

Practice Note No. 4 of 1985 - Nominee Directors: Directors Fees

Sub-paragraph (c) (ii) of the definition of 'gross income' in section 1 of the Income Tax Act provides as follows:-

(ii) any amount received by or accrued to or for the benefit of any person in respect of services rendered or to be rendered by any other person shall for the purposes of this definition be deemed to have been received by or to have accrued to the said other person;'

It is accepted that this deeming provision is not of application where a natural person (Mr X) is nominated by his employer to act as a director of a company (Company A) in which the said employer is a shareholder and where any directors fees which may become payable by Company A in respect of the directorship of Mr X are in terms of a contract payable by Company A either to the employer direct, or to Mr X subject to a condition requiring Mr X to pay the directors fees over to and for the benefit of the employer.

The directors fees will, therefore, not be subject to tax in the hands of Mr X but will be taxed in the hands of the employer.

ISSUED BY THE COMMISSIONER FOR INLAND REVENUE

PRETORIA