



INLAND REVENUE BOARD MALAYSIA

**LIVING ACCOMMODATION BENEFIT
PROVIDED FOR THE EMPLOYEE
BY THE EMPLOYER**

**ADDENDUM TO
PUBLIC RULING NO. 3/2005**

Translation from the original Bahasa Malaysia text.

DATE OF ISSUE: 5 FEBRUARY 2009



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DIRECTOR GENERAL'S PUBLIC RULING

A Public Ruling as provided for under section 138A of the Income Tax Act 1967 is issued for the purpose of providing guidance for the public and officers of the Inland Revenue Board Malaysia. It sets out the interpretation of the Director General of Inland Revenue in respect of the particular tax law, and the policy and procedure that are to be applied.

A Public Ruling may be withdrawn, either wholly or in part, by notice of withdrawal or by publication of a new ruling which is inconsistent with it.

**Director General Inland Revenue,
Inland Revenue Board Malaysia.**

**LIVING ACCOMMODATION BENEFIT PROVIDED
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ADDENDUM TO PUBLIC RULING NO. 3/2005**

1. This Addendum provides clarification on the change in the determination of value of living accommodation benefit provided for the employee by the employer.
2. The related provisions for this Addendum are section 13, subsection 32(1A), paragraphs 32(2)(a), 32(2)(b), 32(3)(c) and new subsection 32(4) of the Income Tax Act 1967 (ITA).
3. **Change in determination of value of living accommodation**
 - 3.1 For the purposes of determining the value of living accommodation benefit under paragraph 13(1)(c) of the ITA, it is necessary to ascertain the employee's gross income under paragraph 13(1)(a) of the ITA.
 - 3.2 Gross income under paragraph 13(1)(a) of the ITA includes perquisites received in respect of the right to acquire shares in a company of which the amount is determined under subsection 32(1A) of the ITA.
 - 3.3 The amount of gross income in respect of the right to acquire shares in a company as provided under subsection 32(1A) is determined as follows:

Number of shares X (market value of share at date of exercise or market value of share at the exercisable date, whichever is lower less the offer price of the share)
 - 3.4 With effect from year of assessment 2009, for the purposes of determining the value of living accommodation benefit, the employee's gross income under paragraph 13(1)(a) of the ITA excludes the amount of gross income in respect of the right to acquire shares in a company.
 - 3.5 This amendment is provided under the new subsection 32(4) of the ITA.

4. **Computation of value of living accommodation**

Following the above, the computation of value of living accommodation with effect from year of assessment 2009 for the three categories mentioned in Public Ruling No. 3/2005 are illustrated as follows:

4.1 **First category: Living accommodation provided for employee (other than officers of Government/Statutory Bodies) or service director by the employer**

Example 1:

Ali, an accountant in a housing development company, receives the following employment income in the year 2009:

- (a) monthly remuneration of RM10,000;
- (b) rent free living accommodation provided by the employer of which the defined value of the living accommodation is RM24,000; and
- (c) 5,000 unit of shares @ RM1.00 per unit granted by the employer under the share option scheme on 02.01.2009. The shares are exercisable on 01.03.2009 and the market value of the share is RM3.00 per unit. Ali exercised his option on 31.03.2009 when the market value of the share rose to RM4.00 per unit.

Ali's gross income from employment under paragraph 13(1)(a) of the ITA for year of assessment 2009 constitutes the amount of monthly remuneration (RM120,000) and the amount of perquisite in respect of the right to acquire shares in the company. Gross income from perquisite in respect of the right to acquire shares in the company is computed as follows:

$$5,000 \text{ units} \times [(RM4 \text{ or } RM3 \text{ whichever is lower}) - RM1] = RM10,000$$

However, for the purposes of computing the value of living accommodation under paragraph 13(1)(c) the amount of gross income from perquisite in respect of the right to acquire shares in the company i.e RM10,000 is disregarded.

Thus, the value of living accommodation benefit received by Ali for the year of assessment 2009 is RM24,000 which is the lower of:

$$30\% \times RM120,000 = RM36,000 \text{ or} \\ \text{the defined value of living accommodation} = RM24,000$$

Ali's gross income from employment for year of assessment 2009 is as follows:

Gross income under paragraph 13(1)(a)	RM130,000
Value of living accommodation benefit under paragraph 13(1)(c)	<u>RM 24,000</u>
	<u>RM154,000</u>

Example 2:

Ee, a service director of a controlled company receives the following income in the year 2009:

- (a) gross annual income and bonus of RM240,000;
- (b) living accommodation rented by the employer at the rate of RM10,000 a month. The living accommodation is too large for his needs and he frequently entertains his employer's clients in the premises provided. He has ascertained that 1/3 of the premises is used for the official purposes of the company; and
- (c) 50,000 unit of shares @ RM2.00 per unit is granted by the employer under the share option scheme on 02.10.2008. The shares are exercisable on 02.01.2009 and the market value of the share is RM3.00 per unit. Ee exercised his option on 01.04.2009 at the market value of RM4.00 per unit.

Ee's gross income from employment under paragraph 13(1)(a) of the ITA for year of assessment 2009 constitutes the amount of annual income and bonus (RM240,000) and the amount of perquisite in respect of any right to acquire shares in a company i.e. RM50,000 [50,000 units X (RM3 – RM2)].

However, for the purposes of computing the value of living accommodation under paragraph 13(1)(c) the amount of gross income from perquisite in respect of the right to acquire shares in the company i.e RM50,000 is disregarded.

Thus, the value of living accommodation benefit received by Ali for the year of assessment 2009 is RM24,000 which is the lower of:

$$30\% \times RM240,000 = RM72,000 \quad \text{or}$$
$$\text{the defined value of living accommodation} = RM80,000$$
$$(RM10,000 \times 12 \times 2/3)$$

Ee's gross income from employment for year of assessment 2009 is as follows:

Gross income under paragraph 13(1)(a)	RM290,000
Value of living accommodation benefit under paragraph 13(1)(c)	<u>RM 72,000</u>
	<u>RM362,000</u>

4.2 Second Category: Living accommodation provided for directors of controlled companies by the employer

4.2.1 For this category, the value of living accommodation to be taken as gross income from employment under paragraph 13(1)(c) is the defined value of the living accommodation.

4.2.2 As such, the change in the computation of value of living accommodation with effect from year of assessment 2009 does not affect this category.

4.3 Third category: Living accommodation for employee / service director / Government or Statutory Body officer

Example 3:

John Nair, a manager with a plantation company receives the following income in the year 2009:

- (a) monthly remuneration of RM20,000;
- (b) rent free living accommodation provided by the employer in the plantation; and
- (c) 10,000 unit of shares @ RM1.00 per unit is granted by the employer under the share option scheme on 02.02.2009. The shares are exercisable on 01.03.2009 and the market value of the share is RM2.00 per unit. John Nair exercised his option on 31.05.2009 and the market value of the share was RM3.00 per unit.

John Nair's gross income from employment under paragraph 13(1)(a) of the ITA for year of assessment 2009 constitutes the amount of monthly remuneration (RM240,000) and the amount of perquisite in respect of the right to acquire shares in the company i.e. RM10,000 [10,000 units X (RM2 – RM1)].

However, for the purposes of computing the value of living accommodation under paragraph 13(1)(c) the amount of gross income from perquisite in respect of the right to acquire shares in the company i.e RM10,000 is disregarded.

Thus, the value of living accommodation benefit received by John Nair for the year of assessment 2009 is $3\% \times RM240,000 = RM7,200$.



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John Nair's gross income from employment for year of assessment 2009 is as follows:

<i>Gross income under paragraph 13(1)(a)</i>	<i>RM250,000</i>
<i>Value of living accommodation benefit under paragraph 13(1)(c)</i>	<i><u>RM 7,200</u></i>
	<i><u>RM257,200</u></i>

5. This Addendum forms part of the Public Ruling No. 3/2005 and is effective from the year of assessment 2009.

**Director General of Inland Revenue,
Inland Revenue Board Malaysia**