

TR 9

Facts

A company proposes to give to its employees shares in the company free or with an option to buy at a price less than their market value (Employees' share participation scheme). The option may or may not be exercised by the employee.

Point at issue

Whether a contractual agreement between a company and its employee giving the latter an option to subscribe to a number of shares at a price lower than their market value gives rise to a taxable benefit.

Ruling

The difference between the purchase consideration and the market value of the share is a benefit in kind accruing to the employee and is taxable under Section 10 (1) (a) (i) of the Income Tax Act 1995 (when the option to acquire the shares is exercised by the employee)