



VALUATION OF ACCOMMODATION PROVIDED BY EMPLOYERS

The Lagos State internal Revenue Service (LIRS) is issuing this Public Notice to all employers, company owners or their representatives, employees, high net worth individuals and other members of the public.

Definition

"An employer provided accommodation" will constitute a taxable benefit to the employee in any of the following situation:

- accommodation is available to the employee on a permanent basis (i.e. more than 90 days),
- employee does not have a personal (primary) accommodation running in parallel to the accommodation provided by the employer;
- employee is expected to pay the rent on a property but employer is instead paying on behalf of the employee; and
- accommodation is necessitated by any circumstance other than business related reasons.

Legal basis

Section 5(1) of Personal income Tax Act (PITA), accommodation benefit is taxable only based on annual values as determined for local rates purposes. However in practice the annual value is not available. Section 5(3) empowers the "relevant authority" to determine the annual value in other cases (where the rates are not available).

Compliance Requirements

1. The taxable value of a "leased accommodation"(where an employer pays the rent on behalf of the employee) shall be the total rent paid.
2. The taxable value of an "accommodation owned by an employer" (where the employer owns the accommodation and provides the accommodation to an employee) shall be the commercial value of comparable properties in a similar location.
3. "Hotel accommodation" provided by an employer will not be taxable so long as the employee is staying in the hotel on a temporary basis (i.e. not more than 90 days). The taxable benefit of "hotel accommodation occupied by an employee for more than 90 days shall be the amount paid by the employer for the hotel room or the room rate.

Reporting Obligation: Every employer is expected to disclose details of the accommodation provided to employees; which include; the name of the landlord; the location of the property, the value of the rent paid annually to the landlord; and any other details as may be required from time to time.

For further enquiries, please call **0700-CALL LIRS (0700 2255 5477)** or visit **www.lirs.gov.ng**

Thank You

Signed
Ayodele Subair
Executive Chairman
Lagos Internal Revenue Service



1. VALUATION OF ACCOMMODATION PROVIDED TO EMPLOYEES

Definition

"An employer provided accommodation" will constitute a taxable benefit to the employee in the following situation:

- accommodation is available to the employee on a permanent basis (Le. more than 90 days on a consistent basis),
- employee does not have a personal (primary) accommodation running in parallel to the accommodation provided by the employer;
- employee is expected to pay the rent on a property, but employer is instead bearing the cost; and
- accommodation is necessitated by any circumstance other than business related reasons.

Accommodation benefit provided by the employer is taxable in the hands of the employee regardless of whether the property is owned or rented by the employer.

Legal Basis

Based on section 5(1) of PITA, accommodation benefit is taxable only based on annual values as determined for local rates purposes. However, in practice the annual value is not available. This has given rise to varying treatments by taxpayers.

Section 5 (3) empowers the "relevant authority" to determine the annual value in other cases (where the rates are not available). As such it is necessary to ensure uniformity in the tax treatment of accommodation benefits.

Objective

The objective of this is to unify the tax treatment of accommodation benefits and to promote voluntary tax compliance among taxpayers.

Compliance Requirements

1. Deduction of PAYE: Every employer is required to deduct and remit PAYE on accommodation benefit enjoyed by its employees. Failure to deduct and remit attracts interest and penalties in accordance with the provisions of PITA.
2. Determining the annual value of the premises.

Currently, there are no laws that provides for "annual value of premises" to fulfill the requirement of Section 5(3)(a) of PITA for a law governing assessment of local rates. The Land Use Charge Law is a law that provides for premises to be subject to local rates and charges in Lagos State. However, the land use charge assessments only specify the "value of premises" and not the "annual value of the premises" as required by Section 5(3)(a). There is therefore no legal basis to use Section 5(3)(a) for the taxation of employer provided accommodation.

In the absence of annual value of premises, Section 5(3)(b) will be applicable which states that in any other case it shall be the annual value as determined by the relevant tax authority (in this case, the LIRS).

The following sets out the definition of the LIRS of annual value of premises:

- Leased accommodation - Where any sum (by way of rent or hire) is paid or payable by the employer in respect of an employees' accommodation, the employee is in receipt of a taxable benefit in accordance with the provisions of section 4 (1) (b) of PITA. The annual value of the property will be the commercial rent. Consequently, the taxable benefit on a leased accommodation is the total rent paid.
- Accommodation owned by the employer - Where the employer owns the accommodation provided to an employee and there is no rental cost paid to a 3rd party, the employee is in receipt of a benefit in kind. The taxable value of an "accommodation owned by an employer" shall be the commercial value of comparable properties in a similar area or location.
- Hotel Accommodation - Where an employer provides hotel accommodation to his employee for more than 90 days consistently in a 12-month period, the benefit (i.e. the taxable value) will be the commercial value (i.e. the standard rate) of the room whether or not such employer is the owner of the hotel.

If the employee is in the hotel on a temporary basis (i.e. less than 90 days), the guidelines on reasonable removal expenses shall be applicable to such an employee.



- Where the accommodation is used by more than one employee, the annual value of the property should be prorated. For example, where 3 employees share a company's accommodation, the taxable value for each will be:

$1/3 \times$ Annual value of the property

Where the annual value of the premises determined above covers a group of flats or buildings, and the employee occupies such a flat, the annual value of the property should be prorated. For example, where there are 20 flats and the employee occupies one, the taxable value of the property will be:

$40/20 \times$ Annual value of the property

1. Reporting Obligations

The employer shall provide the LIRS with the details of the property to cover the following:

- The name of the landlord;
- The location of the property;
- value of the rent paid annually to the landlord; and
- Any other details as may be required from time to time.