

Abstract

This independent research focuses on studies and analysis of employees' fringe benefit taxation with its main objectives to address the problems and unsuitability of collecting tax from employees' fringe benefit according to the Revenue Code Section 39 and 41(1) coupled with providing practice guidelines to be used by Revenue Department in collecting tax from employees' fringe benefit in order to be an alternative improvement for the Revenue Code in a part that related to employees' fringe benefit taxation, the outcome of the studies and analysis can be concluded as follows:

Firstly, problems related to general principles of collecting tax from employees' fringe benefit received from their employers in addition to their normal salary. Fringe benefit is regarded as an income as wage. However, there are some employees receiving some kinds of fringe benefit without paying tax while those employees receiving only salary have to pay tax. This causes unfairness to those who receive only salary but have to pay more tax than those who receive both salary and fringe benefit. Another problem is an inconsistency in principles of the basic equality for income earners in paying tax – they should pay the same amount of tax not be selected to pay less or more than others.

Secondly, a kind of laws enforcing taxation is individually differed such as Revenue Code, orders of Revenue Department, private rulings of Revenue Department. Each kind of such laws has separately stipulated fringe benefit definition for using in individual cases according to such kinds of welfare, not enforcing to allover other general welfares. Or some fringe benefits are not even required to comply with any law.

Thirdly, problems in specifying unclear definitions and principles in considering the relationship between fringe benefit and employment, it has to consider such definitions according to the labor law in which the definitions are stated narrowly , whereas some office holders who are not employer according to the labor law should be subject to fringe benefit tax.

Fourthly, problems related to the calculation of fringe benefit value. There are only some kinds of fringe benefit stipulated to be taxable, however, such stipulated calculation methods are not able to affect the true value of fringe benefit received by employees.

Fifthly, problems of inconsistency related to the relationship between personal income tax and corporate income tax. Namely, some kinds of fringe benefit received by employees are considered as an assessable income. However, for their employers, such fringe benefit value cannot be deducted for corporate income tax purpose. And, some kinds of fringe benefit received by employees cannot be treated as an assessable income but their employers are able to deduct that amount of fringe benefit when calculating corporate income tax.

Finally, problems of inconsistency related to tax collecting management. A lot number of taxpayers are not in line with fewer tax collectors resulting in difficulty for giving knowledge to people and examining and auditing taxable transaction.

Employee's fringe benefit taxation according to the Revenue Code Section 39 and 40(1) has a lot of problems and unsuitability as stated above, the thesis writer is duly to suggest that improvements for employees' fringe benefit taxation should be made - Paragraph 2 should be added to Section 40(1) to give authority to the director general of Revenue Department to specify any basis, methods and conditions with respect to any money or property received from any kind of employment because giving authority to the director general of Revenue Department to specify any taxable fringe benefit will be able to pass a law to enforcing allover a number of fringe benefit and also creating clarity in definition of taxable fringe benefit and Section 9 bis Paragraph 2 should also be added to the Revenue Code to give authority to the director general of Revenue Department to specify any basis, methods and conditions with respect to appraising any property or benefit in form of money to address problems related to specifying calculation methods of fringe benefit value in order for them to be consistent with fringe benefit and are able to affect the true value of fringe benefit. Giving authority to the director general of Revenue Department to stipulate any law concerning

employees' fringe benefit by adding passages to the Revenue Code which is regarded as an Act will make it to be in line with the Constitution and also make the status of employees' fringe benefit taxation to be legally enforced. In addition, the stipulation of having employees' fringe benefit taxation will be consistent with tax fairness and make taxpayers to have willingness to cooperate in complying with laws in order to achieve the objectives of generating suitable income for the Government.