



Interpretations, Rulings & Opinions Committee Paper
I.R.O.C Paper. (Volume 4, Issue 5; Issued 2002, Jan.)

RE: TREATMENT OF LOANS TO EMPLOYEES (STUDY LEAVE)

ISSUE:

Much concern has been expressed regarding the treatment of Loan to employees with respect to Study Leave.

This bulletin sets out the requirements for an employee, who has been given approval for study leave and who may be eligible for a refund.

CONDITIONS FOR TREATING PAYMENT TO AN EMPLOYEE DURING STUDY LEAVE AS A LOAN:

1. The employee is not entitled to leave or earn vacation leave during the period for which the payment is to be treated as a loan. Any emoluments paid during any period of this study leave is subject to taxes and contributions.
2. The employee is bonded to work for a specified period in the employer's service after the expiration of the leave.
3. The loan or part thereof is to be repaid if the employee leaves the employment before the end of the specified period.
4. Any salary increase during the period of training should be provided for in the agreement or an annex as a loan. If this is not done, any sums paid over and above the loan specified should be treated as emoluments and therefore subject to taxes and contributions.

REVIEW OF PROCEDURES FOR TREATING LOANS:

Where the employer granting the loan is subject to the income tax, and the emoluments paid to the employee would be deductible expenses in determining taxable income, any sum determined to be a loan to the employee should not be allowed as a deductible expense.

REQUIREMENTS TO FILE FOR REFUND:

- Letter of award
- Certificates of pay (P24) for the calendar year of the period that is affected by the Study Leave
- Loan agreement
- Resumption letter endorsed by the employer
- Completed returns (IT05) for years affected by the Study Leave.

N.B. The loan agreement must be accepted by the Commissioner; therefore, officers must examine the loan agreement and should be satisfied that the terms below in the agreement meet the requirements.

Characteristics of a loan and emoluments are as follows:

Loan (not taxable)	Emoluments (taxable)
Lender Borrower Loan Obligation to repay Guarantor	Employee Employer Salary Emoluments