

(2) For the purposes of this Chapter, the fair market value of a fringe benefit is determined without regard to any restriction on transfer of the benefit or the fact that the benefit is not otherwise convertible to cash.

## PART II – IMPOSITION OF FRINGE BENEFITS TAX

### 124. Fringe benefits tax

(1) Subject to this Act, fringe benefits tax is imposed for each tax year on every employer who has a taxable fringe benefits amount for the year.

(2) The tax imposed under subsection (1) on an employer is thirty-five per cent of the employer's taxable fringe benefits amount for the year.

(3) The fringe benefits tax paid by an employer in a tax year is allowed as a deduction in computing the chargeable income of the employer for the tax year.

### 125. Taxable fringe benefits amount

The taxable fringe benefits amount of an employer for a tax year is computed in accordance with the following formula -

$$\frac{A}{r}$$

where -

**A** is the total value of fringe benefits provided by the employer to employees in the tax year, other than exempt benefits; and  
**r** is the rate of tax specified in subsection (2) of section 124.

### 126. Exempt fringe benefits

The following benefits are exempt benefits-

- (a) a fringe benefit provided to an employee in respect of employment, if the employment income arising from the employment is exempt from income tax;
- (b) a fringe benefit provided by the Government of The Gambia to an employee; or
- (c) a pension contribution that is exempt from income tax.

### 127. Housing fringe benefit

(1) Accommodation or housing provided by an employer to an employee is a housing fringe benefit.

(2) The value of a housing fringe benefit provided to an employee for a tax year is -

(a) if the employer or an associate owns the accommodation or housing, the fair market rent of the accommodation or housing for the period the benefit is provided in the year; or

(b) in any other case, the total rent paid by the employer in the year for the accommodation or housing,

reduced by any payment made by the employee in the year for the benefit.

### 128. Motor vehicle fringe benefit

(1) A motor vehicle provided by an employer to an employee wholly or partly for the private use of the employee is a motor vehicle fringe benefit.

(2) The value of a motor vehicle fringe benefit provided to an employee for a tax year is computed according to the following formula -

$$(25\% \times A \times B/C) - D$$

where -

**A** is the cost to the employer of acquiring the motor vehicle or, if the vehicle is leased by the employer, the fair market value of the vehicle at the commencement of the lease;

**B** is the number of days in the tax year on which the motor vehicle was used or available for use for private purposes during all or a portion of the day;

**C** is the number of days in the tax year; and

**D** is any payment made by the employee in the year for the use of the motor vehicle or its running costs.