

IRAS CIRCULAR

BENEFITS TO COMPANY DIRECTORS FROM INTEREST-FREE / SUBSIDISED LOANS



INLAND REVENUE
AUTHORITY
OF SINGAPORE

Published by
Inland Revenue Authority of Singapore

1st Published on 7 Nov 2002

Revised on 31/01/2004 (to provide additional information on the average prime lending rate for the years 2002 and 2003)

Revised on 09/04/2007 (to provide additional Information on the average prime lending rate for the years 2004, 2005 and 2006 and change of officers' contact numbers)

© Inland Revenue Authority of Singapore

All rights reserved. No part of this publication may be reproduced or transmitted in any form or by any means, including photocopying and recording without the written permission of the copyright holder, application for which should be addressed to the publisher. Such written permission must also be obtained before any part of this publication is stored in a retrieval system of any nature.

IRAS CIRCULAR

1 NOV 2002

BENEFITS TO COMPANY DIRECTORS FROM INTEREST-FREE / SUBSIDISED LOANS

BASIS OF TAXATION

Where interest-free or interest-subsidised loans are made to the directors of a company, the directors derive a benefit from such loans. The income tax law regards company directors as employees, and the benefits so derived from interest-free/subsidised loans are taxable as employment benefits.

COMPUTATION OF INTEREST BENEFITS

The value of interest benefits is computed based on prime interest rate. For purposes of simplicity in computation, IRAS generally accepts computation of interest benefit based on the amount of loan outstanding as at 31 Dec of each year multiplied by the average prime lending rate for that year. If the loan were taken for less than one calendar year, interest benefits would be computed according to the number of months in that year for which the loans remain outstanding.

For subsidised loans, any interest payable by the directors should be deducted from the value of interest benefits as computed above to arrive at the taxable interest benefits.

PRIME INTEREST RATE

Information on prime lending rates for each relevant year is available on the MAS website, <https://WWW.MAS.GOV.SG>, at the page STATISTICS ROOM. For taxpayers' convenience, IRAS has computed, based on the information from the MAS website, the average prime lending rates for the following years:

Year	Average prime lending rate (%)
1995	6.37
1996	6.26
1997	6.32
1998	7.44
1999	5.80
2000	5.83
2001	5.66
2002	5.35
2003	5.31
2004	5.30
2005	5.30
2006	5.33

EXAMPLE

As an illustration, for a company director who has been provided with an interest-free loan of \$100,000 throughout the period 1995 to 2001, the amount of tax involved would be as follows:

Year of Assessment	Outstanding Loan	Amount of Interest Benefit	Tax payable *
1996	100,000	6,370	1,261.26
1997	100,000	6,260	1,239.48
1998	100,000	6,320	1,320.88
1999	100,000	7,440	1,473.12
2000	100,000	5,800	1,212.20
2001	100,000	5,830	1,090.21
2002	100,000	5,660	1,069.74
Total		38,020	8,666.89

* Based on Marginal tax rate of 21%-22%

IRAS' GUIDELINES ON DETERMINING SHAREHOLDER'S LOAN

If company directors are also shareholders of the company, and interest free/subsidized loans are made to them in their capacity as shareholders, IRAS accepts that such loans are not perquisites of an employment. This is provided that the loans are bona-fide loans made to them solely in their capacity as shareholders and not remuneration nor benefits to the directors structured in the form of shareholders loans. Accordingly, the benefits derived by the loan recipients in such cases would not constitute benefit from employment and not be taxable as such in their hands.

Whether a loan is a director's loan or a shareholder's loan is a question of fact. IRAS has provided guidance on a list of elements that must be present to establish that loans given to director/shareholder were given to them solely in their capacity as shareholders, rather than directors' loans or disguised remuneration. They are:

- (a) There are bona-fide (other than tax) reasons for the company to extend loans to directors/shareholders in their capacity as shareholders, instead of paying them dividends or returning excess capital to them; and
- (b) The loans are not remuneration nor benefits to directors disguised in the form of loans to shareholders, or they are not intended to be a means for a company to pay dividends or return excess contributed capital to its shareholders, including directors/shareholders. In other words, where a loan is made, there must be evidence of a genuine intent for a creditor/debtor relationship to exist between the company and shareholders and the company can provide evidence to support that it has reasonable expectation of the loans being repaid. As such, the terms of the loans to shareholders, including directors/shareholders, should also generally be those found in a typical loan arrangement e.g. there are a repayment schedule or repayment terms provided etc; and

- (c) The loans are extended to all shareholders (including directors/shareholders) rather than only to directors/shareholders, under similar loan terms and the loan quantum determined on similar basis. The loan quantum extended to each of the shareholders, including the directors/shareholders, should therefore be determined on the basis of their respective shareholding in a company or other equivalent basis, and not due to influence or position held by any director/shareholder in the company. Similar loan terms (e.g. repayment schedules, interest rate charged, if any etc) should also be applicable to loans extended to all shareholders (including directors/shareholders). Such being the case, there should be no arrangements made among shareholders of a company provided with loans such that loan proceeds obtained by one or more shareholders are subsequently diverted to other shareholders of the company for use by the latter; and
- (d) Contemporaneous documentary evidence in the form of directors' or board's resolutions, approval at shareholders' meetings, minutes of meetings or other records etc, are available to support that loans are made to the loan recipients in their capacity as shareholders (and not directors) of the company.

ENQUIRIES

Taxpayers who have any enquiries about reporting the benefits of interest free/subsidised loans taken in the past may call IRAS at 6351 3093/6 351 3133. Those who wish to make voluntary disclosures may write to:

Mrs Ang Siew Tee
Director (Individual Income Tax Division)
55 Newton Road
Revenue House
Singapore 307987