

BINDING PRIVATE RULING: BPR 291

DATE: 24 January 2018

ACT : INCOME TAX ACT 58 OF 1962 (the Act)
SECTION : SECTION 8(1)(a)(i)(bb) READ WITH SECTION 8(1)(c)
SUBJECT : DEEMED EXPENDITURE ON MEALS AND INCIDENTALS

1. Summary

This ruling considers a subsistence allowance paid by an employer in terms of its subsistence and travel policy.

2. Relevant tax laws

This is a binding private ruling issued in accordance with section 78(1) and published in accordance with section 87(2) of the Tax Administration Act 28 of 2011.

In this ruling references to sections are to sections of the Act applicable as at 19 October 2017. Unless the context indicates otherwise any word or expression in this ruling bears the meaning ascribed to it in the Act.

This is a ruling on the interpretation and application of section 8(1)(a)(i)(bb) read with section 8(1)(c).

3. Parties to the proposed transaction

The applicant: A resident employer

Employees: Employees of the applicant

4. Description of the proposed transaction

In terms of the applicant's subsistence and travel policy (the policy), employees who are required to spend at least one night away from their usual places of residence on local travel for business purposes are paid, in respect of meals and incidental subsistence expenditure, 80% per night of the prescribed maximum daily amount determined and gazetted in respect of meals and incidental costs under section 8(1)(c)(ii).

The applicant arranges and pays for the accommodation separately. In some cases the price of the accommodation includes meals while in others it does not. The Applicant pays 80% of the gazetted amount regardless of whether or not the price of accommodation includes a meal.

5. Conditions and assumptions

This binding private ruling is not subject to any additional conditions and assumptions

6. Ruling

The ruling made in connection with the proposed transaction is as follows:

- a) An amount paid by way of an allowance in terms of the applicant's policy which is less than the gazetted amount contemplated in section 8(1)(c)(ii) will fall within the deeming provisions of section 8(1)(c)(ii) only when the applicant has not borne any of the expenses in respect of which the allowance is paid.
- b) If the applicant bears any of the expenses in respect of which the allowance is paid, the maximum amount deemed to be expended under section 8(1)(c)(ii) will be the gazetted amount, reduced by the amount of expenses borne by the applicant. For example, in determining the maximum amount that will be deemed to be expended under section 8(1)(c)(ii), the gazetted amount must be reduced by the breakfast charge when the accommodation paid for by the applicant includes breakfast as a separate charge.
- c) The applicant must retain documentary proof in the form of invoices, of the expenditure incurred by the applicant in order to establish the reduced deemed amounts as contemplated in section 8(1)(c)(ii).
- d) This ruling is not applicable to employees who have accepted permanent assignments for extended periods, due to the nature of the business of the applicant, such as employees at the applicant's offsite facilities.
- e) This ruling is also not applicable to subsistence allowances paid in respect of travel outside the Republic.

7. Period for which this ruling is valid

This binding private ruling is valid for a period of three years from the date of the ruling.