with the use of a house or quarters) the value of such benefits, such value to be determined in case of dispute by the Collector;*

Section 145 Tax deductions to be made by employers –
(1) For the purpose of enabling the collection of income tax from employees by instalments, where an employee receives a source deduction payment from an employer, the employer or other person by whom the payment is made shall, at the time of making the payment, make a tax deduction therefrom in accordance with this Part and by reference to the basic tax deductions set out in the Second Schedule:

Ruling

Section 46 (1) (b) makes **allowances** paid in respect of or in relation to employment assessable income.

Section 46(2) (b) deems allowances to include the provision of accommodation or the payment of an allowance in lieu of being provided with accommodation. The value of the allowance is to be determined by the Collector.

The Collector will take the following approach:

1. When the employee receives a cash allowance with their regular pay

The allowance should be a gross amount and PAYE deducted in accordance with the tax tables.

2. When the employee is provided with an employer owned house free of charge

The net allowance will be the market value or cost of the accommodation. This value must be grossed up before having PAYE deducted.

3. When the employee rents a property and the employer pays the rent on their behalf

The net allowance will be the cost of the rent. This value will need to be grossed up before having PAYE deducted.

4. The employee is provided with free board/ lodging.

The net allowance will be the value of the board/lodging. This value will need to be grossed up before having PAYE deducted.

Example One

Mike's employment contract includes a yearly accommodation allowance of \$10,000 net, payable monthly. Mike's salary is \$60,000 per annum. The \$10,000 is grossed up to \$14,285, making the PAYE \$4,285 for the year. Each month the employer needs to include Gross (\$1,190) and PAYE (\$357) from the housing allowance in the VAT/PAYE return.

Example Two

John's employment contract includes the provision of a house which is located on the beach at Muri. John's salary is \$60,000 per annum. The market rate for the accommodation is \$2,400/month. This amount should be grossed up to calculate the PAYE; that is \$3,428, with PAYE of \$1,028. Each month the employer needs to include Gross (\$3,428) and PAYE (\$1,028) from the housing allowance in the VAT/PAYE return.

Example Three

Justin's employment contract includes a provision that his employer will meet the costs of accommodation up to \$1,000/month. Justin's employer pays the landlord the \$1,000/month directly. This amount should be grossed up to calculate the PAYE; that is \$1,428, and PAYE of \$428. Each month the employer needs to include gross (\$1,428) and PAYE (\$428) from the housing in the VAT/PAYE return.

Example Four

A husband and wife are employed to manage and maintain a small resort. As part of the contract they stay on site and do not pay for electricity, phone, internet or food. The free board/lodging is an allowance. In the Collector's opinion the market value of the accommodation, utilities and food should be grossed up and PAYE deducted. It is recommended that in these circumstances you discuss the arrangement with Revenue Management and agree on the market value of the benefits provided.

Who to contact with any questions

Please contact the tax staff at Revenue Management on telephone number 29365 if you have any questions in relation to this Ruling.

Please note that this ruling is the Collector's position only and is non-binding.

This ruling is signed by me on the *21st* day of *March* 2013 .



Andrew Haigh
Collector of Inland Revenue