25. (1) Subject to subsection (1A) or (2A), where gross income from an employment-

(a) is not receivable in respect of any particular period; and

(b) first becomes receivable in the relevant period,

it shall when received be treated as gross income of the relevant person for the relevant period.

History.

Subsection 25(1) is amended by Act 693 of 2009 s11 (a), by inserting after the words "subsection (1A)" the words "or (2A)", has effect for the year of assessment 2009 and subsequent years of assessment.

Subsection 25(1) amended by Act 644 of 2005, by substituting for the word "Where" the words "Subject to subsection (1A), where", is deemed to have come into operation on 01 October 2005.
(1A) The gross income from an employment in respect of any right to acquire shares in a company of the kind to which paragraph 13(1)(a) applies, shall where the right is exercised, assigned, released or acquired in the relevant period be treated as gross income of the relevant person for that relevant period.

History.

Subsection 25(1A) inserted by Act 644 of 2005 s5(b) is deemed to have come into operation on 01 October 2005.

(2) Subject to section 3 and subsections (2A) and (5), where gross income from an employment is receivable in respect of the whole of the relevant period (or, except in a case to which subsection (4) applies, in respect of any part of the relevant period), it shall when received be treated as gross income of the relevant person for the relevant period.

History.

Subsection 25(2) is amended by Act 693 of 2009 s11(b), by substituting for the words "section 3 and subsection (5)" the words "section 3 and subsections (2A) and (5)", has effect for the year of assessment 2009 and subsequent years of assessment.

(2A) Where gross income from an employment in relation to director's fee or bonus is receivables in respect of the whole or part of the relevant period, that gross income shall, when received in any relevant period, be treated as the gross income of the relevant person for the second mentioned relevant period.

History.

Subsection (2A) is inserted by Act 693 of 2009 s 11(c), has effect for the year of assessment 2009 and subsequent years of assessment

(3) Subject to section 3 and subsection (5), where gross income falls to be treated under subsection (1), (2) or (2A) as gross income for the relevant period, then, if its receipt first becomes known to the Director General on a day more than five years after the end of the relevant period, it shall whenever necessary be treated as gross income of the relevant person for the basis period for the year of assessment which began five years before the beginning of the year of assessment which includes that day.
History.

Subsection (3) is amended by Act 693 of 2009 s11(d), by substituting for the words "or (2)" the words ",(2) or (2A)", has effect for the year of assessment 2009 and subsequent years of assessment.

Subsection (3) amended by Act 578 of 1998 s7(a), by substituting for the word "eleven" wherever it appears the word "five", in force from 1 January 1999.

(4) Subject to section 3 and subsection (5), where gross income from an employment is receivable in respect of a period (in this subsection referred to as the overlapping period) which overlaps the relevant period, that gross income when received shall be apportioned between the part of the overlapping period which overlaps the relevant period and the remaining part or parts of the overlapping period (the apportionment, unless the Director General having regard to the facts of any particular case otherwise directs, being made in the proportion that the number of days of the overlapping period that fall into the relevant period bears to the total number of days of the overlapping period) and so much of that gross income as is apportioned to the overlapping part of the overlapping period shall be treated as gross income of the relevant person from the employment for the relevant period:

Provided that-

(a) where the employment ceases in the basis period for a year of assessment, and, at or about the time of the cessation of the employment, gross income from the employment becomes receivable as a lump sum by way of gratuity, deferred pay or otherwise but excluding any amount which by virtue of section 13 (1) (d) or (e) is included in his gross income from the employment, then, for the purposes of this subsection -

(i) that sum, notwithstanding subsection (1), shall be treated as accruing evenly over and receivable in respect of an accrual period consisting of the period of the employment (including, where the employment was employment by a company, any particular period during which the relevant person was employed by another company in the same group, being a group of which that first-
mentioned company was a member at the time of the cessation of the employment) or, if the period of employment (including any such particular period) commenced more than five years before the commencement of that basis period, an accrual period consisting of the basis period and the basis periods for the five years of assessment immediately preceding that year;

History

Proviso (a)(i) to subsection (4) is amended by Act 578 of 1998 s7(b), by substituting for the word "nine" wherever it appears the word "five", in force from 1 January 1999.

(ii) so much of that sum as by virtue of subparagraph (i) is treated as accruing evenly over and receivable in respect of any such particular period during which the relevant person was employed by any such other company shall be deemed to be income from the source consisting of his employment by that other company and not from the source consisting of his employment by that first-mentioned company; and

(iii) that accrual period shall be treated as the overlapping period;

(b) where the overlapping period in respect of which that gross income is receivable partly elapsed more than five years before the day on which the receipt of that gross income first became known to the Director General, then, for the purposes of this subsection, that gross income shall whenever necessary be deemed to have been receivable in respect of and to have accrued evenly over that part of the overlapping period which did not so elapse and, if that part falls wholly into the relevant period, shall whenever necessary be deemed to be gross income of the relevant person from the employment for the relevant period;

History.

Proviso (b) to subsection (4) is amended by Act 578 of 1998 s7(c), by substituting for the word "eleven" wherever it appears the word "five", in force from 1 January 1999.
(c) where the overlapping period in respect of which that gross income is receivable wholly elapsed more than five years before the day the receipt of that gross income first became known to the Director General, that gross income shall whenever necessary be treated as gross income for the basis period for the year of assessment which began five years before the beginning of the year of assessment which includes that day.

History.

Proviso (c) to subsection (4) is amended by Act 578 of 1998 s7(c), by substituting for the word "eleven" wherever it appears the word "five", in force from 1 January 1999.

(5) Where gross income from an employment first becomes receivable in the relevant period and is in respect of-

(a) a period which commences after the end of the relevant period; or

(b) a period which overlaps the relevant period and which partly elapsed after the end of the relevant period,

subsections (2) to (4) shall not apply and that gross income shall when received be treated as gross income of the relevant person for the relevant period:

Provided that, where the relevant period wholly elapsed more than five years before the day on which the receipt of that gross income first became known to the Director General, that gross income shall whenever necessary be treated as gross income of the relevant person or the basis period for the year of assessment which began five years before the beginning of the year of assessment which includes that day.

History.

Subsection (5) is amended by Act 578 of 1998 s7(c), by substituting for the word "eleven" wherever it appears the word "five", in force from 1 January 1999.
(6) Notwithstanding the foregoing subsections, where the Director General is satisfied that -

(a) an employee has left or will be leaving Malaysia in the basis year for the year of assessment to which the relevant period relates (that year of assessment being in this subsection referred to as the relevant year) and will not be resident for the basis year for the following year of assessment;

(b) no pension derived from Malaysia will be receivable by the employee for the basis period for that following year; and

(c) gross income from the employee’s employment will cease to be derived from Malaysia on the expiration of a period of leave following the employee's departure from Malaysia,

any gross income from the employment which but for this subsection would by virtue of any of the foregoing subsections be receivable for the basis period for the year of assessment following the relevant year shall be treated as receivable for the relevant period unless the employee in making his return of income for the relevant year (or within such period after the making of that return as the Director General may allow) makes a written request to the Director General that this subsection shall not apply in relation to his gross income from the employment.