

## INTERPRETATION NOTE: NO. 71

DATE: 18 March 2013

**ACT** : INCOME TAX ACT NO. 58 OF 1962 (the Act)  
**SECTION** : PARAGRAPHS 2(a), 5(2)(b) and 5(4) OF THE SEVENTH SCHEDULE  
**SUBJECT** : LONG SERVICE AWARDS

### *Preamble*

In this Note unless the context indicates otherwise –

- “**paragraph**” means a paragraph of the Seventh Schedule to the Act;
- “**section**” means a section of the Act; and
- any word or expression bears the meaning ascribed to it in the Act.

### 1. Purpose

This Note provides guidance and clarity on the income tax consequences for an employee when the employer gives an employee an asset as a long service award.

### 2. Background

Employers give employees a wide range of awards. The reasons for the awards are varied; often it is a gesture of appreciation for services rendered, recognition for outstanding performance or recognition for the length of the employee’s service (commonly referred to as a “long service award”). These awards are, with a few exceptions, subject to taxation.

The award could be in a number of forms including money, an asset, a service, the right of use of an asset or residential accommodation.

This Note focuses on the income tax treatment for an employee when an employer gives the employee an asset as a long service award. The income tax consequences will be different if an employer gives an employee a long service award in a form other than an asset.

### 3. The law

The relevant legislation is contained in paragraph 2(a) read with paragraph 5. For ease of reference, the relevant sections of the Act are quoted in the **Annexure**.

### 4. Application of the law

#### 4.1 General rule

A taxable benefit arises when employees acquire any asset from their employers consisting of any goods, commodity, financial instrument or property of any nature (other than money), either for no consideration or for a consideration which is less than the value of the asset. The asset may be granted by the employer, an

associated institution in relation to the employer or any person by arrangement with the employer. In this Note, “employer” includes an employer, an associated institution in relation to the employer or any person by arrangement with the employer.

*The amount of the taxable benefit = value of the asset – any consideration payable by the employee for the asset.*

The **value** of the asset is generally its **market value** at the time it is acquired by the employee. However, if –

- (a) the asset is movable property (other than marketable securities or an asset the employer had the use of before acquiring ownership of the asset) which was acquired by the employer in order to dispose of it to the employee, the value of the asset will be **cost** to the employer, or
- (b) the asset (other than marketable securities) was held by the employer as trading stock, the value of the asset will be the **lower of cost or market value**.

The acquisition of an asset at less than its’ actual value is a taxable benefit under paragraph 2(a). However, the following acquisitions are specifically excluded from paragraph 2(a) as they are dealt with in other paragraphs or sections:

- (i) Any meal, refreshment, voucher, board, fuel, power or water which the employee has been provided as contemplated in paragraph 2(c)<sup>1</sup> or (d).<sup>2</sup>
- (ii) Marketable securities acquired as contemplated in section 8A.
- (iii) Qualifying equity shares acquired as contemplated in section 8B.<sup>3</sup>
- (iv) Equity instruments contemplated in section 8C.<sup>4</sup>

#### 4.2 Nature of the asset awarded

The variety of assets that qualify for inclusion under the “acquisition of an asset” fringe benefit is very wide and includes any –

- goods;
- commodity;
- financial instrument; or
- property of any nature (other than money).

<sup>1</sup> Provision of any meal or refreshment or a voucher entitling the employee to any meal or refreshment.

<sup>2</sup> Provision of residential accommodation.

<sup>3</sup> See Interpretation Note No. 62 “Broad-Based Employee Share Plan” (30 March 2011).

<sup>4</sup> See Interpretation Note No. 55 (Issue 2) “Taxation of Directors and Employees on Vesting of Equity Instruments” (30 March 2011).

An asset, in its ordinary sense, means property which is regarded as having value and is available to meet debts, commitments and legacies.<sup>5</sup> The word “property” means a thing or things belonging to someone,<sup>6</sup> or something of value, either tangible or intangible.<sup>7</sup> The meaning of the word “property” is set out in LAWSA<sup>8</sup> as follows:

“When signifying a legal object, the word ‘property’ refers to everything which is susceptible of pecuniary evaluation, that is, everything which has a monetary value or can constitute an asset in an estate. The notion ‘property’ thus not only includes corporeal or material objects such as land, houses and motor vehicles but also incorporeal or immaterial objects such as personal rights, shares in a company and patent rights.”

The ambit of the wording “property of any nature” is very wide. It is clearly not restricted to assets recognised for accounting purposes and also extends to real or personal rights.

The term “money” is excluded from the scope of paragraph 2(a). “Money” is a medium of exchange in the form of coins and banknotes that functions as legal tender.<sup>9</sup>

Krugerrands, in spite of being coins and technically regarded as legal tender in South Africa, are considered to be goods or commodities rather than “money”. A Krugerrand does not have a face value and practically the gold coins are not used as “money”.<sup>10</sup> Krugerrands are either traded as goods by dealers or held as assets by investors; they are not used on a day-to-day basis to pay for goods and services. Accordingly, Krugerrands are “assets” under paragraph 2(a).

#### 4.3 Special adjustment for long service awards

The value (determined under 4.1) of the asset awarded by an employer to an employee in recognition of long service, must be reduced by **the lesser of** –

- the cost to the employer of all assets awarded to the employee for long service during the year of assessment; or
- R5 000.

The reduction in the value of the asset is limited to long service awards. Awards granted for outstanding performance or for any reason other than long service do not qualify for this reduction in the value of the asset.

For an award to qualify as a long service award, the asset must have been given by an employer to an employee for being in employment with the same employer for–

- an initial unbroken period of service of at least 15 years; or
- any subsequent unbroken period of service of not less than 10 years.

<sup>5</sup> Concise Oxford English Dictionary. 11th Edition Revised New York: Oxford University Press, 2006.

<sup>6</sup> Concise Oxford English Dictionary. 11th Edition Revised New York: Oxford University Press, 2006.

<sup>7</sup> Collins English Dictionary. 3rd Edition Glasgow: Harper Collins, 1991. Print.

<sup>8</sup> The Law of South Africa, Volume 27: ‘Things’ by Professor CG van der Merwe, MyLexisNexis Publishers at 195.

<sup>9</sup> The Oxford and Collins, above.

<sup>10</sup> *S v Bennett-Cohen* 1985 (2) SA 465 (ZS) – although this is a Zimbabwean Customs Act case dealing with whether Krugerrands are goods for purposes of that Act, it discusses useful practical attributes of Krugerrand coins.

This does not mean that the reduction in value automatically applies at 15, 25 and 35 years of service. Employees who receive an initial long service award at, for example, 20 years, must wait for a further 10 years, in other words until they have worked for the same employer for 30 years, before the reduction of the value of the asset may be applied again.

#### **Example 1 – Valuation of the benefit**

*Facts:*

Y has worked for ABB Limited for an initial unbroken period of 15 years. ABB Limited bought Y an air-conditioner at a cost of R7 000 in the 2013 year of assessment as a reward for long service.

*Result:*

The value to be placed on the asset granted to Y as a reward for long service must be reduced by R5 000. The difference of R2 000 (R7 000 – R5 000) is included in the employee's gross income and remuneration which is subject to employees' tax.

#### **Example 2 – Cash and Krugerrands awarded as recognition for long service**

*Facts:*

ABC Pty Ltd (ABC) awarded an employee, A, a Krugerrand and a R7 000 cash bonus in recognition of 45 years' service with the company. ABC paid R15 000 for the Krugerrand.

The award was given to A at the annual company dinner held in December 2012. A was not required to contribute any amount towards the cost of the award. A did not receive any long service awards before this award.

*Result:*

The cash bonus is specifically excluded from paragraph 2(a) as it constitutes "money". However, it will be included in gross income<sup>11</sup> and is subject to employees' tax.

The value of the Krugerrand is equal to the cost of the coin to ABC (it is movable property which ABC purchased specifically to give to A) less the R5 000 long service award reduction (the lesser of R5 000 and cost, as cost exceeds R5 000). A was not required to give consideration for the award. Accordingly, the cash equivalent of the taxable benefit which must be included in A's gross income is R10 000 [(R15 000 – R5 000) – R0].

Total amount included in gross income is R7 000 (cash) and R10 000 (Krugerrand).

The phrase "unbroken period of service" is not defined. SARS interprets it to mean continuous employment with a single employer without a lawful termination of the employment contract by either party. Having regard to the definitions of "employer" and "employee" in paragraph 1, transfers between employers who are "associated institutions", as defined in paragraph 1, will not qualify as an unbroken period of

<sup>11</sup> Refer section 1(1).

service. However, should an event take place when continuous service is deemed to occur under law,<sup>12</sup> this will constitute an unbroken period of service.

#### 4.4 Consideration

Employers generally place a limit on the value of an asset awarded. However, employers sometimes permit an employee to select an asset which costs more than the given limit, provided that the employee pays the difference between the purchase price and what the employer had intended to spend. The value of the taxable benefit is then calculated as the full cost of the asset less the contribution by the employee, reduced by the lesser of R5 000 or the cost to the employer of all assets awarded to the employee for long service during the year of assessment (as discussed in 4.3 above).

#### 4.5 Gift vouchers

Employers often award gift vouchers to employees in recognition of long service. This gives employees greater choice in selecting an asset of their preference. A gift voucher is a form of property and represents a right to acquire goods or services from a merchant. It is thus regarded as an asset for purposes of paragraph 2(a).

Accordingly, gift vouchers granted by employers to employees in recognition of long service fall within the scope of paragraph 2(a) and qualify for a reduction in the value of the asset provided the length-of-service requirements discussed in 4.3 have been satisfied.

#### **Example 3 – Gift vouchers**

*Facts:*

ABC (Pty) Ltd awarded an employee, P, three gift vouchers in recognition of 15 years continuous service with the company. The gift vouchers awarded included the following:

- 1) A gift voucher for dinner at South Africa's top restaurant, Zoo-Zoo Cuisine. The voucher is for two people to a maximum of R850. ABC (Pty) Ltd frequently takes clients to Zoo-Zoo Cuisine and gets a 10% discount; as a result the voucher cost ABC (Pty) Ltd R765.
- 2) A gift voucher for a facial and manicure at the local spa. This voucher cost ABC (Pty) Ltd R750.
- 3) A music store voucher which cost ABC (Pty) Ltd R250.

ABC (Pty) Ltd was concerned that P might forget to use the vouchers before they expire so to ensure the vouchers are used P was asked to pay ABC (Pty) Ltd R100 per voucher.

<sup>12</sup> For example, transfers under section 197 of the Labour Relations Act, 1995.

*Result:*

The **Zoo-Zoo Cuisine gift voucher** is a voucher for a meal and is specifically excluded from paragraph 2(a). It is dealt with under paragraph 2(c).

*Value of the taxable benefit:*

	R
Value of the Zoo-Zoo voucher is the cost to ABC (Pty) Ltd [paragraph 8(2)]	765
Less consideration given	<u>(100)</u>
Cash equivalent of the taxable benefit	665

The spa gift voucher and the **music store voucher** fall within the scope of paragraph 2(a) as P acquires them at less than actual value.

*Value of the voucher:*

	R
Cost to ABC (Pty) Ltd (R750 spa voucher and R250 music store voucher)	1 000
Long service award reduction (cost of the two long service assets awarded in year is less than R5 000)	<u>(1000)</u>
Value of the vouchers	Nil

*Value of the taxable benefit:*

Value of the vouchers	Nil
Less consideration (R100 for each voucher)	<u>(200)</u>
Cash equivalent of the taxable benefit (can never be less than Rnil)	Nil

P will have to include R665 (R665 + Rnil) in gross income.

#### 4.6 Employees' tax

Taxable benefits are included in "remuneration" in the Fourth Schedule to the Act and are subject to the deduction of employees' tax. In the month the employer gives the employee the long service award, the cash equivalent of the taxable benefit must be included in remuneration.

Taxable long service awards must be reflected on the employee's IRP5 or IT3(a) certificate under code 3801.

#### 5. Conclusion

The awarding of an asset by an employer to an employee in recognition of the employee's long service is a taxable benefit. Gift vouchers are assets, but a gift voucher for a meal is specifically excluded from paragraph 2(a) because it is dealt with in paragraph 2(c) or (d) (the latter paragraphs are not covered in this Note).

The cash equivalent of the value of the taxable benefit arising from the acquisition of an asset is equal to the *value of the asset* less any consideration paid by the employee for the asset.

In the context of long service awards, the value of the asset is generally equal to the cost of the asset to the employer. In addition, in the case of qualifying long service awards the value of the asset may be reduced by the lesser of –

- (a) the cost to the employer of all assets given to the employee for long service during the year of assessment; or
- (b) R5 000.

For an award to qualify as a long service award, the asset must have been given to the employee for being in employment with the same employer for –

- (i) an initial unbroken period of service of at least 15 years; or
- (ii) a subsequent unbroken period of service of not less than 10 years.

**Legal and Policy Division**  
**SOUTH AFRICAN REVENUE SERVICE**

## Annexure – The law

### Paragraph 1 of the Seventh Schedule – Definitions

“associated institution”, in relation to any single employer, means—

- (a) where the employer is a company, any other company which is associated with the employer company by reason of the fact that both companies are managed or controlled directly or indirectly by substantially the same persons;
- (b) where the employer is not a company, any company which is managed or controlled directly or indirectly by the employer or by any partnership of which the employer is a member; or
- (c) any fund established solely or mainly for providing benefits for employees or former employees of the employer or for employees or former employees of the employer and any company which is in terms of paragraph (a) or (b) an associated institution in relation to the employer, but excluding any fund established by a trade union or industrial council and any fund established for postgraduate research otherwise than out of moneys provided by the employer or by any associated institution in relation to the employer;

### Paragraph 2(a) of the Seventh Schedule – Taxable benefits

2. For the purposes of this Schedule and of paragraph (i) of the definition of “gross income” in section 1 of this Act, a taxable benefit shall be deemed to have been granted by an employer to his employee in respect of the employee’s employment with the employer, if as a benefit or advantage of or by virtue of such employment or as a reward for services rendered or to be rendered by the employee to the employer—

- (a) any asset consisting of any goods, commodity, financial instrument or property of any nature (other than money) has been acquired by the employee from the employer or any associated institution in relation to the employer or from any person by arrangement with the employer, either for no consideration or for a consideration given by the employee which is less than the value of such asset, as determined under paragraph 5(2): Provided that the provisions of this subparagraph shall not apply in respect of—
  - (i) any meal, refreshment, voucher, board, fuel, power or water with which the employee has been provided as contemplated in subparagraph (c) or (d);
  - (ii) any marketable security acquired by the exercise by the employee, as contemplated in section 8A, of any right to acquire any marketable security;
  - (iii) any qualifying equity share acquired by an employee as contemplated in section 8B; or
  - (iv) any equity instrument contemplated in section 8C; or



**Paragraph 5 of the Seventh Schedule – Acquisition of an asset at less than actual value**

5. (1) Where an asset has been acquired by an employee as contemplated in paragraph 2(a), the cash equivalent of the value of the taxable benefit shall be so much of the value of such asset (as determined under subparagraph (2) of this paragraph) as exceeds the value of any consideration given by the employee for such asset.

(2) The value to be placed on such asset shall be the market value thereof at the time the asset is acquired by the employee: Provided that where the asset in question is movable property (other than marketable securities or an asset which the employer had the use of prior to acquiring ownership thereof) and was acquired by the employer in order to dispose of it to the employee or the asset in question (other than marketable securities) was held by the employer as trading stock, the value to be placed thereon shall be the cost thereof to the employer or, where such asset was held as trading stock and the market value thereof was less than such cost, such market value: Provided further that where—

- (a) any asset is presented by an employer to an employee as an award for bravery, such value to be placed thereon shall be reduced by the lesser of the cost to the employer of all such assets so awarded to the employee during the year of assessment and R5 000; or
- (b) any asset is given by an employer to an employee for long service, such value to be placed thereon shall be reduced by the lesser of the cost to the employer of all such assets so given to the employee during the year of assessment and R5 000.

(3) No value shall be placed under this paragraph on fuel or lubricants supplied by an employer to his employee for use in a motor vehicle where the value of the private use of such vehicle has been determined under paragraph 7.

(4) For the purposes of this paragraph, “**long service**” means an initial unbroken period of service of not less than 15 years or any subsequent unbroken period of service of not less than 10 years.