



APPROVED DOCUMENT CONTROL PAGE

DOCUMENT CONTROL	
Document Title	Guideline for determining <i>de minimus</i> benefits and the taxation or otherwise thereof.
Date	
Document Number	1
Revision Number	
Distribution List	Commissioner Domestic Taxes
Process Owner	Director Legislative - Domestic Taxes
<ul style="list-style-type: none"> ▪ Job Title 	Director Legislative - Domestic Taxes
<ul style="list-style-type: none"> ▪ Name 	Ntombifuthi Nhlengethwa
<ul style="list-style-type: none"> ▪ Signature 	
Approval Authority	
<ul style="list-style-type: none"> ▪ Job Title 	Commissioner Domestic Taxes
<ul style="list-style-type: none"> ▪ Name 	Nompumelelo Dlamini
<ul style="list-style-type: none"> ▪ Signature 	

GUIDELINES FOR DETERMINING *DE MINIMUS* BENEFITS AND THE TAXATION OR OTHERWISE THEREOF FOR INCOME TAX

INTERPRETATION

“*De minimus* benefits” refers to benefits whose value is so small, as to make it unreasonable or administratively impracticable to account for them for tax purposes.

CITATION AND COMMENCEMENT

This Notice shall be cited as the Guideline for determining *de minimus* benefits and the taxation or otherwise thereof, in terms of Section 7, 7(b) and 7(f) of the Income Tax Order of 1975 as amended (hereinafter referred to as the Order) as well as Paragraph 12.1 (D) of Practice Note 157 on Taxation of Benefits in Kind and Certain Allowances Arising from Employment Notice 2007.

PURPOSE

The guideline is meant to interpret the law and to assist in its uniform application in respect of determining *de minimus* benefits and the taxation or otherwise of such benefits. It is also meant to issue practical guidance (including value), in order to promote voluntary compliance and to foster public confidence in the integrity and effectiveness of the taxation process.

THE LAW

The provision requiring the taxation of any amount, in cash or otherwise, including any voluntary award so received or accruing in respect of services rendered or to be rendered is contained in the following Sections of the Order;

- a) Section 7
- b) Section 7(b)
- c) Section 7 (f)
- d) Paragraph 12.1 (D) of Practice Note 157 on Taxation of Benefits in Kind and Certain Allowances Arising from Employment Notice 2007.

Section 7 of the Order defines gross income as the total amount whether in cash or otherwise received by or accrued to or in favour of any person, excluding receipts or accruals of a capital nature, in any year or period of assessment, from any source in Swaziland.

Section 7 (b) extends the meaning of gross income in terms of Section 7 above, to include any voluntary award received in respect of services rendered or to be rendered.

Section 7(f) further extends the meaning of gross income to include the annual value of any benefit or advantage accruing by way of employment, including that of any quarters, board or residence.

Paragraph 12.1 (D) of Practice Note 157 on Taxation of Benefits in Kind and Certain Allowances Arising from Employment Notice 2007, provides that a benefit the value of which (after taking into account the frequency with which similar benefits are provided by the employer) is so small as to make accounting for it unreasonable or administratively impracticable.

PROCESSING

- a) The taxpayer/employer must apply in writing to the Commissioner General, for a Directive on the tax treatment of the benefit, prior to availing it to the employee(s);
- b) The application should be detailed and stipulate the basis of the benefit, the trend and value of the benefit, and whether it is being uniformly availed to all employees at a similar bracket;

CONSIDERATIONS

- a) The taxpayer/employer, at the time of such application should be compliant in respect of all tax obligations and requirements;
- b) The taxpayer's compliance history should be considered;
- c) All surrounding circumstances of the taxpayer, including the determinant factors of whether it is unreasonable or administratively impracticable to account for the benefit, should be taken into account.

In determining whether it is unreasonable or impracticable to account for the benefit, regard must be had to;

- a) The frequency with which the benefit is granted to the employee(s). A fringe benefit that may qualify for exemption as a *de minimus* benefit includes occasional departmental or celebratory lunches or dinners, occasional cocktail parties or firm picnics, birthday cakes for employees, or once-off use of company car;
- b) The value of the benefit must not exceed E500-00 (Five Hundred Emalangeni). A small value fringe benefit provided to an employee regularly would not normally be considered an exempt fringe benefit, nor would a small value fringe benefit provided to a large number of employees (where it is not unreasonable to account for it);
- c) The benefit should be availed to all employees at a relatively similar bracket.

COMMUNICATION

- a) A response letter should be sent to the taxpayer within 7 working days from the date of receipt of all the required information for processing the application;
- b) In the event the application is denied the taxpayer should be informed of the reason for the denial;
- c) Requests for application of the *de minimus* rule are dealt with by the Legislative Division, who after a careful consideration of all the surrounding circumstances, the legislation and liaising with the relevant division or unit, recommends through the Commissioner Domestic Taxes.

REVIEW OF THE VALUE

The Commissioner General reserves the right to review the value from time to time.

Approved 13/01/17



Nompumelelo W Dlamini

Commissioner DT