

Falkland Islands Government
Taxation Office

BENEFITS IN KIND

Guidance for Tax Years 2013 & Onwards

What are Benefits in Kind?

These are something that an employee, or any member of their family, may receive as a result of being in an employment, in addition to any remuneration paid to the employee by their employer.

What benefits are chargeable?

Some benefits such as an expense paid on the employee's behalf by their employer are taxable on the amount paid under section 8(1)(b) of the Taxes Ordinance 1997 as gains or profits from employment. There are also prescribed benefits taxable under section 8(1)(c) as defined in section 3(1) of the Taxes (Benefits in Kind) Rules 2003, as being

1. The payment by an employer of or in respect of any travel expenses incurred by or in respect of an employee
2. The use by an employee of a motor vehicle provided by the employer
3. The provision by an employer of a loan to the employee
4. The provision by an employer of any living accommodation, including board, heating and electricity, for the use of the employee

Benefits provided for the family of an employee

Any benefit provided for members of the employee's family is treated as if it were provided for the employee personally. The term **family** covers the employee's

- spouse
- child
- parent
- grand parent
- grandchild
- brother or sister
- any person living with the employee as their partner and any child of the person living with the employee

Provision of benefits by employer

Where expenses payments are made to an employee or benefits are provided for an employee or members of their family by their employer, they are deemed to have been made or provided by reason of that employment - they are regarded as part of the reward for the job.

Also, where expense payments are made to an employee or benefits are provided for an employee or members of their family by a third party on behalf of, by arrangement with or as directed by their employer they are deemed to have been done by their employer.

How are Benefits charged?

Under sections 8(1)(b) and 8(1)(c) of the Taxes Ordinance 1997 and section 4 of the Medical Services Tax (MST) Ordinance 2010 these benefits are part of the employee's income, received other than by way of money. The benefit arises on the employee as and when it is

paid or the benefit is made available to the employee. Under the current POAT (Payment on Account of Tax) system, that benefit is not taxed at source by their employer.

However, so that the correct amount of benefit can be taxed, we require the employer to tell their employee and us of the actual amount of benefit received by the employee in the tax year. The employee should then enter those details on their Tax Return.

It is therefore important that the employer maintains accurate records throughout the year and completes the relevant forms to give the employee at the end of the tax year, or during the year if the employee leaves that employment before 31 December.

Specific Benefits

We will now consider the prescribed benefits in greater detail to enable employers and employees to know what is and what is not taxable. That will allow correct returns to be made to us of any benefits received in the year.

There are some frequently asked questions (FAQ's) and answers which should cover any problems that you encounter.

TRAVEL EXPENSES

Any travel expenses reimbursed to an employee by their employer, which the employee incurred wholly, necessarily and exclusively in the performance of the duties of their employment are not taxable.

Employees recruited from abroad

Employees recruited from abroad often tend to have the cost of their flights or other methods of travel, to and from the country from which they were recruited and normally resident in, paid for by their employer.

The initial flight/journey costs from that country to the Falkland Islands (FI) and the return flight/journey back to that country at the start and end of the contract are not a benefit for tax purposes. **But see the point below about economy costs.**

In addition to that, the cost of one **direct** return flight/journey in each tax year, from FI back to the country from which the employee was recruited and resident, is also not a benefit. **But see the point below about economy costs.**

The same rules apply to the employee's **spouse** or **any child under 18**.

These costs are restricted to economy class fares for the employee and all their family.

These rules only apply to employees who were not normally resident in FI before they started working here.

Employee recruited from abroad and their employer paid the costs of the employee and their family's transport to FI, from the country where they lived to start working here. Is that a taxable benefit?

No, unless the costs paid exceed the economy fare available at that time. ***But, see the note for children aged 18 years or over at the start of any journey.***

At the end of the employee's contract, their employer paid the cost of their transport back to the country from where they were recruited. Is that a taxable benefit?

No, unless the costs paid exceed the economy fare available at that time. ***But, see the note for children aged 18 years or over at the start of any journey.***

The employer pays for the employee and their family to go home every year while working in FI. What are the tax consequences for the employee?

The cost of one economy flight/travel in any tax year is not a benefit. The same rule applies to any member of the employee's family. ***But, see the note for children aged 18 years or over at the start of any journey.***

If the employer pays for more than one flight in any tax year the cost of the additional flights are taxable benefits. Those costs should be notified by the employer to the employee and the Taxation Office. The journey in respect of which the employer incurs the highest cost will be treated as the one which is not a benefit.

The employee has a child aged 18 years. How does this affect the taxable benefit?

If a child is aged 18 or over at the start of **any** journey to get here or return to the employee's country of origin, the cost of any travel paid by the employer for that journey is a benefit taxable on the employee.

The employer pays for the employee and their family to travel business class on a journey. How does the Benefit in Kind rules affect the employee?

The costs payable by the employer on behalf of the employee and any members of their family are restricted. Any costs paid by the employer that exceed the economy rate of travel at the time of the journey are a benefit taxable on the employee.

On the way back home the employee decides to have a holiday on route. Their employer pays for that holiday. Is that a taxable benefit?

Yes, unless the employee pays back (makes good) all, or any of the costs to their employer. If the amount made good by the employee is less than the costs paid by the employer, a benefit arises on the difference.

What part of the costs of that trip are a benefit?

Deduct the cost of the economy fare directly from A to B, from the total cost paid by the employer. The difference is the amount of benefit that needs to be declared to the Taxation Office.

Instead of taking the employee's entitlement to a return flight to the country from where they were resident and recruited, they decide to take their family on holiday to Australia. Their employer pays for the flights. Is that a taxable benefit?

Yes, if the employee was not actually living in Australia at the time they were recruited. But the benefit is calculated on the difference between the total cost paid by their employer less the actual cost of the economy fare back to the country from where they were recruited, at the time that they went on holiday to Australia.

As part of the journey they have to stay over until their connecting flight is scheduled to leave. That stop is included in the price of the journey. Is that a benefit?

No, if that is the initial, final or only journey in that tax year. If the cost of the trip necessarily includes the cost of hotels, etc. then no benefit will arise. But if the stop-over is unnecessary and they planned to spend a few days sightseeing in that country then it is a benefit.

The employee and their family take a holiday in Chile rather than going home for a visit. The employee pays for the flights but their employer pays for their accommodation. Is there a taxable benefit?

Yes, as only the cost of one flight/journey a year is tax free. Any other expenses that their employer pays for are taxable as a benefit. If the employer had paid for the flights and the employee paid for the accommodation then there would not have been a taxable benefit, unless the cost of the flight was greater than the cost of an economy fare back home.

In the final year of the employee's employment here, they have a visit back home. Their employer pays for that and their final flight back home at the end of their contract. Does a taxable benefit arise?

No, because in the final tax year of employment two flights, of which one must be the journey to return back home at the end of the employment, are allowed. But the cost must not exceed the economy fare at any time.

During the period of the employee's contract their employer pays the cost of a flight for the employee's parents to visit here. Is that a taxable benefit?

Yes, as the exemption only applies to the employee, their spouse and children under 18 years of age, at the start and end of their contract and one other flight in each tax year.

MOTOR VEHICLES

If the employer provides the employee, or any member of their family, with a business vehicle the employee may be liable to tax on the benefit of having that vehicle provided to them. The value of that benefit is £40 per day, up to a maximum of £3,000 a year. That is not the tax due but the amount of benefit that is taxable.

To decide if a benefit arises, it needs to be determined if the vehicle can be used for business purposes only or for any purpose by the employee.

An employer has provided their employee with a business vehicle to use for whatever purpose they want. Does a taxable benefit arise?

Yes, as the employee is able to use the vehicle privately as well as for business purposes. It does not matter if the employee uses the vehicle privately or not. The fact that the employee can use it privately if they wish means that a benefit arises.

An employer has provided their employee with a business vehicle to use for whatever purpose they want. The employee pays their employer a monthly amount to be able to use that vehicle privately. Does a taxable benefit arise?

Yes, but the cost of any money the employee pays their employer will reduce the taxable benefit. Similarly, if the employee paid anything towards the cost of running or maintaining that vehicle, the benefit will be reduced accordingly.

An employer has provided their employee with a business vehicle to use for business purposes only. The employee is also allowed to take the vehicle home at lunchtime and after work. Does a taxable benefit arise?

No, provided that the employee does not use the vehicle for any private purpose. The Taxation Office has published an Extra Statutory Concession, ESC 6, which allows employees to use a business vehicle to travel to and from work at the start, middle and end of their working day.

An employer has provided their employee with a business vehicle to use for business purposes. The employee is also allowed to take the vehicle home at lunchtime and after work, and collect their children from school or do their shopping on the way home. Does a taxable benefit arise?

No, provided it is on an occasional basis. The collection of their children from school or stopping off to do their shopping is not performing the duties of their employment, however by concession this is allowable. If they are able to do this frequently this will constitute as private use and will become a taxable benefit.

An employer has provided their employee with a business vehicle to use for business purposes only. The employee also uses the vehicle to collect other employees from home and take them to and from work. Does a taxable benefit arise?

No, provided that the employee does not use the vehicle for any private purpose.

An employee is on standby at certain times. On those occasions their employer provides them with a business vehicle. Does a taxable benefit arise?

No, provided that when the employee is on standby they do not use the vehicle for any private purpose.

LOANS

Loans made by the employer to their employee, or to a member of the employee's family, may be liable to tax as a benefit.

How is it decided if a loan is taxable?

If the employer provides their employee with a loan below the Standard Chartered Bank's (SCB) normal commercial rate, a benefit arises on the employee.

What is the annual value of the benefit on any loan?

The value of the benefit on any loan the employee has with their employer is the difference between the rate of interest, if any, which their employer charges on that loan and the SCB base lending rate at that time, plus 3% interest.

How does the Taxation Office arrive at the benefit on a loan the employee has with their employer?

To calculate the value of the benefit we need to know

- the date the loan was made
- the period over which the loan was agreed to run
- how much of that loan was outstanding at the start and end of the tax year
- the rate of interest (if any) charged, and
- how much of the loan (if any) was repaid to their employer during the year.

We will then take the average loan outstanding and calculate the interest at the SCB base lending rate plus 3%, to arrive at the annual value of that benefit.

The employee has more than one loan with their employer. How does the Taxation Office arrive at the annual value on those loans?

We will look at each loan separately and calculate the benefit as above. We will therefore need separate details for each loan.

The employer decided to write off all or part of the loan during the tax year. What are the tax consequences for the employee?

So that we can calculate what benefit has arisen on the employee, we will require the following information.

- copy of the loan agreement
- date the loan was made
- period over which the loan was agreed to run
- how much of that loan was outstanding at the start and end of the tax year
- amount of the loan written off
- rate of interest (if any) charged, and
- how much of the loan (if any) repaid to the employer during the year.

We would then tax the higher of

- (a) the amount of the loan written off or
- (b) the interest which would have been due for the year if the loan had not been written off fully or in part.

The employer is in business which includes lending money to people. Is a loan that the employee has from their employer liable to tax as a benefit?

No, if the loan made was part of the employer's normal business and at their normal commercial rate in force at that time. If the loan was advanced at an interest rate less than the employer's normal rate of interest at that time, then a benefit arises on the employee. The benefit is calculated on the difference between the interest rate the employee has been charged and the SCB base lending rate plus 3%.

An employee has been loaned money by a member of their family, is that a taxable benefit?

No, if that loan was made in the course of their normal family, domestic or personal relationships. But, if their business has lent the money, then there is a benefit.

If you are not sure if any agreement you have entered into with your employer/employee is a loan or not, for benefit purposes, ask the Taxation Office.

LIVING ACCOMMODATION

There are certain employees who are not liable to benefits under these rules. These are

- agricultural or horticultural workers
- employees living in accommodation not situated onshore in FI, e.g. seafarers, oil workers accommodated on flotels **and**
- any other workers, who the Commissioner is satisfied have to live in that property to be able to perform the duties of their employment, e.g. road gang workers.

If you are unsure if you/your employee may be exempted from this benefit, contact the Taxation Office for guidance.

There are two distinct categories of benefit that arise and are chargeable under this part of the benefits rules. These are

1. Dwelling Houses **and**
2. Board and accommodation

Each category is looked at separately by the Rules.

1. DWELLING HOUSES

The annual value of the benefit on a property provided by the employer to their employee is set down in Table A under Rule 4(6) of the Taxes (Benefit in Kind) Rules 2003. The value of the benefit is not the tax due but the amount of benefit that is taxable.

For a furnished house the value is £1,000 per room, subject to a maximum of 7 rooms.

For an unfurnished house the value is £750 per room, subject to a maximum of 7 rooms.

The following are not included when calculating how many rooms are in the house; **garages, outbuildings, porches, bathrooms, lavatories, larders, halls and passages.**

What is a “Dwelling house”?

For the purposes of the Taxes (Benefit in Kind) Rules a **dwelling house** is a whole property provided by the employer for use by their employee and/or the employee’s family.

An employer has provided their employee with a 4 bedroom furnished property, rent free. What are the tax consequences for the employee?

Assuming that the property has a dining room, lounge and kitchen, in addition to the 4 bedrooms, then the 7 room maximum has been reached. The employee would be taxable on a benefit on that property of £7,000. (i.e. £1,000 per room x 7 rooms).

An employer has provided their employee with a 4 bedroom unfurnished property, rent free. What are the tax consequences for the employee?

Assuming that it is the same type of 4 bedroom property as above, the maximum taxable benefit would be £5,250. (i.e. £750 x 7 rooms).

An employer has provided their employee with a 4 bedroom furnished property. The employee pays rent of £200 a month. What are the tax consequences to the employee?

Any rent paid by the employee to their employer (made good) is deductible from the annual value of any furnished or unfurnished property. Assuming the same type of property as used in the previous examples is provided, the benefit arising would be

A. FURNISHED

7 rooms @ £1,000 per room	=	7,000
Less rent paid £200 p.m. x 12	=	<u>2,400</u>
Taxable annual value	=	<u>£4,600</u>

B. UNFURNISHED

7 rooms @ £750 per room	=	5,250
Less rent paid £200 p.m. x 12	=	<u>2,400</u>
Taxable annual value	=	<u>£2,850</u>

The employee’s family live in the property, is there any additional taxable benefit?

No, not on the value of the house benefit. However, if their employer pays for the heating/electricity for the property then this benefit is increased

- (a) in respect of the spouse by 20% and
- (b) in respect of each child by 10%

These increases apply in relation to both dwelling houses and accommodation.

An employer pays the cost of all their employee’s utilities for that property, i.e. fuel, gas, electric, etc. Is tax due on those payments?

Yes, the value to be used is £500 per room, subject to a maximum of 7 rooms. This value is specifically in relation to dwelling houses, if it is in relation to shared accommodation then the heating or electricity (or both) value at point 2 should be used.

An employer does not provide their employee with furnished/unfurnished property but does pay the cost of the employee’s utilities for that property, i.e. fuel, gas, electric, etc. Is this a taxable benefit?

If the property is a dwelling house, the value to be used is £500 per room, subject to a maximum of 7 rooms. However, if the property is shared accommodation then the heating or electricity (or both) value at point 2 should be used.

2. BOARD AND ACCOMMODATION

The annual value of the benefit of Board and accommodation provided by an employer to their employee is set down in Table B under Rule 4(8) of the Taxes (Benefit in Kind) Rules 2003, as amended.

The Benefit and Annual Values applicable under this heading are

<ul style="list-style-type: none"> • Board and accommodation, including heating or electricity (or both) 	£12.50 a day, subject to a maximum of £4,000 a year
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• Board and accommodation, excluding heating or electricity (or both)	£9.50 a day, subject to a maximum of £3,000 a year
• Accommodation only	£4.75 a day, subject to a maximum of £1,500 a year
• Board only	£4.75 a day, subject to a maximum of £1,500 a year
• Heating or electricity (or both)	£3.00 a day, subject to a maximum of £1,000 a year

What is “Board and accommodation”?

In deciding if an employee has been provided with **board and/or accommodation** by their employer, for the purposes of the Taxes (Benefits in Kind) Rules it is best to use a simple rule of thumb.

The question to ask is “Has the employer provided the employee with the use of a whole property?”

If the answer is **yes**, then any benefit chargeable should be calculated using the Furnished or Unfurnished Dwelling House Annual Values, as per point 1.

If the answer is **no**, the table under point 2 should be used to calculate the chargeable benefit. If the employee’s family also use the same accommodation, the benefit is increased

- in respect of their spouse by 20% and
- in respect of each child by 10% per child.

An employer has provided their employee with shared furnished/unfurnished accommodation, rent free. Their employer also provides meals and pays the utility bills. What are the tax consequences for the employee?

The employee is in receipt of a benefit at a rate of £12.50 per day, subject to a maximum annual value of £4,000.

An employer has provided their employee with a room, rent free. The employer also provides meals and pays for utility bills. What are the tax consequences to me?

The employee is in receipt of a benefit at a rate of £12.50 per day, subject to a maximum annual value of £4,000.

An employer has provided their employee with accommodation, meals and pays the utility bills. The employee pays their employer rent of £200 a month. What are the tax consequences for the employee?

The employee is liable on a benefit of £12.50 per day, subject to a maximum annual benefit of £4,000. Any rent paid by the employee to their employer (made good) is deductible from the annual value. Assuming the employ is provided with this accommodation for the whole year, the benefit arising would be:

Maximum Annual Value	4,000
Less Rent paid (£200 p.m. x 12)	<u>2,400</u>
Benefit chargeable	<u>£1,600</u>

The employee's family live in the same accommodation. Is there any additional benefit taxable on the employee because of this?

Yes. Assuming that the employer pays for the employee's family meals as well as their own then the benefit is increased in respect of their spouse by 20% and in respect of each child by 10% per child.

For example, if the employee has a spouse and 3 children, the benefit would be:

Maximum Annual Value	4,000
Plus increase for spouse (4,000 x 20%)	800
Plus increase for children (4,000 x 10% x 3)	<u>1,200</u>
Total benefit	6,000
Less Rent paid (200 p.m. x 12)	<u>2,400</u>
Benefit chargeable	<u>£3,600</u>

An employer provides their employee with a room and meals, rent free. The employee pays their own utility bills. What are the tax consequences for the employee?

A benefit arises at a rate of £9.50 a day, subject to a maximum annual value of £3,000

An employer provides their employee with a room, rent free. The employee pays their own meals and utility bills. What are the tax consequences for the employee?

A benefit arises at a rate of £4.75 a day, subject to a maximum annual value of £1,500

An employer provides their employee with their meals. The employee pays their own accommodation and utility bills. What are the tax consequences for the employee?

A benefit arises at a rate of £4.75 a day, subject to a maximum annual value of £1,500

An employee pays rent for their shared accommodation and buys their own food. Their employer pays the cost of all of their utility bills for that accommodation, i.e. fuel, gas, electric, etc. Does a benefit arise on those payments?

Yes, but only on the Heating and/or Electricity. The benefit arising is £3 a day, subject to a maximum annual value on that benefit of £1,000.

This brief guide has been written in general terms, it does not have any legal force or bind the FI Taxation Office in any way.

If you are unsure on any points, or have any questions which have not been answered by this leaflet, please contact the Taxation Office.

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