

Benefit-in-Kind - Provision of Free or Subsidised Accommodation

Part 05-03-06

This document should be read in conjunction with sections 112, 118 and 119 of the
Taxes Consolidation Act 1997

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1. Introduction

This manual outlines the tax position where accommodation is made available by an employer to an employee for his or her private use.

The benefit in kind provisions apply both to directors and employees, irrespective of the level of emoluments from the office or employment. The provisions also capture benefits provided to an employee's/director's spouse, civil partner, family, and children of a civil partner.

2. Employer-Owned Accommodation

2.1 Charge to Benefit in Kind

Where accommodation is owned and provided by the employer for use by an employee, the value of the taxable benefit to the employee is the aggregate of:

- the annual value of the use of the accommodation, and
- any expense (other than the cost of acquisition) incurred by the employer in connection with the provision of the accommodation, such as the cost of light and heat.

The annual value of the use of employer-owned accommodation (also known as the market rent) is the annual rent which the employer might reasonably expect to obtain for the property (reflective of whether it is furnished or unfurnished) if the tenant had a letting on the following assumptions:

- the letting is on a year to year basis;
- the tenant undertakes to pay all the usual tenant's rates; and
- the landlord undertakes to bear the costs of the repairs, insurance and any other expenses necessary for maintaining the premises in a state to command that rent.

The annual value of employer owned accommodation should be determined when the accommodation is first provided to an employee and then reviewed annually for as long as the property is available to the employee.

The annual value as determined should be reduced by any amount which the employee is required to make good and actually makes good directly to the employer in respect of the accommodation.

The following may be of assistance in establishing an annual market rent:

- an independent auctioneer's or letting agent estimate;
- details of arms-length rents paid for similar properties in the area from property rental websites; and
- figures on the [CSO website](#) pertaining to average monthly rents provided by the Residential Tenancies Board (RTB).

It should be noted that the employer should be able to support the basis of the annual market rent used in all cases.

Example 1

An employer provides an employee with the use of an apartment owned by the employer rent free. A valuation report from a letting agent states the rent which the company might reasonably expect to receive for the apartment on an arm's length basis (i.e. the market rent) is €24,000 per annum.

Notional pay of €24,000 (i.e. €2,000 per month) must be added to the employee's salary for the purposes of calculating PAYE, PRSI and USC.

Example 2

An employer provides an employee with the use of a two-bedroom apartment owned by the employer rent free.

According to a number of property rental websites similar type two-bedroom apartments in the apartment complex are currently let for €2,500 per month.

Notional pay of €30,000 (€2,500 per month) must be added to the employee's salary for the purposes of calculating PAYE, PRSI and USC.

Example 3

An employer provides an employee with a house owned by the employer at a subsidised rent of €1,000 per month. A letting agent's estimate indicates that the annual value of rent for the house is €32,000.

The taxable benefit is:

$$€32,000 - (€1,000 \times 12) = €20,000$$

Notional pay of €20,000 (€1,666 per month) must be added to the employee's salary for the purposes of calculating PAYE, PRSI and USC.

Example 4

An employer provides two employees with a house owned by the employer at a total subsidised rent of €1,000 per month. A letting agent's estimate indicates that the annual value of rent for the house is €32,000.

The total taxable benefit is: €32,000 – (€1,000 x 12) = €20,000

The taxable benefit for each employee is: (€32,000 – (€1,000 x 12)) ÷ 2 = €10,000

Notional pay of €10,000 (€833.33 per month) must be added to the employee's salary for the purposes of calculating PAYE, PRSI and USC.

2.2 Office Accommodation, Supplies, etc.

A taxable benefit does not arise where an employer provides either an employee or a director with office accommodation, supplies or services on the business premises which are to be used by the employee or director solely in performing the duties of his or her employment.

2.3 Exemption for members of the Permanent Defence Force

A specific statutory exemption from benefit in kind (section 120B TCA 1997) applies to members of the Permanent Defence Force in relation to the provision of living-in accommodation. For further details please see Tax and Duty Manual [Part 05-03-13](#).

2.4 Employee Required to Live on Premises

A taxable benefit will not arise where an employee (but not a director) is required by the terms of his or her employment to live in accommodation provided by the employer in part of the employer's business premises so that the employee can properly perform his or her duties ('better performance test'), and either -

- the accommodation is provided in accordance with a practice which, since before 30 July 1948, has commonly prevailed in trades of the class in question as respects employees of the class in question; or
- it is necessary, in the particular class of trade, for employees of the class in question to live on the premises.

It is generally accepted that the 'better performance test' is met where all of the following conditions are met:

- the employee is required to be on call outside normal hours;
- the employee is in fact frequently called out; and

- the accommodation is provided so that the employee may have quick access to the place of employment.

Examples of categories of employees who generally meet the 'better performance test' include:

- managers or night care staff in residential or respite centres (where such centres are not nursing facilities);
- governors and chaplains in prisons;
- caretakers living on the premises (where they are in a full-time caretaking job);
- student nurses engaged in grant funded diploma programs under the auspices of the Department of Health/Health Authorities; and
- Au Pairs who are required by the terms of their employment to 'live in' and who are "on call".

3. Accommodation Rented by Employer

Where accommodation is rented at a market rent by an employer for an employee, the taxable benefit for PAYE, PRSI and USC purposes is:

- the actual amount of rent paid
less
- any amount which the employee is required to make good and actually makes good to the employer in respect of the accommodation.

Example 5

An employer provides an employee with rented accommodation for which the rent paid by the employer is €1,500 per month. The employee makes a contribution of €200 per month towards the rent.

Notional pay of €1,300 (€1,500 - €200) per month must be added to the employee's monthly salary for the purposes of calculating PAYE, PRSI and USC.

4. Accommodation Costs Paid as Part of a Relocation Package

Accommodation costs paid as part of a relocation package may, in certain circumstances, not be subject to PAYE, PRSI and USC, where a number of conditions are met. For further information see Tax and Duty Manual [Part 05-02-03](#) - Removal and Relocation Expenses.