

# CIRCULAR



**NO: 03/2015**

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**TO ALL PARTICIPANTS IN THE MOTOR INDUSTRY**

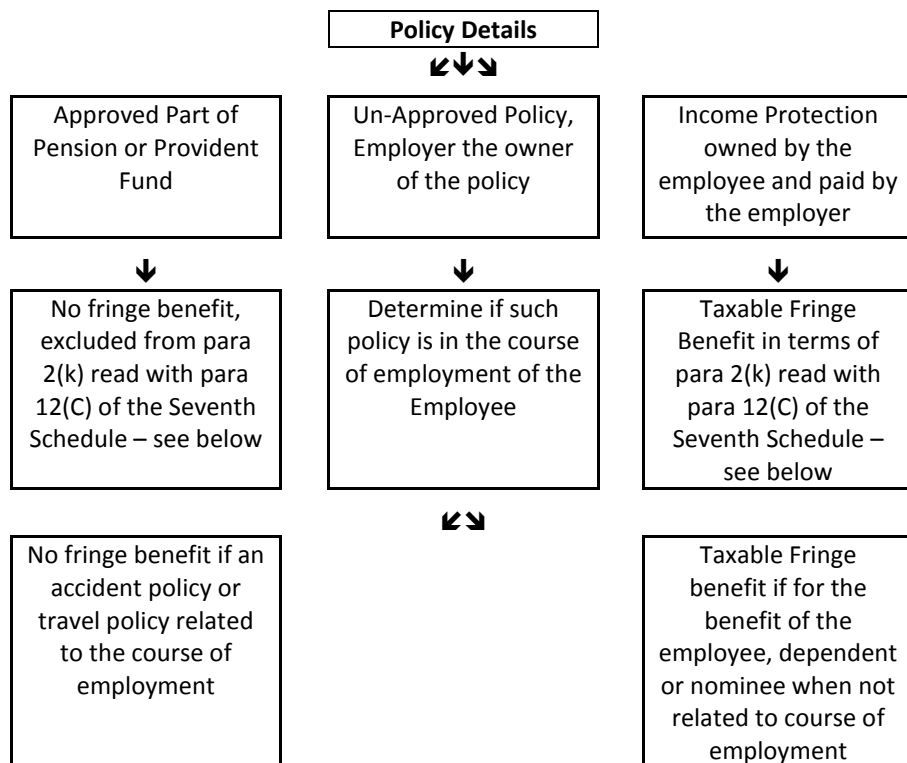
## **TAXATION OF EMPLOYER OWNED RISK BENEFITS**

Concerns have been raised in regards to the change in the tax liability of risk benefits that became effective from 01 March 2015.

It is important to note that the industry funds, Auto Workers and Motor Industry Provident Funds, are not EMPLOYER OWNED RISK BENEFIT FUNDS and there is no change in the tax liability.

Below is an illustration in brief of the various Policies and possible tax liability as defined in the Taxation Act.

### Disability Benefits - Policies



The above makes reference to para 2 (k) and para 12 (c) of the Seventh Schedule and are quoted below for ease of reference:

**Seventh Schedule, Taxable Benefits** (2) *“For purposes of this schedule and of paragraph (i) of the definition of ‘gross income’ in section 1 of this Act, a taxable benefit shall be deemed to have been granted by an employer to his employee in respect of the employee’s employment with the employer, if as a benefit or advantage of or by virtue of such employment or as a reward for services rendered or to be rendered by the employee to the employer-*

*(k) the employer has during any period made any payment to any insurer under an insurance policy directly or indirectly for the benefit of the employee or his or her spouse, child, dependant or nominee: Provided that this paragraph shall not apply in respect of an insurance policy that relates to an event arising solely out of and in the course of employment of the employee. (effective 1<sup>st</sup> March 2013, with an amendment to the full stop at the end of the expression, effective 1<sup>st</sup> March 2015)*

**12(C). Benefits in Respect of Insurance Policies**

*(1) The cash equivalent of the value of a taxable benefit deemed to be granted as contemplated in paragraph 2(k) is an amount of any expenditure incurred by an employer during the year of assessment in respect of any premiums payable under a policy of insurance directly or indirectly for the benefit of an employee or his spouse, child, dependant or nominee.*

*(2) Where any premium is paid in terms of a policy of insurance contemplated in section 23(m)(iii), the amount of any premium paid by the employer of that employee must, to the extent that the amount has been deemed to be a taxable benefit in terms of paragraph 2(k), be deemed to have been paid by that employee. (deleted with effect from 1<sup>st</sup> March 2015)*

*(3) Where an appropriate portion of any expenditure contemplated in subparagraph (1) cannot be attributable to the employee for whose benefit the premium is paid, the amount of that expenditure in relation to that employee is deemed, for the purposes of subparagraph (1), to be an amount equal to the total expenditure incurred by the employer during the year of assessment for the benefit of all employees divided by the number of employees in respect of whom the expenditure is incurred.*

Effective 1<sup>st</sup> March 2012

For clarification attached to this circular please find:

- a. An opinion received from TRM – Daniel Erasmus Tax Court Practitioners which gives details pertaining to the taxation of Employer Owned Risk Benefits.
- b. An extract from the Income Tax Act No. 58 of 1962, as amended.

It is strongly recommended that those Employers who do have Employer Owned Policies that they contact their Fund Administrators and / or Brokers in regards to the implication of the change in the taxation and what their new tax liability would be.

The MIBCO Team

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