

## **BINDING GENERAL RULING (INCOME TAX): NO. 22**

DATE: 26 March 2014

**ACT : INCOME TAX ACT NO. 58 OF 1962**  
**SECTION : SECTION 8(1)(a) and (c)**  
**SUBJECT : SUBSISTENCE ALLOWANCE – AMOUNTS DEEMED TO BE EXPENDED FOR BUSINESS PURPOSES**

### ***Preamble***

For the purposes of this ruling –

- “**BGR**” means a binding general ruling issued in terms of section 89 of the Tax Administration Act No. 28 of 2011;
- “**recipient**” means a person who has been paid or granted a subsistence allowance or advance by a principal;
- “**section**” means a section of the Act;
- “**the Act**” means the Income Tax Act No. 58 of 1962; and
- any word or expression bears the meaning ascribed to it in the Act.

### **1. Purpose**

To formalise through a BGR an established practice contained in paragraph 5.3.3 of Interpretation Note No. 14 (Issue 3) dated 20 March 2013 “Allowances, Advances and Reimbursements”, under the heading “Deemed method”.

### **2. Background**

In order for a recipient to deduct subsistence-related expenses from a subsistence allowance granted by a principal, that recipient must, by reason of the duties of his or her office or employment, be obliged to spend at least one night away from his or her usual place of residence in the Republic. A recipient who meets these requirements may deduct the amount deemed to be expended on accommodation, meals and other incidental costs during that period. Section 8(1)(c) sets out the methods that a recipient may use to calculate the amounts deemed to have been expended.

Under the deemed method set out in section 8(1)(c)(ii), the amount the recipient is deemed to have actually expended is equal to –

- an amount determined by the Commissioner for the relevant year of assessment by way of notice in the *Government Gazette*;
- for meals and other incidental costs, or incidental costs only;
- for each day or part of a day in the period during which the recipient is absent from his or her usual place of residence;

- excluding any amount of expenditure borne by the employer (otherwise than by way of the allowance or advance) for which the allowance was paid or granted for that day or part of that day;
- excluding any amount proven by the recipient to SARS as actual expenditure and claimed as a deduction for meals or incidental costs equal to the actual costs for that day or part of that day; and
- limited to the amount of the allowance or advance granted to meet these expenses.

The amount stipulated in the *Government Gazette* is a daily amount. Accordingly, in calculating the amount of deemed expenditure based on the points listed above, the recipient must multiply the daily amount by the number of days or part of a day that the recipient is away on business. Taxpayers must review the effective date of the particular notice to ensure they apply the correct amounts to the correct year of assessment.

The *Gazetted* amounts are for meals and other incidentals for local and foreign travel, or incidentals only for local travel, and do not cover accommodation for either local or foreign travel. As a result, when a recipient receives an allowance or an advance for accommodation, the recipient must apply the actual method to determine the amount that will be allowed to be deducted from that allowance, or relevant portion of the allowance, for accommodation. There is no “meals only” deemed expenditure amount. Accordingly a recipient, who receives such an allowance, would also have to apply the actual method to calculate the allowable deduction.

In practice, accommodation service providers often levy a single charge for bed and breakfast, whether or not the guest eats breakfast.

### **3. Ruling**

The cost of breakfast may be regarded as part of the cost of accommodation if an accommodation service provider charges a single rate for “bed and breakfast”. The *Gazetted* amount determined by the Commissioner for the relevant year of assessment does not need to be reduced to make provision for the cost of breakfast.

This ruling constitutes a BGR issued under section 89 of the Tax Administration Act No. 28 of 2011.

### **4. Period for which this ruling is valid**

This BGR applies with effect from 1 April 2014 and will apply for an indefinite period.