Crowe

Employer's Digest

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Audit / Tax / Advisory

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Four Recent Tax Developments Employers Should Know

In view of recent tax changes in Singapore concerning employee-related matters, we have compiled a summary of these important developments for employers to take note of.

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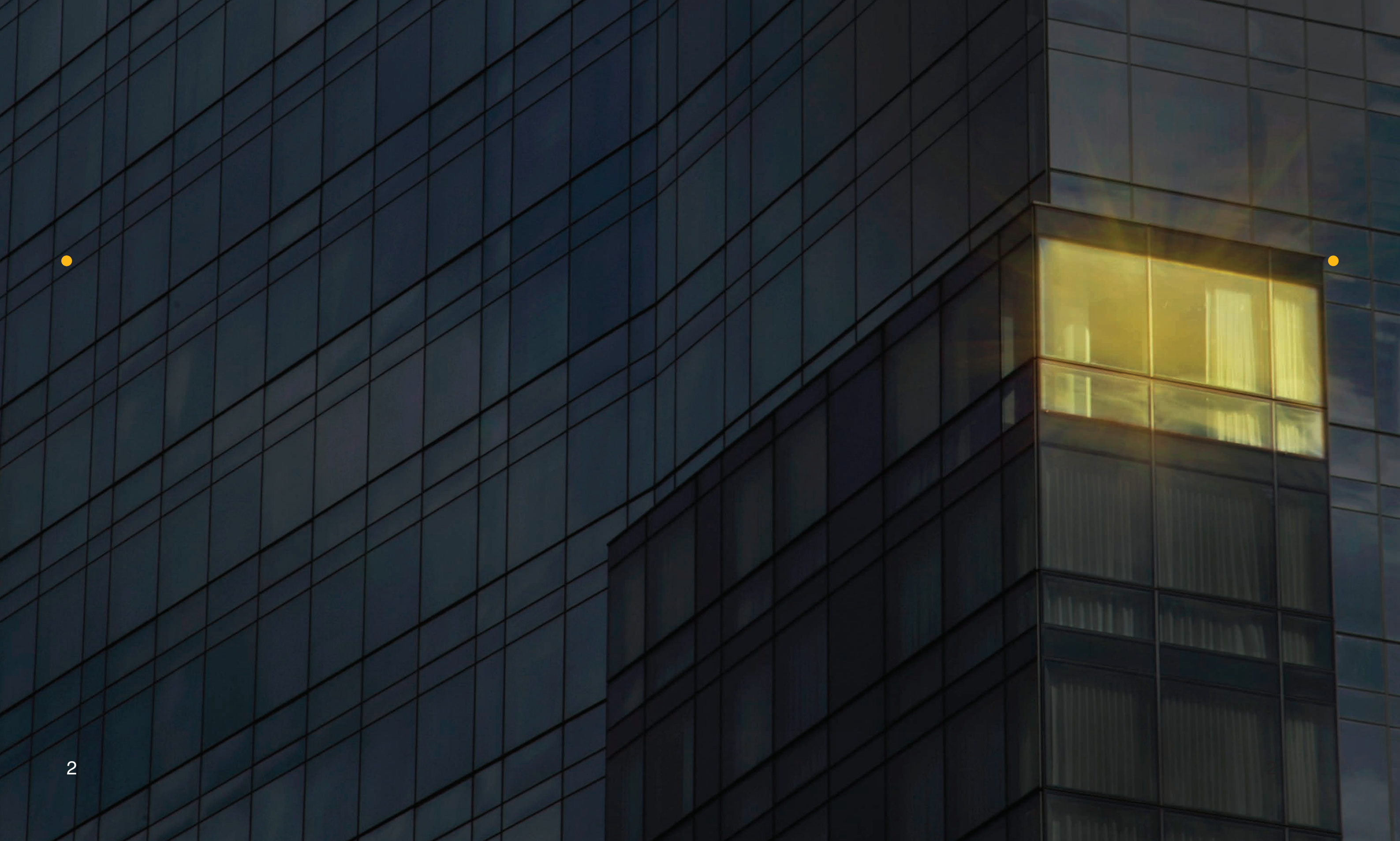

Not Ordinarily Resident (NOR) Scheme

The NOR scheme, introduced in 2002 with the objective of attracting talent with regional and global responsibilities to work in Singapore, provides for the following concessions:

i) Time apportionment of Singapore employment income whereby the employee would not be subject to tax on the portion of his/her employment income that corresponds to the number of days he/she spends outside of Singapore for business purposes pursuant to his/her Singapore employment but subject to an overall floor effective tax rate.

ii) Tax exemption of employer's contribution to overseas non-mandatory pension fund.

If an individual is accorded the NOR status, he or she may enjoy the concessions for five consecutive years. The grant of the NOR status as well as the benefits from the concessions are subject to qualifying conditions.

In order to enjoy the benefit of time apportionment of Singapore employment income, an NOR taxpayer must:

a. spend a minimum of 90 days outside of Singapore for business reasons; and

b. must have a minimum Singapore employment income of $160,000.

In order to qualify for the tax exemption of employer's contribution to overseas non-mandatory pension fund, the following conditions must be met:

1. The NOR taxpayer is not a Singapore Citizen or Permanent Resident; and
2. The NOR taxpayer's employment income must be at least $160,000; and
3. The employer must not claim a deduction made to the NOR taxpayer's overseas pension or provident funds and social security schemes up to the NOR cap.

With respect to condition 3 above, there was a recent clarification from the Inland Revenue Authority of Singapore (IRAS) as explained below.

IRAS' Clarification

On 19 October 2018, the IRAS provided clarification on its website with respect to employer's contribution to overseas non-mandatory pension fund that condition 3 is considered met where the contribution is borne by a foreign company and is not charged or recharged to the Singapore employer, as no deduction on the contribution is taken by the Singapore employer. This is a revision to the previous position that condition 3 is not satisfied if the contribution is not charged or recharged to any Singapore entity.

Lapse of the NOR Scheme

Following the tax changes introduced in Budget 2019, the NOR scheme will lapse after Year of Assessment (YA) 2020 and the last NOR status will be accorded for YA 2020 and expires in YA 2024. Individuals will still be allowed to enjoy the tax concessions under the NOR scheme until their NOR status expires as long as they continue to meet the qualifying conditions of the concessions.

With the lapse of the NOR scheme, the tax treatment will be broadly harmonized for all individuals exercising an employment in Singapore who are required to travel extensively to discharge their employment duties.

Change in Basis for Computing Taxable Car Benefits

Employees who are provided cars by their employers will be taxed on the value of benefits derived from the private usage of the cars. The taxable benefit has been computed based on a prescribed formula by the IRAS. Since the last revision made for the YA 1995, the costs of owning and maintaining a car have changed and thereby prompting the IRAS to review the formula used for computing employee's taxable car benefits.

Consequentially, the components of the formula will be revised effective from YA 2020.

Following the revision, tax compliance is simplified as employees are no longer required to log their private mileage travelled arising from the private usage of the cars, except in the case where a driver is provided.

The current formula (up to YA 2019) and the new formula effective from YA 2020 for computing car benefits are as follows:

<table>
<tr><th></th><th>Current (Up to YA 2019)</th><th>Revised (From YA 2020)</th></tr>
<tr><td colspan="3">Car Owned by Employer</td></tr>
<tr><td>Employee pays for the petrol</td><td>3/7 x [(Cost of Car@ – Residual Value) / 10*] + ($0.45 x Private Mileage)</td><td rowspan="2">3/7 x [(Cost of Car@ – PARF^ Rebate) / 10* + Actual running and maintenance costs incurred by employer]#</td></tr>
<tr><td>Employer pays for the petrol</td><td>3/7 x [(Cost of Car@ – Residual Value) / 10*] + ($0.55 x Private Mileage)</td></tr>
<tr><td colspan="3">Leased Car</td></tr>
<tr><td>Employee pays for the petrol</td><td>3/7 x Rental Cost Incurred by the Employer</td><td rowspan="2">3/7 x [(Rental Cost incurred by the Employer) + (Actual running and maintenance costs incurred by the employer#)]</td></tr>
<tr><td>Employer pays for the petrol</td><td>(3/7 x Rental Cost incurred by the Employer) + ($0.10 km x Private Mileage)</td></tr>
</table>

@ The cost of car refers to the acquisition cost (inclusive of COE, registration fee, ARF, excise duty and cost of additional accessories) paid or payable at the date of purchase for cases where the employer is the first owner of the car or where the employer provides the employee with a second-hand car. For a car with renewed COE, the cost of car refers to the cost of COE and the amount of PARF rebate that the owner would have received on the expiry of his first COE if not for the renewal.

*Or the remaining period from the date of purchase of the car to the date of expiry of the first COE or renewed COE.

^PARF refers to the Preferential Additional Registration Fee Rebate to be granted when the car is de-registered at the age of above 9 but not exceeding 10 years. For a car with renewed COE, PARF rebate shall equal to nil.

#Actual running and maintenance costs, include reimbursements made to the employee by the employer. Examples of such costs include road tax, petrol, car park charge, ERP charge, car insurance, repairs and maintenance, if any.

Computing the Taxable Value of Accommodation Benefits Provided

Where an employer provides accommodation to its employees in respect of employment exercised in Singapore, the accommodation provided is a benefit and is taxable in the hands of the employees. The current formula, last revised and effective since YA 2015, to compute accommodation benefits (excluding hotels) is as follow:

- The Annual Value (AV) of the property less total annual rent paid by the employee. Where AV is not available, the value will be the market rent paid by the employer (including those for furniture and fittings) less the rent paid by the employee; plus
- 40% of the AV if the property is partially furnished or 50% of the AV if the property is fully furnished.

The AV is the estimated gross annual rent of the property if it were to be rented out, excluding furniture, furnishings and maintenance fees. Currently, employers are allowed to use the actual market rent paid for the accommodation to compute the value of the accommodation benefits if it is administratively more convenient to do so and in cases where the AV is unavailable.

The Income Tax (Amendment) Act 2018 passed by Parliament on 2 October 2018 revises the default basis in computing the taxable value of accommodation to the actual rent paid by the employer instead of AV. Only in situations where the actual rent paid is not available (for example if the employer owns the property) or the IRAS is not satisfied that the actual rent paid is reflective of the market rent, the AV or other reasonable value as deemed by IRAS will apply. The change is effective from YA 2020.

Deductibility of Life or Personal Accident Insurance Premiums

Generally, premiums on insurance policies taken out by an employer on employees are tax deductible if the beneficiaries of those insurance policies are the employees, or if the employer has the contractual obligation to pass the payout to the employees or their next-of-kin. This is on the basis that the premiums paid are a staff benefit.

Where the beneficiary of an insurance policy is the employer and there is no contractual obligation to pass the insurance payout to the employees or their next-of-kin, the employer will be seen to have taken out the insurance policy to acquire a capital asset and premiums paid on those insurance policies shall not be tax deductible. There are certain exceptions to this rule, for example, where the insurance policy is a keyman insurance to cover loss of profit due to the demise or incapacity of a key employee of the business.

Revised Tax Position

The IRAS recently updated its website to change the tax treatment of premiums paid on group term life and personal accident insurance policies.

With effect from YA 2019, premiums paid on group term life or personal accident insurance policies are tax deductible to the employer even if the employer is the named beneficiary to the policy and there is no contractual obligation to pass the payout to the employees or their next-of-kin.

The IRAS made this revision after having received feedback from businesses that group term life and personal accident policies are usually purchased as staff benefits and employers are named as beneficiaries only for administrative convenience.

Given that there is no contractual obligation to pass the payout to the employees or their next-of-kin, any payout received by the employer from the above-mentioned group insurance policies will be taxable in full to the employer. However, the employer will be allowed a tax deduction on the insurance payout to the extent it is disbursed to the employee. Such payouts received by the employee will be taxable to him or her unless specifically exempted under the Income Tax Act.

In the same update by the IRAS, premiums paid on group insurance which provides for a cash surrender or investment/ saving value was included in the list of examples of insurance premiums that are capital in nature and not deductible.

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