

HEADS OF INCOME



CHAPTER OVERVIEW

HEADS OF INCOME					
	Salaries	Income from house property	Profits and gains from business or profession	Capital Gains	Income from Other sources
Charging Section	15	22	28	45	56
Deeming provisions	-	25A & 27	41	46, 46A, 50B, 50C, 50CA, 50D	59
Deductions allowable	16	24	30 to 37	48(i), (ii) & 54	57
Deductions not allowable	-	25	40 & 40A	Last proviso to section 48	58
Other provisions	17	23 & 26	29, 38, 43, 43A, 43B, 43CA, 44AA, 44AB, 44AD, 44ADA & 44AE	47, 47A, 49, 51, 55 & 55A	-

UNIT – 1 : SALARIES

LEARNING OUTCOMES

After studying this chapter, you would be able to -

- identify the point of time when salary income is chargeable to tax;
- comprehend the meaning of salary, profits in lieu of salary, allowances, perquisite and various retirement benefits;
- identify the allowances and perquisite exempt from tax;
- determine the taxable portion of retirement benefits, allowances and other benefits which form part of salary;
- determine the value of perquisite chargeable to tax under the head "Salaries";
- know the admissible deductions from salary;
- compute the income chargeable to tax under the head "Salaries";

Proforma for computation of income under the head “Salaries”

	Particulars	Amt (₹)
(i)	Basic Salary	XXX
(ii)	Fees/Commission	XXX
(iii)	Bonus	XXX
(iv)	Allowances:	
	(a) Dearness Allowance	XXX
	(b) House Rent Allowance (HRA)	
	Less: Least of the following is exempt [Section 10(13A)]	
	HRA actually received	xxx
	Rent paid (-)10% of salary for the relevant period	xxx
	50% of salary, if accommodation is located in Mumbai, Kolkata, Delhi or Chennai or 40% of salary in any other city for the relevant period	xxx
	(c) Children Education Allowance	
	Less: ₹ 100 per month per child upto maximum of two children	
	(d) Children Hostel Allowance	
	Less: ₹ 300 per month per child upto maximum of two children	
	(e) Transport allowance	
	Less: ₹ 3,200 per month in case of blind/ deaf and dumb/ orthopedically handicapped employee only	
(f)	Entertainment Allowance	XXX
(g)	Other Allowances including overtime allowance, city compensatory allowance etc.	XXX

(v)	<p>Taxable Perquisites</p> <p>(a) Valuation of rent free accommodation*</p> <p>I) Where the accommodation is provided by the Govt. to its employees</p> <p>License fee determined by the Govt.</p> <p><i>Less: Rent actually paid by the employer</i></p> <p>II) Where the accommodation is provided by any other employer</p> <p><i>If accommodation is owned by the employer</i></p> <p>(i) Cities having population > 25 lakh as per 2001 census</p> <p>15% of salary in respect of the period of occupation (-) rent recovered from employee</p> <p>(ii) Cities having population >10 lakh \leq 25 lakh as per 2001 census</p> <p>10% of salary in respect of the period of occupation (-) rent recovered from employee</p> <p>(iii) In other cities</p> <p>7.5% of salary in respect of the period of occupation (-) rent recovered from employee</p> <p><i>If accommodation is taken on lease by the employer</i></p> <p>Lower of lease rental paid or payable by the employer (or) 15% of salary</p> <p><i>Less: Rent actually paid by the employee</i></p> <p>(b) Obligation of employee discharged by employer. For e.g. Professional tax paid by the employer</p> <p>(c) Any sum payable by the employer to effect an assurance on the life of the employee or to effect a contract for annuity: Actual expenditure incurred by the employer</p>	<p>XXX</p> <p>xxx xxx</p> <p>xxx</p> <p>xxx</p> <p>xxx</p> <p>xxx</p> <p>xxx</p> <p>xxx</p> <p>xxx</p> <p>XXX</p> <p>XXX</p>
-----	---	--

* In case of furnished accommodation, the value will be increased by 10% p.a. of the cost of furniture or hire charges, as the case may be, **less** amount recovered from the employees.

	(d) Value of use of motor car [Refer Table below]	XXX
(e)	Any other perquisite: For example,	XXX
	(1) Provision of services of a sweeper, gardener, watchman or personal attendant : Actual cost to employer by way of salary paid or payable for such services (-) amount paid by the employee	
	(2) Gas, electricity, or water supplied by employer for household consumption of the employee : Amount paid on that account by the employer to the agency supplying gas etc. (-) amount paid by the employee	
	(3) Provision of free or concessional education facilities for any member of employee's household : Sum equal to the expenditure incurred by the employer (-) amount paid or recovered from the employee Where educational institution is maintained and owned by employer: Cost of such education in similar institution in or near the locality (-) amount paid or recovered from employee [However, there would be no perquisite if the value of benefit per child does not exceed ₹ 1,000 p.m.]	
	Note: Above perquisites are taxable only in case of specified employees.	
	(4) Interest-free or concessional loan exceeding ₹ 20,000 : Interest computed at the rate charged by SBI as on 1 st day of relevant P.Y. in respect of loans for similar purposes on the maximum outstanding monthly balance (-) interest actually paid by employee	
	(5) Value of gift, voucher: Sum equal to the amount of such gift [If value of gift, voucher is below ₹ 5,000, there would be no perquisite]	
	(6) Use of moveable assets [Refer table at page 4.77]	
	(7) Transfer of movable assets: Actual cost of asset to employer – cost of normal wear and tear – Amount	

	paid or recovered from employee [Refer table at page 4.78]		
(vi)	Leave travel concession	xxx	
	<i>Less: Exempt u/s 10(5) [Refer table at Page 4.51]</i>	xxx	XXX
(vii)	Gratuity		
	(a) Received during the tenure of employment (fully taxable)	xxx	
	(b) Received at the time of retirement or otherwise	xxx	
	<i>Less: Exempt u/s 10(10) [Refer fig at Page 4.27]</i>	xxx	XXX
(viii)	Uncommuted pension (fully taxable)		XXX
(ix)	Commutted pension	xxx	
	<i>Less: Exempt u/s 10(10A) [Refer fig at Page 4.24]</i>	xxx	XXX
(x)	Leave encashment		
	(a) Received during the employment (fully taxable)	xxx	
	(b) Received at the time of retirement or otherwise	xxx	
	<i>Less: Exempt u/s 10(10AA) [Refer fig at Page 4.31]</i>	xxx	XXX
(xi)	Voluntary retirement compensation	xxx	
	<i>Less: Exempt u/s 10(10C) - Least of the following:</i>	xxx	XXX
	(a) Compensation received/ receivable on voluntary retirement	xxx	
	(b) ₹ 5,00,000	xxx	
	(c) 3 months' salary x completed years of service	xxx	
	(d) Last drawn salary x remaining months of service left	xxx	
(xi)	Retrenchment compensation etc.	xxx	
	<i>Less: Exempt u/s 10(10B)] – Least of the following:</i>	xxx	XXX
	(a) Compensation actually received	xxx	
	(b) ₹ 5,00,000	xxx	
	(c) 15 days average pay x completed years of service and part thereof in excess of 6 months	xxx	
Gross Salary			XXX
Less: Deduction under section 16			

Standard deduction u/s 16(ia) upto ₹ 50,000		XXX
Entertainment allowance u/s 16(ii) (only for Govt. employees)	xxx	
Least of the following is allowable as deduction:	xxx	XXX
(a) ₹ 5,000	xxx	
(b) 1/5 th of basic salary	xxx	
(c) Actual entertainment allowance received	xxx	
Professional Tax (paid by employer/ employee) under section 16(iii)		XXX
Income under the head salary		XXX

PERQUISITE VALUE OF MOTOR CAR										
S. No.	Car owned/ hired by	Expenses met by	Wholly official use	Partly personal use						
1	Employer	Employer	No value*	<table border="1"> <thead> <tr> <th>cc of engine</th><th>Perquisite value</th></tr> </thead> <tbody> <tr> <td>upto 1.6 litres</td><td>₹ 1,800 p.m.</td></tr> <tr> <td>above 1.6 litres</td><td>₹ 2,400 p.m.</td></tr> </tbody> </table> <p>If chauffeur is also provided, ₹ 900 p.m. should be added to the above value.</p>	cc of engine	Perquisite value	upto 1.6 litres	₹ 1,800 p.m.	above 1.6 litres	₹ 2,400 p.m.
cc of engine	Perquisite value									
upto 1.6 litres	₹ 1,800 p.m.									
above 1.6 litres	₹ 2,400 p.m.									
2	Employee	Employer	No value*	<p>Actual amount of expenditure incurred by the employer as reduced by the perquisite value arrived at in (1) above.</p> <table border="1"> <thead> <tr> <th>cc of engine</th><th>Perquisite value</th></tr> </thead> <tbody> <tr> <td>upto 1.6 litres</td><td>₹ 600 p.m.</td></tr> <tr> <td>above 1.6 litres</td><td>₹ 900 p.m.</td></tr> </tbody> </table>	cc of engine	Perquisite value	upto 1.6 litres	₹ 600 p.m.	above 1.6 litres	₹ 900 p.m.
cc of engine	Perquisite value									
upto 1.6 litres	₹ 600 p.m.									
above 1.6 litres	₹ 900 p.m.									
3	Employer	Employee	-	<p>If chauffeur is also provided, ₹ 900 p.m. should be added to the above value.</p>						

* provided employer maintains the complete details of such journey and expenditure thereon and gives a certificate that such expenditure are incurred wholly for official use.

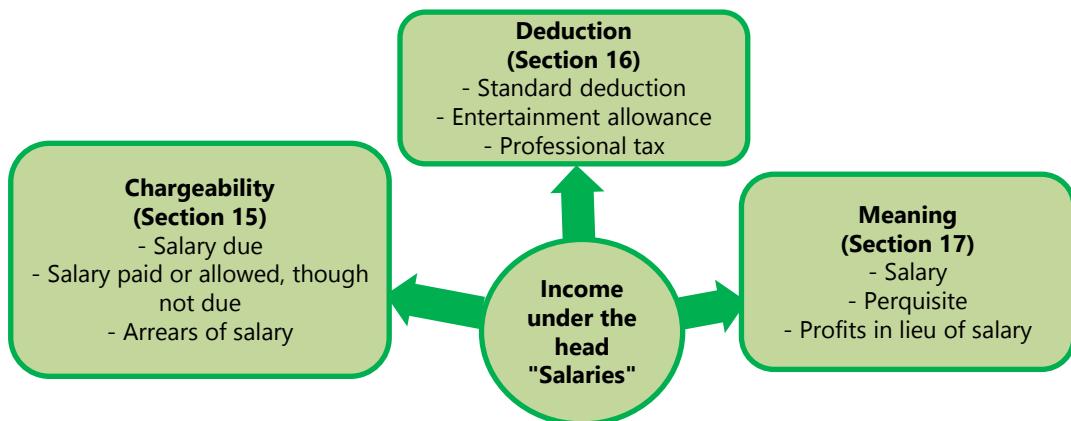
Notes:

1. *Perquisite value of motor car is taxable only in case of specified employees if motor car is provided by the employer to the employee. However, where the motor car is owned by the employee and used by him or members of his family wholly for personal purpose and for which employer reimburses the running and maintenance expenses of the car, the perquisite value of motor car is taxable in case of all employees.*
2. *Where car is owned by employer and expenses are also met by the employer, the taxable perquisite in case such car is used wholly for personal purposes of the employee would be equal to the actual expenditure incurred by the employer on running and maintenance expenses and normal wear and tear (calculated @ 10% p.a. of actual cost of motor car) **less** amount charged from the employee for such use.*



1.1 INTRODUCTION

The provisions pertaining to Income under the head "Salaries" are contained in section 15, 16 and 17 in the following manner.



Before learning the provisions, it is essential to understand the important concepts relating to Salaries.

- (1) **Employer-employee relationship:** Every payment made by an employer to his employee for service rendered would be chargeable to tax as salaries. Before an income can become chargeable under the head 'salaries', it is vital that there should exist between the payer and the payee, the relationship of an employer and an employee.

Examples:

(a) *Sujatha, an actress, is employed in Chopra Films, where she is paid a monthly remuneration of ₹ 2 lakh. She acts in various films produced by various producers. The remuneration for acting in such films is directly paid to Chopra Films by the different producers.*

In this case, ₹ 2 lakh will constitute salary in the hands of Sujatha, since the relationship of employer and employee exists between Chopra Films and Sujatha.

(b) *In the above example, if Sujatha acts in various films and gets fees from different producers, the same income will be chargeable as income from profession since the relationship of employer and employee does not exist between Sujatha and the film producers.*

(c) *Commission received by a Director from a company is salary if the Director is an employee of the company. If, however, the Director is not an employee of the company, the said commission cannot be charged as salary but has to be charged either as income from business or as income from other sources depending upon the facts.*

(d) *Salary paid to a partner by a firm is nothing but an appropriation of profits. Any salary, bonus, commission or remuneration by whatever name called due to or received by partner of a firm shall not be regarded as salary. The same is to be charged as income from profits and gains of business or profession. This is primarily because the relationship between the firm and its partners is not that of an employer and employee.*

(2) **Full-time or part-time employment:** Once the relationship of employer and employee exists, the income is to be charged under the head "salaries". It does not matter whether the employee is a full-time employee or a part-time one.

If, for example, an employee works with more than one employer, salaries received from all the employers should be clubbed and brought to charge for the relevant previous years.

(3) **Foregoing of salary:** Once salary accrues, the subsequent waiver by the employee does not absolve him from liability to income-tax. Such waiver is only an application and hence, chargeable to tax.

Example:

Mr. A, an employee instructs his employer that he is not interested in receiving the salary for April 2019 and the same might be donated to a charitable institution.

In this case, Mr. A cannot claim that he cannot be charged in respect of the salary for April 2019. It is only due to his instruction that the donation was made to a charitable institution by his employer. It is only an application of income.

Hence, the salary for the month of April 2019 will be taxable in the hands of Mr. A. He is, however, entitled to claim a deduction under section 80G for the amount donated to the institution. [The concept of deductions is explained in detail in Chapter 7].

- (4) **Surrender of salary:** However, if an employee surrenders his salary to the Central Government under section 2 of the Voluntary Surrender of Salaries (Exemption from Taxation) Act, 1961, the salary so surrendered would be exempt while computing his taxable income.
- (5) **Salary paid tax-free:** This, in other words, means that the employer bears the burden of the tax on the salary of the employee. In such a case, the income from salaries in the hands of the employee will consist of his salary income and also the tax on this salary paid by the employer.

However, as per section 10(10CC), the income-tax paid by the employer on non-monetary perquisites on behalf of the employee would be exempt in the hands of the employee.

- (6) **Place of accrual of salary:** Under section 9(1)(ii), salary earned in India is deemed to accrue or arise in India even if it is paid outside India or it is paid or payable after the contract of employment in India comes to an end.

If an employee is paid pension abroad in respect of services rendered in India, the same will be deemed to accrue in India. Similarly, leave salary paid abroad in respect of leave earned in India is deemed to accrue or arise in India.

Example:

Suppose, Mr. A, a citizen of India, is posted in the United States as our Ambassador. Obviously, he renders his services outside India. He also receives his salary outside India. He is also a non-resident. The question, therefore,

arises whether he can claim exemption in respect of his salary paid by the Government of India to him outside India.

Section 9(1)(iii) provides that salaries payable by the Government to a citizen of India for services outside India shall be deemed to accrue or arise in India. However, by virtue of section 10(7), any allowance or perquisites paid or allowed outside India by the Government to a citizen of India for rendering services outside India will be fully exempt.

Now, let us discuss the chargeability section 15, the provisions explaining the meaning of Salary, Perquisite and Profits in lieu of salary contained in section 17 and the deductions under section 16.



1.2 BASIS OF CHARGE (SECTION 15)

- (i) Section 15 deals with the basis of charge. Salary is chargeable to tax either on 'due' basis or on 'receipt' basis, whichever is earlier.
- (ii) However, where any salary, paid in advance, is assessed in the year of payment, it cannot be subsequently brought to tax in the year in which it becomes due.
- (iii) If the salary paid in arrears has already been assessed on due basis, the same cannot be taxed again when it is paid.

Examples:

- (a) *If A draws his salary in advance for the month of April 2020 in the month of March 2020 itself, the same becomes chargeable on **receipt basis** and is to be assessed as income of the P.Y.2019-20 i.e., A.Y.2020-21. However, the salary for the A.Y.2021-22 will not include that of April 2020.*
- (b) *If the salary due for March 2020 is received by A later in the month of April 2020, it is still chargeable as income of the P.Y.2019-20 i.e., A.Y.2020-21 on **due basis**. Obviously, salary for the A.Y.2021-22 will not include that of March 2020.*

1.2.1 Advance Salary

Advance salary is taxable when it is received by the employee irrespective of the fact whether it is due or not. It may so happen that when advance salary is included and charged in a particular previous year, the rate of tax at which the employee is assessed may be higher than the normal rate of tax to which he

would have been assessed. Section 89 provides for relief in these types of cases. The concept of relief under section 89 is explained in this unit later on.

Difference between advance salary and advance against salary

Loan is different from salary. When an employee takes a loan from his employer, which is repayable in certain specified installments, the loan amount cannot be brought to tax as salary of the employee.

Similarly, advance against salary is different from advance salary. It is an advance taken by the employee from his employer. This advance is generally adjusted with his salary over a specified time period. It cannot be taxed as salary.

1.2.2 Arrears of salary

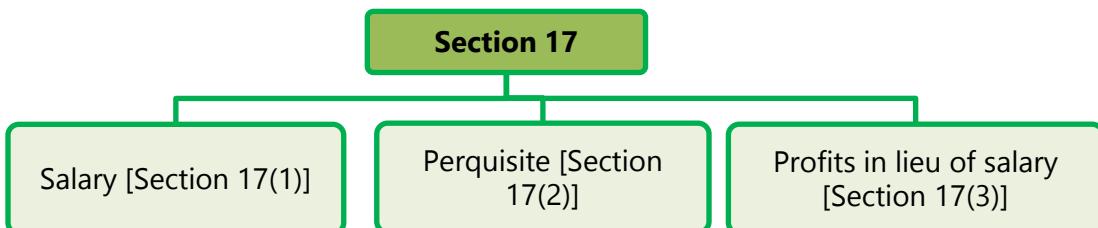
Normally speaking, salary arrears must be charged on due basis. However, there are circumstances when it may not be possible to bring the same to charge on due basis.

Example

If the Pay Commission is appointed by the Central Government and it recommends revision of salaries of employees, the arrears received in that connection will be charged on receipt basis. Here also, relief under section 89 is available.



1.3 SALARY, PERQUISITE AND PROFITS IN LIEU OF SALARY (SECTION 17)



1.3.1 Meaning of Salary

The meaning of the term 'salary' for purposes of income-tax is much wider than what is normally understood. The term 'salary' for the purposes of Income-tax Act, 1961 will include both monetary payments (e.g. basic salary, bonus, commission, allowances etc.) as well as non-monetary facilities (e.g. housing accommodation, medical facility, interest free loans etc.).

Section 17(1), defined the term "Salary". It is an inclusive definition and includes monetary as well as non-monetary items.

'Salary' under section 17(1), includes the following:

(i)	wages,
(ii)	any annuity or pension,
(iii)	any gratuity,
(iv)	any fees, commission, perquisites or profits in lieu of or in addition to any salary or wages,
(v)	any advance of salary,
(vi)	any payment received in respect of any period of leave not availed by him i.e. leave salary or leave encashment,
(vii)	Provident Fund: <ul style="list-style-type: none"> - the portion of the annual accretion in any previous year to the balance at the credit of an employee participating in a recognised provident fund to the extent it is taxable and - transferred balance in recognized provident fund to the extent it is taxable,
(viii)	the contribution made by the Central Government or any other employer in the previous year to the account of an employee under a pension scheme referred to in section 80CCD.

(1) Wages

In common parlance, the term "wages" means fixed regular payment earned for work or services. The words "wages", "salary", "basic salary" are used interchangeably. Moreover, the payments in the form of Bonus, Allowances etc. made to the employee are also included within the meaning of salary.

Under the Income-tax Act, there are certain payments made which are fully taxable, partly taxable and fully exempt. For Example, wages, salary, bonus, dearness allowance etc. are fully taxable payments. Whereas monetary benefits in the form of allowances such as House Rent Allowance, conveyance allowance etc. are partially taxable.

Allowances

Different types of allowances are given to employees by their employers. Generally allowances are given to employees to meet some particular requirements like house rent, expenses on uniform, conveyance etc. Under the

Income-tax Act, 1961, allowance is taxable on due or receipt basis, whichever is earlier. Various types of allowances normally in vogue are discussed below:

Allowances		
Fully Taxable	Partly Taxable	Fully Exempt
<ul style="list-style-type: none"> (i) Entertainment Allowance (ii) Dearness Allowance (iii) Overtime Allowance (iv) Fixed Medical Allowance (v) City Compensatory Allowance (to meet increased cost of living in cities) (vi) Interim Allowance (vii) Servant Allowance (viii) Project Allowance (ix) Tiffin/Lunch/Dinner Allowance (x) Any other cash allowance (xi) Warden Allowance (xii) Non-practicing Allowance (xiii) Transport allowance to employee other than blind/ deaf and dumb/ orthopedically handicapped employee 	<ul style="list-style-type: none"> (i) House Rent Allowance [u/s 10(13A)] (ii) Special Allowances [u/s 10(14)] 	<ul style="list-style-type: none"> (i) Allowances to High Court Judges (ii) Allowance paid by the United Nations Organization (iii) Compensatory Allowance received by a judge (iv) Sumptuary allowance granted to High Court or Supreme Court Judges (v) Allowance granted to Government employees outside India.

(A) Allowances which are fully taxable

- (1) **City compensatory allowance:** City Compensatory Allowance is normally intended to compensate the employees for the higher cost of living in cities. It is taxable irrespective of the fact whether it is given as compensation for performing his duties in a particular place or under special circumstances.
- (2) **Entertainment allowance:** This allowance is given to employees to meet the expenses towards hospitality in receiving customers etc. The Act gives a deduction towards entertainment allowance only to a Government

employee. The details of deduction permissible are discussed later on in this Unit.

(3) Transport allowance: Transport allowance granted to an employee to meet his expenditure for the purpose of commuting between the place of his residence and the place of his duty is fully taxable. However, in case of blind/ deaf and dumb/ orthopedically handicapped employees exemption upto ₹ 3,200 p.m. is provided under section 10(14)(ii) read with Rule 2BB.

(B) Allowances which are partially taxable

(1) House rent allowance [Section 10(13A)]: HRA is a special allowance specifically granted to an employee by his employer towards payment of rent for residence of the employee. HRA granted to an employee is exempt to the extent of least of the following:

Metro Cities (i.e. Delhi, Kolkata, Mumbai, Chennai)	Other Cities
1) HRA actually received for the relevant period	1) HRA actually received for the relevant period
2) Rent paid (-) 10% of salary for the relevant period	2) Rent paid (-) 10% of salary for the relevant period
3) 50% of salary for the relevant period	3) 40% of salary for the relevant period

Notes:

1. Exemption is not available to an assessee who lives in his own house, or in a house for which he has not incurred the expenditure of rent.
2. Salary for this purpose means basic salary, dearness allowance, if provided in terms of employment and commission as a fixed percentage of turnover.
3. Relevant period means the period during which the said accommodation was occupied by the assessee during the previous year.

ILLUSTRATION 1

Mr. Raj Kumar has the following receipts from his employer:

(1) Basic pay ₹ 3,000 p.m.

(2) Dearness allowance (D.A.)	₹ 600 p.m.
(3) Commission	₹ 6,000 p.a.
(4) Motor car for personal use (expenditure met by the employer)	₹ 500 p.m.
(5) House rent allowance	₹ 900 p.m.

Find out the amount of HRA eligible for exemption to Mr. Raj Kumar assuming that he paid a rent of ₹ 1,000 p.m. for his accommodation at Kanpur. DA forms part of salary for retirement benefits.

SOLUTION

HRA received ₹ 10,800

Less: Exempt under section 10(13A) [Note] ₹ 7,680

Taxable HRA ₹ 3,120

Note: Exemption shall be least of the following three limits:

- (a) the actual amount received (₹ 900 × 12) = ₹ 10,800
- (b) excess of the actual rent paid by the assessee over 10% of his salary
= Rent Paid (-) 10% of salary for the relevant period
= (₹ 1,000 × 12) (-) 10% of [(₹ 3,000 + ₹ 600) × 12]
= ₹ 12,000 - ₹ 4,320 = ₹ 7,680
- (c) 40% salary as his accommodation is situated at Kanpur
= 40% of [(₹ 3,000 + ₹ 600) × 12] = ₹ 17,280

Note: For the purpose of exemption under section 10(13A), salary includes dearness allowance only when the terms of employment so provide, but excludes all other allowances and perquisites.

(2) Special allowances to meet expenses relating to duties or personal expenses [Section 10(14)]

This clause provides for exemption (as per Rule 2BB) in respect of the following:

- (i) Special allowances or benefit, not being in the nature of a perquisite, specifically granted to meet expenses incurred wholly, necessarily and exclusively in the performance of the duties of an office or employment of profit [Section 10(14)(i)]

For the allowances under this category, **there is no limit on the amount which the employee can receive from the employer**, but whatever amount is received should be fully utilized for the purpose for which it was given to him.

(ii) Special allowances granted to the assessee either to meet his personal expenses at the place where the duties of his office or employment of profit are ordinarily performed by him or at the place where he ordinarily resides or to compensate him for the increased cost of living. **[Section 10(14)(ii)]**

For the allowances under this category, **there is a limit on the amount which the employee can receive from the employer**. Any amount received by the employee in excess of these specified limits will be taxable in his hands as income from salary for the year. It does not matter whether the amount which is received is actually spent or not by the employee for the purpose for which it was given to him.

Rule 2BB

The following allowances have been prescribed in Rule 2BB:

Allowances prescribed for the purposes of section 10(14)(i)

(a) any allowance granted to meet the cost of travel on tour or on transfer (**Travelling Allowance**);

Explanation - "allowance granted to meet the cost of travel on transfer" includes any sum paid in connection with the transfer, packing and transportation of personal effects on such transfer.

(b) any allowance, whether granted on tour or for the period of journey in connection with transfer, to meet the ordinary daily charges incurred by an employee on account of absence from his normal place of duty (**Daily allowance**);

(c) any allowance granted to meet the expenditure incurred on conveyance in performance of duties of an office or employment of profit (**Conveyance Allowance**);

(d) any allowance granted to meet the expenditure incurred on a helper where such helper is engaged in the performance of the duties of an office or employment of profit (**Helper Allowance**);

- (e) any allowance granted for encouraging the academic, research and training pursuits in educational and research institutions (**Research allowance**);
- (f) any allowance granted to meet the expenditure on the purchase or maintenance of uniform for wear during the performance of the duties of an office or employment of profit (**Uniform Allowance**).

Allowances prescribed for the purposes of section 10(14)(ii)

S. No.	Name of Allowance	Extent to which allowance is exempt
1.	Any Special Compensatory Allowance in the nature of Special Compensatory (Hilly Areas) Allowance or High Altitude Allowance or Uncongenial Climate Allowance or Snow Bound Area Allowance or Avalanche Allowance	₹ 800 or ₹ 300 per month depending upon the specified locations ₹ 7,000 per month in Siachen area of Jammu and Kashmir
2.	Any Special Compensatory Allowance in the nature of border area allowance or remote locality allowance or difficult area allowance or disturbed area allowance	₹ 1,300 or ₹ 1,100 or ₹ 1,050 or ₹ 750 or ₹ 300 or ₹ 200 per month depending upon the specified locations
3.	Special Compensatory (Tribal Areas / Schedule Areas / Agency Areas) Allowance [Specified States]	₹ 200 per month
4.	Any allowance granted to an employee working in any transport system to meet his personal expenditure during his duty performed in the course of running such transport from one place to another, provided that such employee is not in receipt of daily allowance	70% of such allowance upto a maximum of ₹ 10,000 per month
5.	Children Education Allowance	₹ 100 per month per child upto a maximum of two children

6.	Any allowance granted to an employee to meet the hostel expenditure on his child	₹ 300 per month per child upto a maximum of two children
7.	Compensatory Field Area Allowance [Specified areas in Specified States]	₹ 2,600 per month
8.	Compensatory Modified Field Area Allowance [Specified areas in Specified States]	₹ 1,000 per month
9.	Any special allowance in the nature of counter insurgency allowance granted to the members of the armed forces operating in areas away from their permanent locations.	₹ 3,900 per month
10.	Any transport allowance granted to an employee who is blind or deaf and dumb or orthopedically handicapped with disability of the lower extremities of the body, to meet his expenditure for commuting between his residence and place of duty	₹ 3,200 per month.
12.	Underground Allowance granted to an employee who is working in uncongenial, unnatural climate in underground mines.	₹ 800 per month
13.	Any special allowance in the nature of high Altitude allowance granted to the member of the armed forces operating in high altitude areas For altitude of 9,000 to 15,000 feet For above 15,000 feet	₹ 1,060 per month ₹ 1,600 per month
14.	Any special allowance in the nature of special compensatory highly active field area allowance granted to the member of the armed forces	₹ 4,200 per month
15.	Any special allowance in the nature of Island (duty) allowance granted to	₹ 3,250 per month

the member of the armed forces in Andaman & Nicobar and Lakshadweep Group of Islands	
--	--

Note - Any assessee claiming exemption in respect of allowances mentioned at serial numbers 7 & 8 and 9 shall not be entitled to exemption in respect of the allowance and disturbed area allowance referred at serial number 2, respectively.

ILLUSTRATION 2

Mr. Srikant has two sons. He is in receipt of children education allowance of ₹ 150 p.m. for his elder son and ₹ 70 p.m. for his younger son. Both his sons are going to school. He also receives the following allowances:

Transport allowance : ₹ 1,800 p.m.

Tribal area allowance : ₹ 500 p.m.

Compute his taxable allowances.

SOLUTION

Taxable allowance in the hands of Mr. Srikant is computed as under -

Children Education Allowance:

Elder son $[(₹ 150 - ₹ 100) \text{ p.m.} \times 12 \text{ months}]$ = ₹ 600

Younger son $[(₹ 70 - ₹ 70) \text{ p.m.} \times 12 \text{ months}]$ = Nil ₹ 600

Transport allowance $(₹ 1,800 \text{ p.m.} \times 12 \text{ months})$ ₹ 21,600

Tribal area allowance $[(₹ 500 - ₹ 200) \text{ p.m.} \times 12 \text{ months}]$ ₹ 3,600

Taxable allowances ₹ 25,800

(C) Allowances which are fully exempt

- (1) **Allowance to High Court Judges:** Any allowance paid to a Judge of a High Court under section 22A(2) of the High Court Judges (Conditions of Service) Act, 1954 is not taxable.
- (2) **Allowance received from United Nations Organisation (UNO):** Allowance paid by the UNO to its employees is not taxable by virtue of section 2 of the United Nations (Privileges and Immunities) Act, 1947.

(3) Compensatory allowance under Article 222(2) of the Constitution:

Compensatory allowance received by judge under Article 222(2) of the Constitution is not taxable since it is neither salary nor perquisite[†].

(4) Sumptuary allowance: Sumptuary allowance given to High Court Judges under section 22C of the High Court Judges (Conditions of Service) Act, 1954 and Supreme Court Judges under section 23B of the Supreme Court Judges (Conditions of Service) Act, 1958 is not chargeable to tax.**(5) Allowances payable outside India [Section 10(7)]:** Allowances or perquisites paid or allowed as such outside India by the Government to a citizen of India for services rendered outside India are exempt from tax.

Students may remember that in such cases under section 9(1)(iii), the income chargeable under the head 'Salaries' is deemed to accrue in India. The residential status of the recipient will, however, not affect this exemption.

Exemption of specified allowances and perquisites paid to Chairman or a retired Chairman or any other member or retired member of the UPSC [Section 10(45)]

- (i) Under the Income-tax Act, 1961, perquisites and allowances received by an employee are taxable under the head "Salaries" unless they are specifically exempted.
- (ii) Section 10(45) exempts specified allowances and perquisites received by Chairman or any other member, including retired Chairman/member, of the Union Public Service Commission (UPSC).
- (iii) The exemption would be available in respect of such allowances and perquisites as may be notified by the Central Government in this behalf.
- (iv) Accordingly, the Central Government has notified the following allowances and perquisites for serving Chairman and members of UPSC, for the purpose of exemption under section 10(45) -
 - (1) the value of rent free official residence,
 - (2) the value of conveyance facilities including transport allowance,
 - (3) the sumptuary allowance and
 - (4) the value of leave travel concession.

[†] *Bishamber Dayalv. CIT [1976] 103 ITR 813 (MP).*

In case of retired Chairman and retired members of UPSC, the following have been notified for exemption under section 10(45):

- (i) a sum of maximum ₹ 14,000 per month for defraying the service of an orderly and for meeting expenses incurred towards secretarial assistance on contract basis.
- (ii) the value of a residential telephone free of cost and the number of free calls to the extent of ₹ 1,500 pm (over and above free calls per month allowed by the telephone authorities)

Note – *Tax exemption is also available in respect of certain specified perquisites enjoyed by Chief Election Commissioner/ Election Commissioner and judges of Supreme Court on account of the enabling provisions in the respective Acts which govern their service conditions.*

(2) Annuity or Pension

Meaning of Annuity

- As per the definition, 'annuity' is treated as salary. Annuity is a sum payable in respect of a particular year. It is a yearly grant. If a person invests some money entitling him to series of equal annual sums, such annual sums are annuities in the hands of the investor.
- Annuity received by a present employer is to be taxed as salary. It does not matter whether it is paid in pursuance of a contractual obligation or voluntarily.
- Annuity received from a past employer is taxable as profit in lieu of salary.
- Annuity received from person other than an employer is taxable as "income from other sources".

Pension

Concise Oxford Dictionary defines 'pension' as a periodic payment made especially by Government or a company or other employers to the employee in consideration of past service payable after his retirement.

Pension is of two types: commuted and uncommuted.

- **Uncommuted Pension:** Uncommuted pension refers to pension received periodically. It is fully taxable in the hands of both government and non-government employees.
- **Commututed Pension:** Commutation means inter-change. Commuted pension

means lump sum amount taken by commuting the whole or part of the pension. Many persons convert their future right to receive pension into a lumpsum amount receivable immediately.

Example:

Suppose a person is entitled to receive a pension of say ₹ 2000 p.m. for the rest of his life. He may commute $\frac{1}{4}$ th i.e., 25% of this amount and get a lumpsum of say ₹ 30,000. After commutation, his pension will now be the balance 75% of ₹ 2,000 p.m. = ₹ 1,500 p.m.

Exemption in respect of Commuted Pension [Section 10(10A)]

As per section 10(10A), the payment in respect of commuted pension is exempt, subject to the conditions specified therein. Its treatment is discussed below:

- (a) **Employees of the Central Government/ local authorities/ Statutory Corporation/ members of the Civil Services/ Defence Services:** Any commuted pension received is fully exempt from tax.
- (b) **Other Employees:** Any commuted pension received is exempt from tax in the following manner:

If the employee is in receipt of gratuity.

Exemption = $\frac{1}{3}$ rd of the amount of pension which he would have received had he commuted the whole of the pension.

$$= \left[\frac{1}{3} \times \frac{\text{commuted pension received}}{\text{commutation \%}} \times 100\% \right]$$

If the employee does not receive any gratuity

Exemption = $\frac{1}{2}$ of the amount of pension which he would have received had he commuted the whole of the pension.

$$= \left[\frac{1}{2} \times \frac{\text{commuted pension received}}{\text{commutation \%}} \times 100\% \right]$$

Notes:

1. Judges of the Supreme Court and High Court will be entitled to exemption of the commuted portion.

2. Any commuted pension received by an individual out of annuity plan of the Life Insurance Corporation of India (LIC) from a fund set up by that Corporation will be exempted.

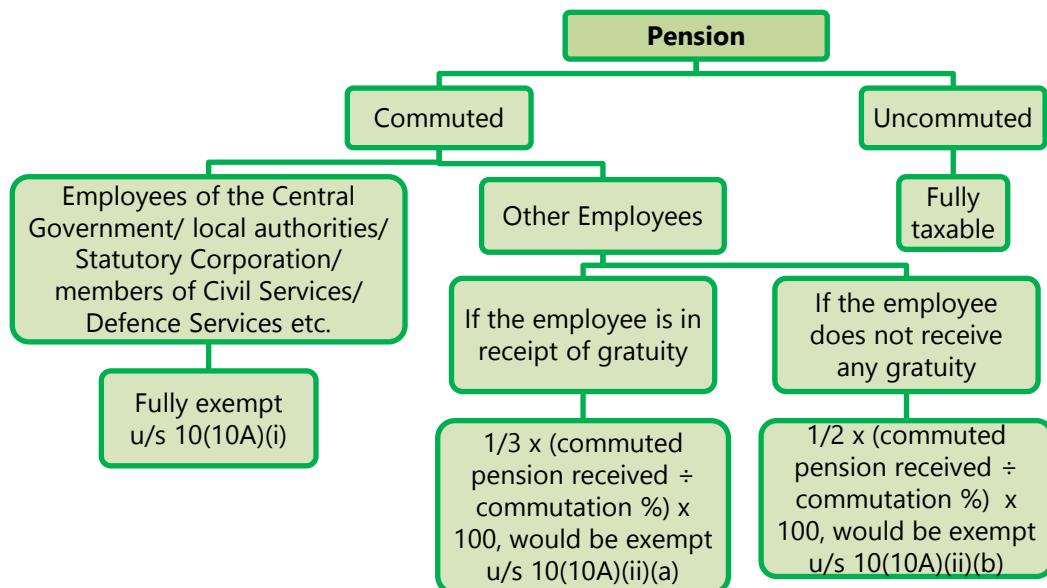


ILLUSTRATION 3

Mr. Sagar retired on 1.10.2019 receiving ₹ 5,000 p.m. as pension. On 1.2.2020, he committed 60% of his pension and received ₹ 3,00,000 as commuted pension. You are required to compute his taxable pension assuming:

- (a) He is a government employee.
- (b) He is a private sector employee, receiving gratuity of ₹ 5,00,000 at the time of retirement.
- (c) He is a private sector employee and is not in receipt of gratuity at the time of retirement.

SOLUTION

(a) He is a government employee

Uncommuted pension received (October – March)	₹ 24,000
[(₹ 5,000 × 4 months) + (40% of ₹ 5,000 × 2 months)]	

Commutted pension received	₹ 3,00,000
<i>Less: Exempt u/s 10(10A)</i>	<u>₹ 3,00,000</u> <u>NIL</u>
Taxable pension	<u>₹ 24,000</u>

(b) He is a private sector employee, receiving gratuity ₹ 5,00,000 at the time of retirement

Uncommuted pension received (October – March)	₹ 24,000
[(₹ 5,000 × 4 months) + (40% of ₹ 5,000 × 2 months)]	
Commutted pension received	₹ 3,00,000
<i>Less: Exempt u/s 10(10A)</i>	
$\left(\frac{1}{3} \times \frac{₹ 3,00,000}{60\%} \times 100\% \right)$	₹ <u>1,66,667</u> <u>₹ 1,33,333</u>
Taxable pension	<u>₹ 1,57,333</u>

(c) He is a private sector employee and is not in receipt of gratuity at the time of retirement

Uncommuted pension received (October – March)	₹ 24,000
[(₹ 5,000 × 4 months) + (40% of ₹ 5,000 × 2 months)]	
Commutted pension received	₹ 3,00,000
<i>Less: Exempt u/s 10(10A)</i>	
$\left(\frac{1}{2} \times \frac{₹ 3,00,000}{60\%} \times 100\% \right)$	₹ <u>2,50,000</u> <u>₹ 50,000</u>
Taxable pension	<u>₹ 74,000</u>

(3) Gratuity

Gratuity is a voluntary payment made by an employer in appreciation of services rendered by the employee. Now-a-days gratuity has become a normal payment applicable to all employees. In fact, Payment of Gratuity Act, 1972 is a statutory recognition of the concept of gratuity. Almost all employers enter into an agreement with employees to pay gratuity.

Exemption in respect of Gratuity [Section 10(10)]

Its treatment is discussed below:

1. Retirement gratuity received under the Pension Code or Regulations applicable to members of the Defence Service is fully exempt from tax.

2. **Employees of Central Government/ Members of Civil Services/ local authority employees:** Any death cum retirement gratuity is fully exempt from tax under section 10(10)(i).
3. **Other employees:**

(i) Covered by the Payment of Gratuity Act, 1972

Any death-cum-retirement gratuity is exempt from tax to the extent of least of the following:

- (a) ₹ 20,00,000
- (b) Gratuity actually received
- (c) 15 days' salary based on last drawn salary for each completed year of service or part thereof in excess of 6 months

Note: Salary for this purpose means basic salary and dearness allowance. No. of days in a month for this purpose, shall be taken as 26.

(ii) Not covered by the Payment of Gratuity Act, 1972

Any death cum retirement gratuity received by an employee on his retirement or his becoming incapacitated prior to such retirement or on his termination or any gratuity received by his widow, children or dependants on his death is exempt from tax to the extent of least of the following:

- (a) ₹ 20,00,000
- (b) Gratuity actually received
- (c) Half month's salary (based on last 10 months' average salary immediately preceding the month of retirement or death) for each completed year of service (fraction to be ignored)

Note: Salary for this purpose means basic salary and dearness allowance, if provided in the terms of employment for retirement benefits, forming part of salary and commission which is expressed as a fixed percentage of turnover.

Students must also note the following points:

- (1) *Gratuity received during the period of service is fully taxable.*
- (2) *Where gratuity is received from 2 or more employers in the same year then aggregate amount of gratuity exempt from tax cannot exceed ₹ 20,00,000.*

(3) Where gratuity is received in any earlier year from former employer and again received from another employer in a later year, the limit of **₹ 20,00,000** will be reduced by the amount of gratuity exempt earlier.

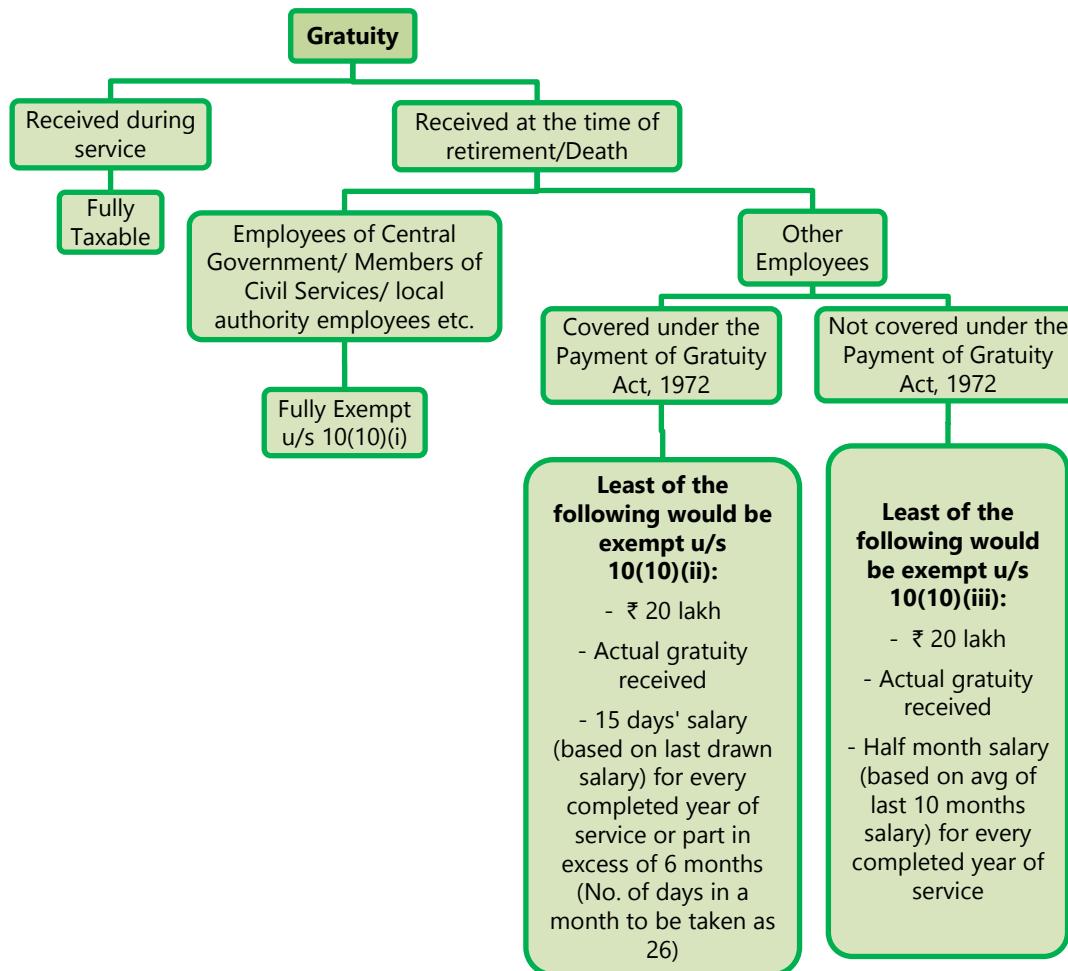


ILLUSTRATION 4

Mr. Ravi retired on 15.6.2019 after completion of 26 years 8 months of service and received gratuity of ₹ 6,00,000. At the time of retirement, his salary was:

Basic Salary : ₹ 5,000 p.m.

Dearness Allowance : ₹ 3,000 p.m. (60% of which is for retirement benefits)

Commission : 1% of turnover (turnover in the last 12 months was ₹ 12,00,000)

Bonus : ₹ 12,000 p.a.

Compute his taxable gratuity assuming:

- He is private sector employee and covered by the Payment of Gratuity Act 1972.
- He is private sector employee and not covered by Payment of Gratuity Act 1972.
- He is a Government employee.

SOLUTION

(a) He is covered by the Payment of Gratuity Act 1972

Gratuity received at the time of retirement ₹ 6,00,000

Less: Exemption under section 10(10)

Least of the following:

i. Gratuity received ₹ 6,00,000

ii. Statutory limit ₹ 20,00,000

iii. 15 days' salary based on last drawn salary for each completed year of service or part thereof in excess of 6 months

$\frac{15}{26} \times \text{last drawn salary} \times \text{years of service}$

$\frac{15}{26} \times (\text{₹ } 5,000 + \text{₹ } 3,000) \times 27 =$ ₹ 1,24,615 ₹ 1,24,615

Gratuity ₹ 4,75,385

(b) He is not covered by the Payment of Gratuity Act 1972

Gratuity received at the time of retirement ₹ 6,00,000

Less: Exemption under section 10(10) (**Note**) ₹ 1,01,400

Gratuity ₹ 4,98,600

Note: Exemption under section 10(10) is least of the following:

(i) Gratuity received ₹ 6,00,000
 (ii) Statutory limit ₹ 20,00,000
 (iii) Half month's salary based on average salary of last 10 months preceding the month of retirement for each completed year of service.

i.e. $\frac{1}{2} \times \text{Average salary} \times \text{years of service}$

$$= \frac{1}{2} \times \frac{(5,000 \times 10) + (3,000 \times 60\% \times 10) + \left(1\% \times 12,00,000 \times \frac{10}{12}\right)}{10} \times 26$$

$$= ₹ 1,01,400$$

(c) He is a government employee

Gratuity received at the time of retirement ₹ 6,00,000

Less: Exemption under section 10(10) ₹ 6,00,000

Taxable gratuity Nil

(4) Fees, commission, perquisites or profits in lieu of or in addition to any salary or wages

The payment in the form of fees or commission by the employer to the employee are fully taxable. Commission may be paid as fixed percentage of turnover or net profits etc.

Section 17(2) and 17(3) contains the provisions relating to perquisites and profits in lieu of salary, respectively. The provisions of these sections would be discussed in detail separately in this unit.

(5) Any Advance of Salary

The concept of "Advance Salary" is already discussed in this unit.

(6) Leave Salary or Leave Encashment

Generally, employees are allowed to take leave during the period of service. Employee may avail such leave or in case the leave is not availed, then the leave may either lapse or be accumulated for future or allowed to be encashed every year or at the time termination/ retirement. The payment received on account of encashment of unavailed leave would form part of salary. However, section

10(10AA) provides exemption in respect of amount received by way of encashment of unutilised earned leave by an employee at the time of his retirement, whether on superannuation or otherwise.

Exemption of amount received by way of encashment of unutilised earned leave on retirement [Section 10(10AA)]

The provisions of this clause are mentioned below:

- (a) **Government employees:** Leave salary received at the time of retirement is fully exempt from tax.
- (b) **Non-government employees:** Leave salary received at the time of retirement is exempt from tax to the extent of least of the following:
 - (i) ₹ 3,00,000
 - (ii) Leave salary actually received
 - (iii) 10 months' salary (on the basis of average salary of last 10 months)
 - (iv) Cash equivalent of leave (based on last 10 months' average salary immediately preceding the date of retirement) to the credit of the employee at the time of retirement or death. Earned leave entitlement cannot exceed 30 days for every year of actual service rendered for the employer from whose service he has retired.

Notes:

1. *Leave salary received during the period of service is fully taxable.*
2. *Where leave salary is received from two or more employers in the same year, then the aggregate amount of leave salary exempt from tax cannot exceed ₹ 3,00,000.*
3. *Where leave salary is received in any earlier year from a former employer and again received from another employer in a later year, the limit of ₹ 3,00,000 will be reduced by the amount of leave salary exempt earlier.*
4. *Salary for this purpose means basic salary and dearness allowance, if provided in the terms of employment for retirement benefits and commission which is expressed as a fixed percentage of turnover.*
5. *'Average salary' will be determined on the basis of the salary drawn during the period of ten months immediately preceding the date of his retirement whether on superannuation or otherwise.*

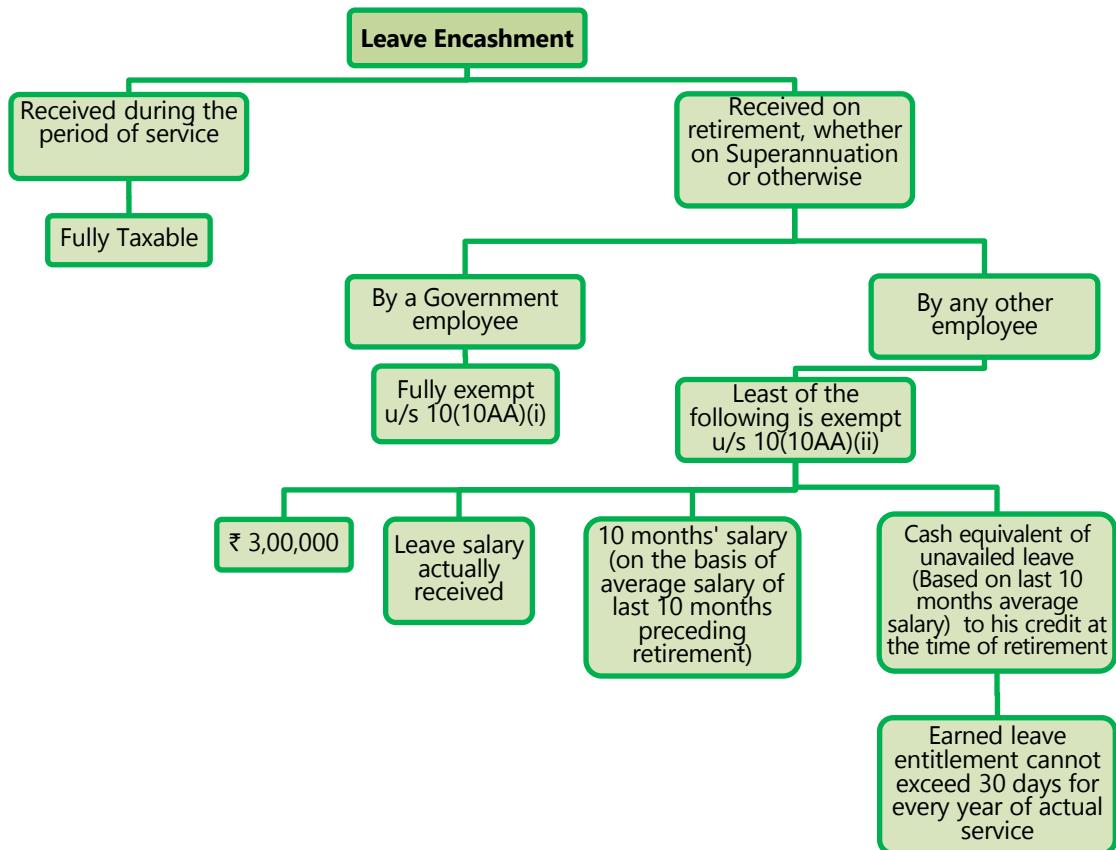


ILLUSTRATION 5

Mr. Gupta retired on 1.12.2019 after 20 years 10 months of service, receiving leave salary of ₹5,00,000. Other details of his salary income are:

Basic Salary	: ₹5,000 p.m. (₹1,000 was increased w.e.f. 1.4.2019)
Dearness Allowance	: ₹3,000 p.m. (60% of which is for retirement benefits)
Commission	: ₹500 p.m.
Bonus	: ₹1,000 p.m.

Leave availed during service : 480 days

He was entitled to 30 days leave every year.

You are required to compute his taxable leave salary assuming:

- He is a government employee.
- He is a non government employee.

SOLUTION**(a) He is a government employee**

Leave Salary received at the time of retirement	₹ 5,00,000
Less: Exemption under section 10(10AA)	₹ 5,00,000
Taxable Leave salary	<u>Nil</u>

(b) He is a non-government employee

Leave Salary received at the time of retirement	₹ 5,00,000
Less: Exempt under section 10(10AA) [See Note below]	₹ 26,400
Taxable Leave Salary	₹ 4,73,600

Note: Exemption under section 10(10AA) is least of the following:

(i) Leave salary received	₹ 5,00,000
(ii) Statutory limit	₹ 3,00,000
(iii) 10 months' salary based on average salary of last 10 months i.e. $\left[10 \times \frac{\text{Salary of last 10 months i.e. Feb - Nov}}{10 \text{ months}} \right]$ $= \left[10 \times \frac{(5000 \times 8) + (4000 \times 2) + (60\% \times 3000 \times 10)}{10 \text{ months}} \right]$ ₹ 66,000	₹ 66,000
(iv) Cash equivalent of leave standing at the credit of the employee based on the average salary of last 10 months' (max. 30 days per year of service) Leave Due = Leave allowed – Leave taken = (30 days per year × 20 years) – 480 days = 120 days i.e. $\left[\frac{\text{Leave due (in days)}}{30 \text{ days}} \times \text{Average salary p.m.} \right]$ $= \left[\frac{120 \text{ days}}{30 \text{ days}} \times \frac{₹ 66,000}{10} \right]$ ₹ 26,400	₹ 26,400

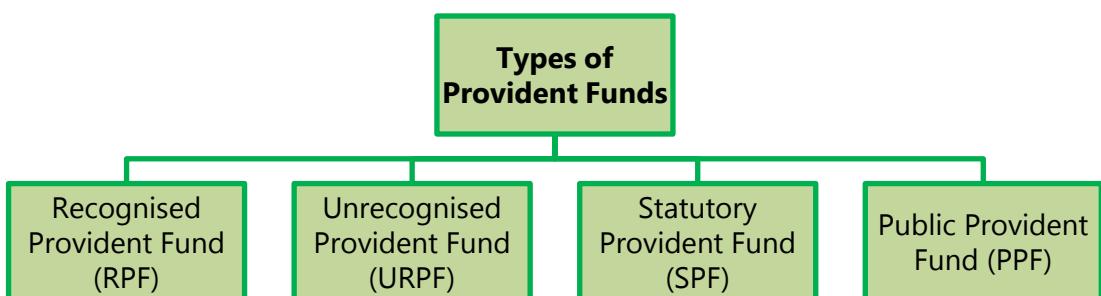
(7) Provident fund

Provident fund scheme is a scheme intended to give substantial benefits to an employee at the time of his retirement. Under this scheme, a specified sum is deducted from the salary of the employee as his contribution towards the fund. The employer also generally contributes the same amount out of his pocket, to the fund. The contributions of the employer and the employee are invested in approved securities. Interest earned thereon is also credited to the account of the employee. Thus, the credit balance in a provident fund account of an employee consists of the following:

- (i) employee's contribution
- (ii) interest on employee's contribution
- (iii) employer's contribution
- (iv) interest on employer's contribution.

The accumulated balance is paid to the employee at the time of his retirement or resignation. In the case of death of the employee, the same is paid to his legal heirs.

The provident fund represents an important source of small savings available to the Government. Hence, the Income-tax Act, 1961 gives certain deductions on savings in a provident fund account.



- (i) **Recognised Provident Fund (RPF):** Recognised provident fund means a provident fund recognised by the Commissioner of Income-tax for the purposes of income-tax. It is governed by Part A of Schedule IV to the Income-tax Act, 1961. This schedule contains various rules regarding the following:

- (a) Recognition of the fund

- (b) Employee's and employer's contribution to the fund
- (c) Treatment of accumulated balance etc.

A fund constituted under the Employees' Provident Fund and Miscellaneous Provisions Act, 1952 will also be a Recognised Provident Fund.

- (ii) **Unrecognised Provident Fund (URPF):** A fund not recognised by the Commissioner of Income-tax is Unrecognised Provident Fund.
- (iii) **Statutory Provident Fund (SPF):** The SPF is governed by Provident Funds Act, 1925. It applies to employees of government, railways, semi-government institutions, local bodies, universities and all recognised educational institutions.
- (iv) **Public Provident Fund (PPF):** Public provident fund is operated under the Public Provident Fund Act, 1968. A membership of the fund is open to every individual though it is ideally suited to self-employed people. A salaried employee may also contribute to PPF in addition to the fund operated by his employer. An individual may contribute to the fund on his own behalf as also on behalf of a minor of whom he is the guardian.

For getting a deduction under section 80C, a member is required to contribute to the PPF a minimum of ₹ 500 in a year. The maximum amount that may qualify for deduction on this account is ₹ 1,50,000 as per PPF rules.

A member of PPF may deposit his contribution in as many installments in multiples of ₹ 500 as is convenient to him. The sums contributed to PPF earn interest at 8% p.a. (April, 2019 to June, 2019) and 7.9% p.a. (from 1st July, 2019) compounded annually. The amount of contribution may be paid at any of the offices or branch offices of the State Bank of India or its subsidiaries and specified branches of banks or any Post Office.

The tax treatment is given below:

I. During the Employment period

Particulars	Recognised PF	Unrecognised PF	Statutory PF	Public PF
Employer's	Amount in excess of	Not taxable	Fully	N.A. (as there is only

Contribution	12% of salary is taxable	yearly	exempt	assessee's own contribution)
Employee's Contribution	Eligible for deduction u/s 80C	Not eligible for deduction	Eligible for deduction u/s 80C	Eligible for deduction u/s 80C
Interest Credited	Amount in excess of 9.5% p.a. is taxable	Not taxable yearly	Fully exempt	Fully exempt

Note: Salary for this purpose means basic salary and dearness allowance - if provided in the terms of employment for retirement benefits and commission as a percentage of turnover.

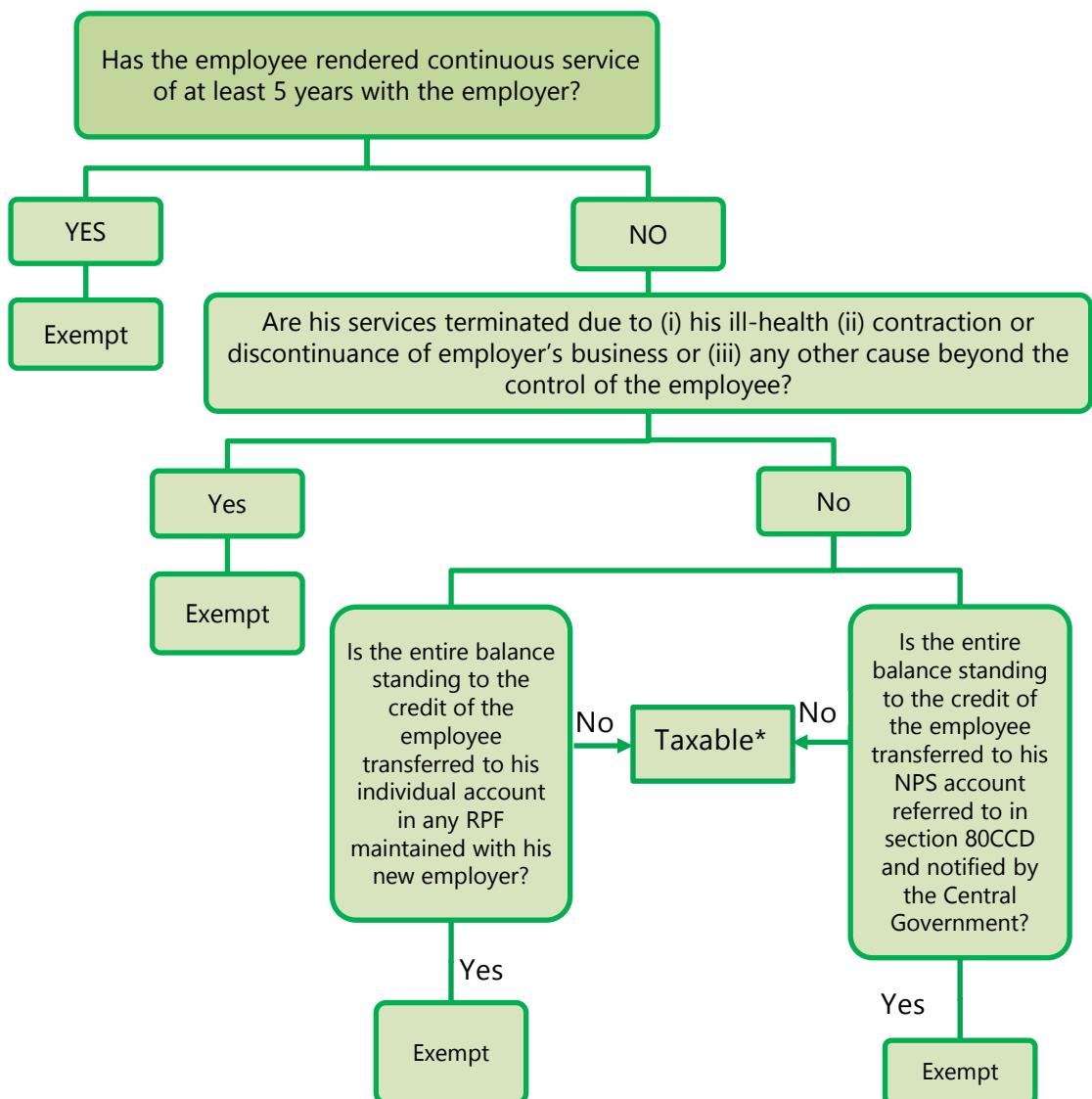
II. At the time of Retirement etc.

A. Recognised Provident Fund/Public Provident Fund/Statutory Provident Fund

The payments received by an assessee from the following funds at the time of retirement or otherwise, would be fully exempt from tax under sections 10(11) and (12):

Section 10(11)	Section 10(12)
Provident Fund (PF) to which Provident Fund Act, 1925, applies	Public Provident Fund

Exemption of Accumulated balance of RPF, payable to an employee



* Where the accumulated balance in Recognised Provident Fund becomes taxable, the tax payable in each of the years would be computed as if the fund had been an Unrecognised Provident Fund and the difference in tax would be payable by the employee.

Note:

If, after termination of his employment with one employer, the employee obtains employment under another employer, then, only so much of the accumulated balance in his provident fund account will be exempt which is transferred to his individual account in a recognised provident fund maintained by the new employer. In such a case, for exemption of payment of accumulated balance by the new employer, the period of service with the former employer shall also be taken into account for computing the period of five years' continuous service.

B. Unrecognised Provident Fund:

Amount received on the maturity of URPF

- Employee's contribution is not taxable.
- Interest on Employee's contribution is taxable under 'Income from Other Sources'.
- Employer's contribution and interest thereon is taxed as salary.

ILLUSTRATION 6

Mr. A retires from service on December 31, 2019, after 25 years of service. Following are the particulars of his income/investments for the previous year 2019-20:

Particulars	₹
Basic pay @ ₹ 16,000 per month for 9 months	1,44,000
Dearness pay (50% forms part of the retirement benefits) ₹ 8,000 per month for 9 months	72,000
Lumpsum payment received from the Unrecognized Provident Fund	6,00,000
Deposits in the PPF account	40,000

Out of the amount received from the unrecognised provident fund, the employer's contribution was ₹ 2,20,000 and the interest thereon ₹ 50,000. The employee's contribution was ₹ 2,70,000 and the interest thereon ₹ 60,000. What is the taxable portion of the amount received from the unrecognized provident fund in the hands of Mr. A for the assessment year 2020-21?

SOLUTION

Taxable portion of the amount received from the URPF in the hands of Mr. A for the A.Y. 2020-21 is computed hereunder:

Particulars	₹
Amount taxable under the head "Salaries":	
Employer's share in the payment received from the URPF	2,20,000
Interest on the employer's share	50,000
Total	2,70,000
Amount taxable under the head "Income from Other Sources" :	
Interest on the employee's share	60,000
Total amount taxable from the amount received from the fund	3,30,000

Note: Since the employee is not eligible for deduction under section 80C for contribution to URPF at the time of such contribution, the employee's share received from the URPF is not taxable at the time of withdrawal as this amount has already been taxed as his salary income.

ILLUSTRATION 7

Will your answer be any different if the fund mentioned above was a recognised provident fund?

SOLUTION

Since the fund is a recognised one, and the maturity is taking place after a service of 25 years, the entire amount received on the maturity of the RPF will be fully exempt from tax.

ILLUSTRATION 8

Mr. B is working in XYZ Ltd. and has given the details of his income for the P.Y. 2019-20. You are required to compute his gross salary from the details given below:

Basic Salary	₹ 10,000 p.m.
D.A. (50% is for retirement benefits)	₹ 8,000 p.m.
Commission as a percentage of turnover	0.1%
Turnover during the year	₹ 50,00,000
Bonus	₹ 40,000
Gratuity	₹ 25,000
His own contribution in the RPF	₹ 20,000
Employer's contribution to RPF	20% of his basic salary
Interest accrued in the RPF @ 13% p.a.	₹ 13,000

SOLUTION**Computation of Gross Salary of Mr. B for the A.Y.2020-21**

Particulars	₹	₹
Basic Salary [₹ 10,000 × 12]		1,20,000
Dearness Allowance [₹ 8,000 × 12]		96,000
Commission on turnover [0.1% × ₹ 50,00,000]		5,000
Bonus		40,000
Gratuity [Note 1]		25,000
Employee's contribution to RPF [Note 2]		-
Employers contribution to RPF [20% of ₹ 1,20,000]	24,000	
<i>Less: Exempt [Note 3]</i>	20,760	3,240
Interest accrued in the RPF @ 13% p.a.	13,000	
<i>Less: Exempt @ 9.5% p.a.</i>	9,500	3,500
Gross Salary		2,92,740

Note 1: Gratuity received during service is fully taxable.

Note 2: Employee's contribution to RPF is not taxable. It is eligible for deduction under section 80C.

Note 3: Employers contribution in the RPF is exempt up to 12% of the salary.

i.e., 12% of [Basic Salary + Dearness Allowance forming part of retirement benefits + Commission based on turnover] = 12% of [₹ 1,20,000 + (50% × ₹ 96,000) + ₹ 5,000] = 12% of ₹ 1,73,000 = ₹ 20,760

(8) The contribution made by the Central Government or any other employer in the previous year to the account of an employee under a pension scheme referred to in section 80CCD

National Pension scheme is a scheme approved by the Government for Indian citizen aged between 18-60 years. Subscriber of the NPS account contributes some amount in their account. In case of any employee, being a subscriber of the NPS account, employer may also contribute into the employee's account.

Employer's contribution to NPS account would form part of salary of employees.

However, while computing total income of the employee-assessee, a deduction under section 80CCD is allowed to the assessee in respect of the employer's as

well as employee's contribution under a pension scheme referred therein. (*Deduction under section 80CCD will be discussed in detail in Chapter 7 – "Deductions from Gross Total Income"*)

1.3.2 Profits in lieu of salary [Section 17(3)]

It includes the following:

(i) Compensation on account of termination of his employment

The amount of any compensation due to or received by an assessee from his employer or former employer at or in connection with the termination of his employment.

(ii) Compensation on account of modification of the terms and conditions of employment

The amount of any compensation due to or received by an assessee from his employer or former employer at or in connection with the modification of the terms and conditions of employment.

Usually, such compensation is treated as a capital receipt. However, by virtue of this provision, the same is treated as a revenue receipt and is chargeable as salary.

Note: It is to be noted that merely because a payment is made by an employer to a person who is his employee does not automatically fall within the scope of the above provisions. The payment must be arising due to master-servant relationship between the payer and the payee. If it is not on that account, but due to considerations totally unconnected with employment, such payment is not profit in lieu of salary.

(iii) Payment from provident fund or other fund

Any payment due to or received by an assessee from his employer or former employer from a provident or other fund other than

- Gratuity [Section 10(10)]
- Pension [Section 10(10A)]
- Compensation received by a workman under Industrial Disputes Act, 1947 [Section 10(10B)]
- from provident fund or public provident fund [Section 10(11)]
- from recognized provident fund [Section 10(12)]
- from approved superannuation fund [Section 10(13)]
- any House Rent Allowance [Section 10(13A)],

to the extent to which it does not consist of employee's contributions or interest on such contributions.

Note: If any sum is paid to an employee at the time of maturity from an unrecognised provident fund it is to be dealt with as follows:

- (a) that part of the sum which represents the employer's contribution to the fund and interest thereon is taxable under salaries.
- (b) that part of the sum which represents employee's contribution and interest thereon is not chargeable to tax since the same have already been taxed under the head 'salaries' and 'other sources' respectively.

(iv) Keyman Insurance policy

Any sum received by an assessee under a Keyman Insurance policy including the sum allocated by way of bonus on such policy.

(v) Lumpsum Payment or otherwise

Any amount, whether in lumpsum or otherwise, due to the assessee or received by him, from any person -

- (a) before joining employment with that person, or
- (b) after cessation of his employment with that person.

(1) Retrenchment compensation [Section 10(10B)]

The retrenchment compensation means the compensation paid under Industrial Disputes Act, 1947 or under any Act, Rule, Order or Notification issued under any law. It also includes compensation paid on transfer of employment under section 25F or closing down of an undertaking under section 25FF of the Industrial Disputes Act, 1947.

It may be noted that compensation on account of termination and due to modification in terms and conditions of employment would be taxable as "profits in lieu of salary". However, the retrenchment compensation would be exempt under section 10(10B), subject to following limits.

- (a) Amount calculated in accordance with the provisions of section 25F of the Industrial Disputes Act, 1947

i.e., 15 days average pay x completed years of service and part thereof in excess of 6 months

or

- (b) An amount, not less than ₹ 5,00,000 as may be notified by the Central Government in this behalf,

whichever is lower.

Notes:

1. *The above limits will not be applicable to cases where the compensation is paid under any scheme approved by the Central Government for giving special protection to workmen under certain circumstances.*
2. *Average pay means average of the wages payable to a workman*
 - *in the case of monthly paid workman, in the three complete calendar months,*
 - *in the case of weekly paid workman, in the four calendar weeks,*
 - *in the case of daily paid workman, in the twelve full working weeks,*

preceding the date on which the average pay becomes payable if the workman had worked for three complete calendar months or four complete weeks or twelve full working days, as the case may be, and where such calculation cannot be made, the average pay shall be calculated as the average of the wages payable to a workman during the period he actually worked.
3. *Wages for this purpose means all remuneration capable of being expressed in terms of money, which would, if the terms of employment, expressed or implied, were fulfilled, be payable to a workman in respect of his employment or of work done in such employment, and includes*
 - *such allowances including DA as the workman is for the time being entitled to;*
 - *the value of any house accommodation, or of supply of light, water, medical attendance or other amenity or of any other service or of any concessional supply of foodgrains or other articles;*
 - *any travel concession; and*
 - *any commission payable on the promotion of sales or business or both*

However, it does not include

 - *any bonus;*
 - *contribution to a retirement benefit scheme;*
 - *any gratuity payable on the termination of his service.*

(2) Voluntary Retirement Receipts [Section 10(10C)]

Lumpsum payment or otherwise received by an employee at the time of voluntary retirement would be taxable as "profits in lieu of salary". However, it would be exempt under section 10(10C), subject to the following conditions:

Eligible Undertakings - The employee of the following undertakings are eligible for exemption under this clause:

- (i) Public sector company
- (ii) Any other company
- (iii) An authority established under a Central/State or Provincial Act
- (iv) A local authority
- (v) A co-operative society
- (vi) An University established or incorporated under a Central/State or Provincial Act and an Institution declared to be an University by the University Grants Commission
- (vii) An Indian Institute of Technology
- (viii) Such Institute of Management as the Central Government may, by notification in the Official Gazette, specify in this behalf
- (ix) Any State Government
- (x) The Central Government
- (xi) An institution, having importance throughout India or in any State or States, as the Central Government may specify by notification in the Official Gazette.

Limit: The maximum limit of exemption should not exceed ₹ 5 lakh.

Such compensation should be at the time of his voluntary retirement or termination of his service, in accordance with any scheme or schemes of voluntary retirement or, in the case of public sector company, a scheme of voluntary separation. The exemption will be available even if such compensation is received in installments.

Guidelines:

The schemes should be framed in accordance with such guidelines, as may be prescribed and should include the criteria of economic viability.

Rule 2BA prescribes the following guidelines for the purposes of the above clause:

1. It applies to an employee who has completed 10 years of service or completed 40 years of age.

However, this requirement is not applicable in case of an employee of a public sector company under the scheme of voluntary separation framed by the company.

2. It applies to all employees by whatever name called, including workers and executives of the company or the authority or a cooperative society except directors of a company or a cooperative society.
3. The scheme of voluntary retirement or separation must have been drawn to result in overall reduction in the existing strength of the employees.
4. The vacancy caused by the voluntary retirement or separation must not be filled up.
5. The retiring employee of a company shall not be employed in another company or concern belonging to the same management.
6. The amount receivable on account of voluntary retirement or separation of the employee **must not exceed**
 - the **amount equivalent to three months' salary** for each completed year of service or
 - salary at the time of retirement multiplied by the balance months of service left before the date of his retirement or superannuation.

Notes –

1. Where any relief has been allowed to any assessee under section 89 for any assessment year in respect of any amount received or receivable on his voluntary retirement or termination of service or voluntary separation, no exemption under section 10(10C) shall be allowed to him in relation to that assessment year or any other assessment year.
2. Where exemption for voluntary retirement compensation under section 10(10C) has been allowed in any assessment year, then no exemption thereunder shall be allowed to him in any other assessment year.
3. Salary for this purpose means basic salary and dearness allowance, if provided in the terms of employment for retirement benefits, forming part of salary and commission which is expressed as a fixed percentage of turnover.

ILLUSTRATION 9

Mr. Dutta received voluntary retirement compensation of ₹ 7,00,000 after 30 years 4 months of service. He still has 6 years of service left. At the time of voluntary

retirement, he was drawing basic salary ₹ 20,000 p.m.; Dearness allowance (which forms part of pay) ₹ 5,000 p.m. Compute his taxable voluntary retirement compensation, assuming that he does not claim any relief under section 89.

SOLUTION

Voluntary retirement compensation received	₹ 7,00,000
Less: Exemption under section 10(10C) [See Note below]	₹ 5,00,000
Taxable voluntary retirement compensation	₹ 2,00,000

Note: Exemption is to the extent of least of the following:

(i) Compensation actually received	= ₹ 7,00,000
(ii) Statutory limit	= ₹ 5,00,000
(iii) 3 months' salary × completed years of service = (₹ 20,000 + ₹ 5,000) × 3 × 30 years	= ₹ 22,50,000
(iv) Last drawn salary × remaining months of service left = (₹ 20,000 + ₹ 5,000) × 6 × 12 months	= ₹ 18,00,000

1.3.3 Perquisites

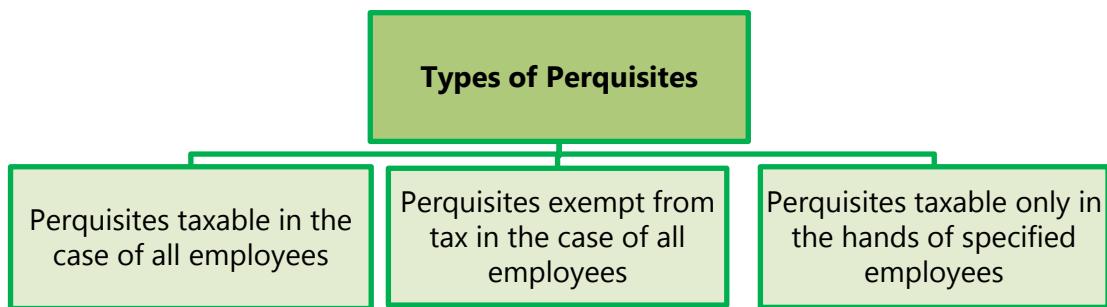
The term 'perquisite' indicates some extra benefit in addition to the amount that may be legally due by way of contract for services rendered. In modern times, the salary package of an employee normally includes monetary salary and perquisites like housing, car etc.

- Perquisite may be provided in cash or in kind.
- Reimbursement of expenses incurred in the official discharge of duties is not a perquisite.
- Perquisite may arise in the course of employment or in the course of profession. If it arises from a relationship of employer-employee, then the value of the perquisite is taxable as salary. However, if it arises during the course of profession, the value of such perquisite is chargeable as profits and gains of business or profession.
- Perquisite will become taxable only if it has a legal origin. An unauthorised advantage taken by an employee without his employer's sanction cannot be considered as a perquisite under the Act.

For example, suppose Mr. A, an employee, is given a house by his employer. On 31.3.2020, he is terminated from service. But he continues to occupy the house without the permission of the employer for six more months after which he is evicted by the employer. The question arises whether the value of the benefit enjoyed by him during the six months period can be considered as a perquisite and be charged to salary. It cannot be done since the relationship of employer-employee ceased to exist after 31.3.2020. However, the definition of income is wide enough to bring the value of the benefit enjoyed by Mr. A to tax as "income from other sources".

(1) *Definition of "Perquisite"*

The term "perquisite" is defined under section 17(2). The definition of perquisite is an inclusive one. Based on the definition, perquisites can be classified in following three ways:



(A) Perquisites taxable in the case of all employees

The following perquisites are chargeable to tax in case of all employees:

Rent Accommodation	Free	Value of rent-free accommodation provided to the assessee by his employer [Section 17(2)(i)]. [Refer discussion on valuation of perquisite]
<i>Exception:</i> Rent-free official residence provided to a Judge of a High Court or to a Judge of the Supreme Court is not taxable. Similarly, rent-free furnished house provided to an Officer of Parliament, is not taxable.		
Concession in rent		Value of concession in rent in respect of accommodation provided to the assessee by his employer [Section 17(2)(ii)].

Payment by the employer in respect of an obligation of employee	Amount paid by an employer in respect of any obligation which otherwise would have been payable by the employee [Section 17(2)(iv)].
<i>For example, if a domestic servant is engaged by an employee and the employer reimburses the salary paid to the servant, it becomes an obligation which the employee would have discharged even if the employer did not reimburse the same. This perquisite will be covered by section 17(2)(iv) and will be taxable in the hands of all employees.</i>	
Amount payable by an employer directly or indirectly to effect an assurance on the life of the assessee	Amount payable by an employer directly or indirectly to effect an assurance on the life of the assessee or to effect a contract for an annuity, other than payment made to RPF or approved superannuation fund or deposit-linked insurance fund established under the Coal Mines Provident Fund or Employees' Provident Fund and Miscellaneous Provisions Act [Section 17(2)(v)]. However, there are schemes like group annuity scheme, employees state insurance scheme and fidelity insurance scheme, under which insurance premium is paid by employer on behalf of the employees. Such payments are not regarded as perquisite in view of the fact that the employees have only an expectancy of the benefit in such schemes.
Specified security or sweat equity shares allotted or transferred, by the employer	The value of any specified security or sweat equity shares allotted or transferred, directly or indirectly, by the employer or former employer, free of cost or at concessional rate to the assessee [Section 17(2)(vi)] [Refer discussion on valuation of perquisite].
Amount of any contribution to an approved superannuation fund	The amount of any contribution to an approved superannuation fund by the employer in respect of the assessee, to the extent it exceeds ₹ 1,50,000 [Section 17(2)(vii)].
Any other fringe benefit or amenity	The value of any other fringe benefit or amenity as may be prescribed by the CBDT [Section 17(2)(viii)]. Rule 3(7) prescribed the following other benefits or amenity taxable in case of all the employee.

	<ul style="list-style-type: none"> - Interest free or concessional loan - Travelling, touring and accommodation - Free or concessional food and non-alcoholic beverages - Gift, voucher or token in lieu of such gift - Credit card expense - Club expenditure - Use of movable assets - Transfer of movable assets - Other benefit or amenity [For valuation, refer discussion on valuation of perquisite]
--	--

Exemption in respect of Payment from superannuation funds [Section 10(13)]

Any payment received by any employee from an approved superannuation fund shall be entirely excluded from his total income if the payment is made

- (a) on the death of a beneficiary;
- (b) to an employee in lieu or in commutation of an annuity on his retirement at or after a specified age or on his becoming incapacitated prior to such retirement; or
- (c) by way of refund of contribution on the death of a beneficiary; or
- (d) by way of contribution to an employee on his leaving the service in connection with which the fund is established otherwise than by retirement at or after a specified age or his becoming incapacitated prior to such retirement, to the extent the payment made does not exceed the contribution made prior to 1-4-1962 and the interest thereon.
- (e) by way of transfer to the account of the employee under a pension scheme referred to in section 80CCD, which is notified by the Central Government.

(B) Perquisites exempt from tax in all cases

The following perquisites are exempt from tax in the hands of all employees.

Telephone	Telephone provided by an employer to an employee at his residence
Transport Facility	Transport facility provided by an employer engaged in the business of carrying of passengers or goods to his employees either free of charge or at concessional rate;

Privilege passes and privilege ticket	Privilege passes and privilege ticket orders granted by Indian Railways to its employees;
Perquisites allowed outside India by the Government	Perquisites allowed outside India by the Government to a citizen of India for rendering services outside India;
Employer's contribution to staff group insurance scheme;	Employer's contribution to staff group insurance scheme;
Annual premium by employer on personal accident policy	Payment of annual premium by employer on personal accident policy effected by him on the life of the employee;
Refreshment	Refreshment provided to all employees during working hours in office premises;
Subsidized lunch	Subsidized lunch provided to an employee during working hours at office or business premises provided the value of such meal is upto ₹ 50.;
Recreational facilities	Recreational facilities, including club facilities, extended to employees in general i.e., not restricted to a few select employees;
Amount spent on training of employees	Amount spent by the employer on training of employees or amount paid for refresher management course including expenses on boarding and lodging;
Sum payable by employer to a RPF or an approved superannuation fund	Sum payable by an employer to a RPF or an approved superannuation fund or deposit-linked insurance fund established under the Coal Mines Provident Fund or the Employees' Provident Fund and Miscellaneous Provisions Act;
Leave travel concession	Leave travel concession, subject to the conditions specified under section 10 (discussed below)
Note: Value of Leave travel concession provided to the High Court judge or the Supreme Court Judge and members of his family are completely exempt without any conditions.	
Medical facilities	Medical facilities subject to certain prescribed limits;

Rent-free official residence	Rent-free official residence provided to a Judge of a High Court or the Supreme Court;
Rent-free furnished residence	Rent-free furnished residence including maintenance provided to an Officer of Parliament, Union Minister and a Leader of Opposition in Parliament;
Conveyance facility	Conveyance facility provided to High Court Judges under section 22B of the High Court Judges (Conditions of Service) Act, 1954 and Supreme Court Judges under section 23A of the Supreme Court Judges (Conditions of Service) Act, 1958.

Exemption in respect of Leave travel concession [Section 10(5)]

- (i) This clause exempts the leave travel concession (LTC) received by employees from their employers for proceeding to any place in India,
 - (a) either on leave or
 - (b) after retirement from service or
 - (c) after termination of his service.
- (ii) **The benefit is available to individuals** - citizens as well as non-citizens - in respect of travel concession or assistance for himself or herself and for his/her family- *i.e.*, spouse and children of the individual and parents, brothers and sisters of the individual or any of them wholly or mainly dependent on the individual.
- (iii) **Limit of exemption** - The exemption in all cases will be limited to the amount actually spent subject to such conditions as specified in Rule 2B regarding the ceiling on the number of journeys for the place of destination. Under Rule 2B, exemption will be available in respect of 2 journeys performed in a block of 4 calendar years commencing from the calendar year 1986. Where such travel concession or assistance is not availed by the individual during any block of 4 calendar years, one such unavailed LTC will be carried forward to the immediately succeeding block of 4 calendar years and will be eligible for exemption.

Example:

An employee does not avail any LTC for the block 2014-17. He avails it during 2019. He is allowed to carry forward maximum one such holiday to be used in

the succeeding block. Therefore, he will be eligible for exemption and two more journeys can be further availed.

(iv) **Monetary limits** - Where the journey is performed on or after the 1.10.1997, the amount exempted under section 10(5) in respect of the value of LTC shall be the amount actually incurred on such travel subject to the following conditions:

S.No.	Journey performed by		Limit
1	Air		Amount not exceeding the air economy fare of the National Carrier by the shortest route to the place of destination
2	Any other mode:		
	(i)	Where rail service is available	Amount not exceeding the air-conditioned first class rail fare by the shortest route to the place of destination
	(ii)	Where rail service is not available	
		(a) a recognised public transport system exists	amount not exceeding the 1st class or deluxe class fare, as the case may be, on such transport by the shortest route to the place of destination
		(b) no recognised public transport system exists	amount equivalent to the air-conditioned first class rail fare, for the distance of the journey by the shortest route, as if the journey had been performed by rail

Note: The exemption referred to shall not be available to more than two surviving children of an individual after 1.10.1998. This restrictive sub-rule shall not apply in respect of children born before 1.10.1998 and also in case of multiple births after one child.

ILLUSTRATION 10

Mr. D went on a holiday on 25.12.2019 to Delhi with his wife and three children (one son – age 5 years; twin daughters – age 2 years). They went by flight (economy class)

and the total cost of tickets reimbursed by his employer was ₹ 60,000 (₹ 45,000 for adults and ₹ 15,000 for the three minor children). Compute the amount of LTC exempt.

SOLUTION

Since the son's age is more than the twin daughters, Mr. D can avail exemption for all his three children. The restriction of two children is not applicable to multiple births after one child. The holiday being in India and the journey being performed by air (economy class), the entire reimbursement met by the employer is fully exempt.

ILLUSTRATION 11

In the above illustration 10, will there be any difference if among his three children the twins were 5 years old and the son 3 years old? Discuss.

SOLUTION

Since the twins' age is more than the son, Mr. D cannot avail for exemption for all his three children. LTC exemption can be availed in respect of only two children. Taxable

$$\text{LTC} = 15,000 \times \frac{1}{3} = ₹ 5,000.$$

LTC exempt is only ₹ 55,000 (i.e. ₹ 60,000 – ₹ 5,000)

Medical facilities [Proviso to section 17(2)]

The following medical facilities will not amount to a perquisite:

- (i) **Value of medical treatment in any hospital maintained by the employer:** The value of any medical treatment provided to an employee or any member of his family in any hospital maintained by the employer;
- (ii) **Reimbursement of expenditure actually incurred on medical treatment:** Any sum paid by the employer in respect of any expenditure actually incurred by the employee on his medical treatment or treatment of any member of his family
 - **in any hospital** maintained by the Government/local authority/any other hospital approved by the Government for the purpose of medical treatment of its employees;
 - **in respect of the prescribed disease** or ailments in any hospital approved by the Principal Chief Commissioner or Chief Commissioner having regard to the prescribed guidelines.

However, in order to claim this benefit, the employee shall attach with his return of income a certificate from the hospital specifying the disease or ailment for which medical treatment was required and the receipt for the amount paid to the hospital.

Thus, the two types of facilities are covered:

- (a) payment by the employer for treatment in a Government hospital and
- (b) payment by an employer for treatment of prescribed diseases in any hospital approved by the principal Chief Commissioner or Chief Commissioner.

(iii) **Premium paid to effect an insurance on the health of employee:** Any premium paid by an employer in relation to an employee to effect an insurance on the health of such employee. However, any such scheme should be approved by the Central Government or the Insurance Regulatory Development Authority (IRDA) for the purposes of section 36(1)(ib).

(iv) **Reimbursement of premium paid to effect an insurance on the health of employee or for the family of an employee:** Any sum paid by the employer in respect of any premium paid by the employee to effect an insurance on his health or the health of any member of his family under any scheme approved by the Central Government or the Insurance Regulatory Development Authority (IRDA) for the purposes of section 80D.

(v) **Amount paid towards expenditure incurred outside India on medical treatment:** Any expenditure incurred by the employer or any sum paid by the employer on any expenditure actually incurred by the employee on the following:

- (a) **medical treatment** of the employee or any member of the family of such employee outside India;
- (b) **travel and stay abroad** of the employee or any member of the family of such employee for medical treatment;
- (c) **travel and stay abroad of one attendant** who accompanies the patient in connection with such treatment.

Conditions:

1. The perquisite element in respect of expenditure on medical treatment and stay abroad will be exempt only to the extent permitted by the RBI.

2. The expenses in respect of traveling of the patient and the attendant will be exempt if the employee's gross total income as computed before including the said expenditure does not exceed ₹ 2 lakh.

Note: For this purpose, family means spouse and children of the individual. Children may be dependent or independent, married or unmarried. It also includes parents, brothers and sisters of the individual if they are wholly or mainly dependent upon him. Hospital includes a dispensary or a clinic or a nursing home.

ILLUSTRATION 12

Compute the taxable value of the perquisite in respect of medical facilities received by Mr. G from his employer during the P.Y. 2019-20:

Medical premium paid for insuring health of Mr. G	₹ 7,000
Treatment of Mr. G by his family doctor	₹ 5,000
Treatment of Mrs. G in a Government hospital	₹ 25,000
Treatment of Mr. G's grandfather in a private clinic	₹ 12,000
Treatment of Mr. G's mother (68 years and dependant) by family doctor	₹ 8,000
Treatment of Mr. G's sister (dependant) in a nursing home	₹ 3,000
Treatment of Mr. G's brother (independent)	₹ 6,000
Treatment of Mr. G's father (75 years and dependent) abroad	₹ 50,000
Expenses of staying abroad of the patient and	₹ 30,000
<i>Limit specified by RBI</i>	₹ 75,000

SOLUTION

Computation of taxable value of perquisite in the hands of Mr. G

Particulars	₹	₹
Treatment of Mrs. G in a Government hospital		-
Treatment of Mr. G's father (75 years and dependent) abroad	50,000	
Expenses of staying abroad of the patient and attendant	30,000	
	80,000	
<i>Less: Exempt up to limit specified by RBI</i>	75,000	5,000

Medical premium paid for insuring health of Mr. G	-
Treatment of Mr. G by his family doctor	5,000
Treatment of Mr. G's mother (dependent) by family doctor	8,000
Treatment of Mr. G's sister (dependent) in a nursing home	3,000
Treatment of Mr. G's grandfather in a private clinic	12,000
Treatment of Mr. G's brother (independent)	6,000
Taxable value of perquisite	39,000

Note: Grandfather and independent brother are not included within the meaning of family of Mr. G.

Payment of premium on personal accident insurance policies

If an employer takes personal accident insurance policies on the life of employees and pays the insurance premium, no immediate benefit would become payable and benefit will accrue at a future date only if certain events take place.

Moreover, the employers would be taking such policy in their business interest only, so as to indemnify themselves from payment of any compensation. Therefore, the premium so paid will not constitute a taxable perquisite in the employees' hands[‡].

(C) Perquisites taxable only in the hands of specified employees **[Section 17(2)(iii)]**

Any monetary obligation of the employee which is discharged by the employer is perquisite in the hands of all employees as per section 17(2)(iv). However, sometimes instead of discharging employee's obligation, employer provides perquisites in the form of facility to the employee. Such perquisites are taxable in the hands of specified employees only.

The value of any benefit or amenity granted or provided free of cost or at concessional rate which have not been included in (A) & (B) above will be taxable in the hands of specified employees. Followings are the example of such services:

- (i) Provision of sweeper, gardener, watchman or personal attendant
- (ii) Facility of use of gas, electricity or water supplied by employer
- (iii) Free or concessional tickets

[‡] CIT vs. Lala Shri Dhar [1972] 84 ITR 19 (Del.)

- (iv) Use of motor car
- (v) Free or concessional educational facilities

For valuation of such perquisites, refer discussion on valuation of perquisite.

Meaning of Specified employees:

- (i) **Director employee:** An employee of a company who is also a director is a specified employee. It is immaterial whether he is a full-time director or part-time director. It also does not matter whether he is a nominee of the management, workers, financial institutions or the Government. It is also not material whether or not he is a director throughout the previous year.
- (ii) **An employee who has substantial interest in the company:** An employee of a company who has substantial interest in that company is a specified employee. A person has a substantial interest in a company if he is a beneficial owner of equity shares carrying 20% or more of the voting power in the company.

Beneficial and legal ownership: In order to determine whether a person has a substantial interest in a company, it is the beneficial ownership of equity shares carrying 20% or more of the voting power that is relevant rather than the legal ownership.

Example:

A, Karta of a HUF, is a registered shareholder of Bright Ltd. The amount for purchasing the shares is financed by the HUF. The dividend is also received by the HUF. Supposing further that A is an employee in Bright Ltd., the question arises whether he is a specified employee.

In this case, he cannot be called a specified person since he has no beneficial interest in the shares registered in his name. It is only for the purpose of satisfying the statutory requirements that the shares are registered in the name of A. All the benefits arising from the shareholding goes to the HUF. Conversely, it may be noted that an employee who is not a registered shareholder will be considered as a specified employee if he has beneficial interest in 20% or more of the equity shares in the company.

- (iii) **Employee drawing in excess of ₹ 50,000:** An employee other than an employee described in (i) & (ii) above, whose income chargeable under the head 'salaries' exceeds ₹ 50,000 is a specified employee. The above salary is

to be considered exclusive of the value of all benefits or amenities not provided by way of monetary payments.

In other words, for computing the limit of ₹ 50,000, the following items have to be excluded or deducted:

(a)	all non-monetary benefits;
(b)	monetary benefits which are exempt under section 10. This is because the exemptions provided under section 10 are excluded completely from salaries. For example, HRA or education allowance or hostel allowance are not to be included in salary to the extent to which they are exempt under section 10.
(c)	Standard deduction upto ₹ 50,000 [under section 16(ia)], Deduction for entertainment allowance [under section 16(ii)] and deduction toward professional tax [under section 16(iii)] are also to be excluded.

If an employee is employed with more than one employer, the aggregate of the salary received from all employers is to be taken into account in determining the above ceiling limit of ₹ 50,000, i.e., Salary for this purpose = Basic Salary + Dearness Allowance + Commission, whether payable monthly or turnover based + Bonus + Fees + Any other taxable payment + Any taxable allowances + Any other monetary benefits – Deductions under section 16]

(2) Valuation of Perquisites

The Income-tax Rules, 1962 contain the provisions for valuation of perquisites. It is important to note that only those perquisites which the employee actually enjoys have to be valued and taxed in his hand.

Example:

Suppose a company offers a housing accommodation rent-free to an employee but the latter declines to accept it, then the value of such accommodation obviously cannot be evaluated and taxed in the hands of the employees.

For the purpose of computing the income chargeable under the head "Salaries", the value of perquisites provided by the employer directly or indirectly to the

employee or to any member of his household by reason of his employment shall be determined in accordance with **Rule 3**.

(A) Valuation of residential accommodation [Sub-rule (1) of Rule 3]

The value of residential accommodation provided by the employer during the previous year shall be determined in the following manner –

Sl. No.	Circumstances	In case of unfurnished accommodation	In case of furnished accommodation
(1)	(2)	(3)	(4)
1.	Where the accommodation is provided by the Central Government or any State Government to the employees either holding office or post in connection with the affairs of the Union or of such State	<ul style="list-style-type: none"> License fee determined by the Central Government or any State Government in respect of accommodation in accordance with the rules framed by such Government as reduced by the rent actually paid by the employee. 	<ul style="list-style-type: none"> The value of perquisite as determined under column (3) should be increased by <ul style="list-style-type: none"> If furniture is owned by employer, 10% per annum of the cost of furniture (including television sets, radio sets, refrigerators, other household appliances, air-conditioning plant or equipment). If such furniture is hired from a third party, <ul style="list-style-type: none"> The actual hire charges payable for the same as reduced by any charges paid or payable for the same by the employee during the previous year
2.	Where the accommodation is provided by any other employer		

	<p>(a) <u>where the accommodation is owned by the employer</u></p>	<p>(i) 15% of salary in cities having population > 25 lakhs as per 2001 census;</p> <p>(ii) 10% of salary in cities having population > 10 lakhs ≤ 25 lakhs as per 2001 census;</p> <p>(iii) 7.5% of salary in other areas, in respect of the period during which the said accommodation was occupied by the employee during the previous year</p> <p>as reduced by the rent, if any, actually paid by the employee.</p>	<ul style="list-style-type: none"> The value of perquisite as determined under column (3) should be increased by <p>(i) If furniture is owned by employer, 10% per annum of the cost of furniture (including television sets, refrigerators, other household appliances, air-conditioning plant or equipment or other similar appliances or gadgets).</p> <p>(ii) If such furniture is hired from a third party,</p> <ul style="list-style-type: none"> the actual hire charges payable for the same as reduced by any charges paid or payable for the same by the employee during the previous year
	<p>(b) <u>where the accommodation is taken on lease or rent by the employer</u></p>	<ul style="list-style-type: none"> Actual amount of lease rental paid or payable by the employer or 15% of salary whichever is lower, as reduced by the rent, if any, actually paid by the employee. 	<ul style="list-style-type: none"> The value of perquisite as determined under column (3) should be increased by <p>(i) If furniture is owned by employer, 10% per annum of the cost of furniture (including television sets, radio sets, refrigerators, other</p>

			<p>household appliances, air-conditioning plant or equipment or other similar appliances or gadgets).</p> <p>(ii) If such furniture is hired from a third party,</p> <ul style="list-style-type: none"> • the actual hire charges payable for the same as reduced by • any charges paid or payable for the same by the employee during the previous year
3.	Where the accommodation is provided by any employer, whether Government or any other employer, in a hotel.	Not applicable	<ul style="list-style-type: none"> • 24% of salary paid or payable for the previous year or • the actual charges paid or payable to such hotel, <p>whichever is lower, for the period during which such accommodation is provided</p> <p>as reduced by</p> <ul style="list-style-type: none"> • the rent, if any, actually paid or payable by the employee. <p>However, where the employee is provided such accommodation for a period not exceeding in aggregate fifteen days on his transfer from one place to another, there would be no perquisite.</p>

Notes:

- (1) If an employee is provided with accommodation, on account of his transfer from one place to another, at the new place of posting while retaining the accommodation at the other place, the value of perquisite shall be determined with reference to only one such accommodation which has the lower perquisite value, as calculated above, for a period not exceeding 90 days and thereafter, the value of perquisite shall be charged for both such accommodations.
- (2) Any accommodation provided to an employee working at a mining site or an on-shore oil exploration site or a project execution site, or a dam site or a power generation site or an off-shore site would not be treated as a perquisite, provided it satisfies either of the following conditions -
 - (i) the accommodation is of temporary nature, has plinth area not exceeding 800 square feet and is located not less than eight kilometers away from the local limits of any municipality or a cantonment board; or
 - (ii) the accommodation is located in a remote area i.e., an area that is located at least 40 kms away from a town having a population not exceeding 20,000 based on latest published all-India census.
- (3) Where the accommodation is provided by the Central Government or any State Government to an employee who is serving on deputation with any body or undertaking under the control of such Government,-
 - (i) the employer of such an employee shall be deemed to be that body or undertaking where the employee is serving on deputation; and
 - (ii) the value of perquisite of such an accommodation shall be the amount calculated in accordance with Sl. No.2.(a) of the above table, as if the accommodation is owned by the employer.
- (4) "Accommodation" includes a house, flat, farm house or part thereof, or accommodation in a hotel, motel, service apartment, guest house, caravan, mobile home, ship or other floating structure.
- (5) "Hotel" includes licensed accommodation in the nature of motel, service apartment or guest house.

(B) Value of any concession in the matter of rent respecting any accommodation provided to the assessee by the employer [Section 17(2)(ii)]

(i) In case of unfurnished accommodation provided to employees other than Government employees –

- **If accommodation owned by the employer:** The difference between the specified rate in respect of the period during which said accommodation was occupied by the assessee and the amount of rent recoverable/recovered from the employee would be deemed to be the concession in the matter of rent.
- **If accommodation taken on lease or rent by the employer:** The difference between the actual lease rent or 15% of salary, whichever is lower, in respect of the period during which said accommodation was occupied by the assessee and rent recovered/recoverable from the employee would be deemed to be the concession in the matter of rent.

(1)	(2)
Type of accommodation	Deemed concession in the matter of rent
Accommodation owned by the employer	Specified rate minus rent recoverable from the employee
In cities having a population > 25 lakh	15% of salary minus rent recoverable from the employee.
In cities having a population > 10 lakh \leq 25 lakh	10% of salary minus rent recoverable from the employee.
In other cities	7½% of salary minus rent recoverable from employee.
Accommodation taken on lease by the employer	Rent paid by the employer or 15% of salary, whichever is lower, minus rent recoverable from the employee.

(ii) In case of furnished accommodation provided to employees other than Government employees –

The difference between hire charges paid or 10% p.a. of cost of furniture, as the case may be, in respect of the period during which said accommodation

was occupied by the assessee and the charges paid or payable by the employee would be added to the value determined in column (2) above for determining whether there is a concession in the matter of rent.

(iii) In case of furnished accommodation provided to Government employees-

The excess of licence fees determined by the employer as increased by hire charges paid or 10% p.a. of cost of furniture, as the case may be, in respect of the period during which said accommodation was occupied by the assessee over and above the rent recovered/recoverable from the employee and the charges paid or payable for furniture by the employee would be deemed to be the concession in the matter of rent.

(iv) In case the accommodation is provided by any employer, whether Government or any other employer, in a hotel-

The difference between the actual charges paid to hotel or 24% of salary, whichever is lower, for the period during which such accommodation is provided and rent recovered/recoverable from the employee would be deemed to be the concession in the matter of rent.

However, where the employee is provided such accommodation for a period not exceeding in aggregate fifteen days on his transfer from one place to another, there would be no perquisite.

Note – Once there is a deemed concession, the provisions of Rule 3(1) discussed above would be applicable in computing the taxable perquisite.

Meaning of Salary

"Salary" includes pay, allowances, bonus or commission payable monthly or otherwise or any monetary payment, by whatever name called, from one or more employers, as the case may be. However, it does not include the following, namely—

- (1) dearness allowance or dearness pay unless it enters into the computation of superannuation or retirement benefits of the employee concerned;
- (2) employer's contribution to the provident fund account of the employee;
- (3) allowances which are exempted from the payment of tax;
- (4) value of the perquisites specified in section 17(2);
- (5) any payment or expenditure specifically excluded under the proviso to section 17(2) i.e., payment of medical insurance premium specified therein.

ILLUSTRATION 13

Mr. C is a Finance Manager in ABC Ltd. The company has provided him with rent-free unfurnished accommodation in Mumbai. He gives you the following particulars:

Basic salary	₹ 6,000 p.m.
Dearness Allowance	₹ 2,000 p.m. (30% is for retirement benefits)
Bonus	₹ 1,500 p.m.

Even though the company allotted the house to him on 1.4.2019, he occupied the same only from 1.11.2019. Calculate the taxable value of the perquisite for A.Y.2020-21.

SOLUTION

Value of the rent free unfurnished accommodation

$$\begin{aligned}
 &= 15\% \text{ of salary for the relevant period} \\
 &= 15\% \text{ of } [(\text{₹ } 6,000 \times 5) + (\text{₹ } 2,000 \times 30\% \times 5) + (\text{₹ } 1,500 \times 5)] \text{ [See Note below]} \\
 &= 15\% \text{ of } \text{₹ } 40,500 = \text{₹ } 6,075.
 \end{aligned}$$

Note: Since, Mr. C occupies the house only from 1.11.2019, we have to include the salary due to him only in respect of months during which he has occupied the accommodation. Hence salary for 5 months (i.e. from 1.11.2019 to 31.03.2020) will be considered.

ILLUSTRATION 14

Using the data given in the previous illustration 13, compute the value of the perquisite if Mr. C is required to pay a rent of ₹ 1,000 p.m. to the company, for the use of this accommodation.

SOLUTION

First of all, we have to see whether there is a concession in the matter of rent. In the case of accommodation owned by the employer in cities having a population exceeding 25 lakh, there would be deemed to be a concession in the matter of rent if 15% of salary exceeds rent recoverable from the employee.

In this case, 15% of salary would be ₹ 6,075 (i.e. 15% of ₹ 40,500). The rent paid by the employee is ₹ 5,000 (i.e., ₹ 1,000 x 5). Since 15% of salary exceeds the rent recovered from the employee, there is a deemed concession in the matter of rent. Once there is a deemed concession, the provisions of Rule 3(1) would be applicable in computing the taxable perquisite.

$$\begin{array}{lcl}
 \text{Value of the rent free unfurnished accommodation} & & = ₹ 6,075
 \end{array}$$

Less: Rent paid by the employee ($\text{₹ } 1,000 \times 5$) $= \text{₹ } 5,000$

Perquisite value of unfurnished accommodation given at concessional rent $= \text{₹ } 1,075$

ILLUSTRATION 15

Using the data given in illustration 13, compute the value of the perquisite if ABC Ltd. has taken this accommodation on a lease rent of $\text{₹ } 1,200$ p.m. and Mr. C is required to pay a rent of $\text{₹ } 1,000$ p.m. to the company, for the use of this accommodation.

SOLUTION

Here again, we have to see whether there is a concession in the matter of rent. In the case of accommodation taken on lease by the employer, there would be deemed to be a concession in the matter of rent if the rent paid by the employer or 15% of salary, whichever is lower, exceeds rent recoverable from the employee.

In this case, 15% of salary is $\text{₹ } 6,075$ (i.e. 15% of $\text{₹ } 40,500$). Rent paid by the employer is $\text{₹ } 6,000$ (i.e. $\text{₹ } 1,200 \times 5$). The lower of the two is $\text{₹ } 6,000$, which exceeds the rent paid by the employee i.e. $\text{₹ } 5,000$ ($\text{₹ } 1,000 \times 5$). Therefore, there is a deemed concession in the matter of rent. Once there is a deemed concession, the provisions of Rule 3(1) would be applicable in computing the taxable perquisite.

Value of the rent free unfurnished accommodation [Note] $= \text{₹ } 6,000$

Less: Rent paid by the employee ($\text{₹ } 1,000 \times 5$) $= \text{₹ } 5,000$

Value of unfurnished accommodation given at concessional rent = $\text{₹ } 1,000$

Note: Value of the rent free unfurnished accommodation is lower of

- (i) Lease rent paid by the company for relevant period $= \text{₹ } 1,200 \times 5 = \text{₹ } 6,000$
- (ii) 15% of salary for the relevant period (computed earlier) $= \text{₹ } 6,075$

ILLUSTRATION 16

Using the data given in illustration 13, compute the value of the perquisite if ABC Ltd. has provided a television (WDV $\text{₹ } 10,000$; Cost $\text{₹ } 25,000$) and two air conditioners. The rent paid by the company for the air conditioners is $\text{₹ } 400$ p.m. each. The television was provided on 1.1.2020. However, Mr. C is required to pay a rent of $\text{₹ } 1,000$ p.m. to the company, for the use of this furnished accommodation.

SOLUTION

Here again, we have to see whether there is a concession in the matter of rent. In the case of accommodation owned by the employer in a city having a population exceeding ₹ 25 lakh, there would be deemed to be a concession in the matter of rent if 15% of salary exceeds rent recoverable from the employee. In case of furnished accommodation, the excess of hire charges paid or 10% p.a. of the cost of furniture, as the case may be, over and above the charges paid or payable by the employee has to be added to the value arrived at above to determine whether there is a concession in the matter of rent.

In this case, 15% of salary is ₹ 6,075 (i.e. 15% of ₹ 40,500). The rent paid by the employee is ₹ 5,000 (i.e. ₹ 1,000 × 5). The value of furniture of ₹ 4,625 (**see Note below**) is to be added to 15% of salary. The deemed concession in the matter of rent is ₹ 6,075 + ₹ 4,625 - ₹ 5,000 = ₹ 5,700. Once there is a deemed concession, the provisions of Rule 3(1) would be applicable in computing the taxable perquisite.

Value of the rent free unfurnished accommodation (computed earlier) = ₹ 6,075

Add: Value of furniture provided by the employer [**Note**] = ₹ 4,625

Value of rent free furnished accommodation = ₹ 10,700

Less: Rent paid by the employee (₹ 1,000 × 5) = ₹ 5,000

Value of furnished accommodation given at concessional rent = ₹ 5,700

Note: Value of the furniture provided = (₹ 400 p.m. × 2 × 5 months) + (₹ 25,000 × 10% p.a. for 3 months) = ₹ 4,000 + ₹ 625 = ₹ 4,625

ILLUSTRATION 17

Using the data given in illustration 16 above, compute the value of the perquisite if Mr. C is a government employee. The licence fees determined by the Government for this accommodation was ₹ 700 p.m.

SOLUTION

In the case of Government employees, the excess of licence fees determined by the employer as increased by the value of furniture and fixture over and above the rent recovered/ recoverable from the employee and the charges paid or payable for furniture by the employee would be deemed to be the concession in the matter of rent. Therefore, the deemed concession in the matter of rent is ₹ 3,125 [i.e. ₹ 3,500 (licence fees: ₹ 700 × 5) + ₹ 4,625 (Value of furniture) - ₹ 5,000 (₹ 1,000 × 5)]. Once there is a deemed concession, the provisions of Rule 3(1) would be applicable in computing the taxable perquisite.

Value of the rent free unfurnished accommodation ($\text{₹ } 700 \times 5$)	= ₹ 3,500
Add: Value of furniture provided by the employer (computed earlier)	= ₹ 4,625
Value of rent free furnished accommodation	= ₹ 8,125
Less: Rent paid by the employee ($\text{₹ } 1,000 \times 5$)	= ₹ 5,000
Perquisite value of furnished accommodation given at concessional rent	= ₹ 3,125

(C) Motor Car [Sub-rule (2) of Rule 3]

If motor car is provided by the employer to the employee, it will be perquisite in the hands of specified employees only. However, the use of any vehicle provided by a company or an employer for journey by the assessee from his residence to his office or other place of work, or from such office or place to his residence shall not be regarded as a benefit given or provided to him free of cost or at concessional rate. [Explanation below section 17(2)(iii)]

But if the motor car is owned by the employee and used by him or members of his family wholly for personal purpose and for which employer reimburses the running and maintenance expenses of the car, it will be perquisite in the hands of all employees.

The value of perquisite by way of use of motor car to an employee by an employer shall be determined in the following manner -

VALUE OF PERQUISITE PER CALENDAR MONTH

Sl. No.	Circumstances	Where cubic capacity of engine does not exceed 1.6 litres	Where cubic capacity of engine exceeds 1.6 litres
(1)	(2)	(3)	(4)
(1)	Where the motor car is owned or hired by the employer and – <ul style="list-style-type: none"> (a) <u>is used wholly and exclusively in the performance of his official duties</u> 	Not a perquisite, provided the documents specified in Note (2) below the table are maintained by the employer.	Not a perquisite, provided the documents specified in Note (2) below the table are maintained by the employer.
	(b) <u>is used exclusively for the private or</u>	Actual amount of expenditure incurred	Actual amount of expenditure incurred by

	<p><u>personal purposes</u> of the employee or any member of his household and the running and maintenance expenses are met or reimbursed by the employer;</p>	<p>by the employer on the running and maintenance of motor car during the relevant previous year including remuneration, if any, paid by the employer to the chauffeur as increased by the amount representing normal wear and tear of the motor car and as reduced by any amount charged from the employee for such use.</p>	<p>the employer on the running and maintenance of motor car during the relevant previous year including remuneration, if any, paid by the employer to the chauffeur as increased by the amount representing normal wear and tear of the motor car and as reduced by any amount charged from the employee for such use.</p>
	<p>(c) <u>is used partly in the performance of duties and partly for private or personal purposes</u> of his own or any member of his household and-</p> <p>(i) the expenses on maintenance and running are met or reimbursed by the employer</p> <p>(ii) the expenses on running and maintenance for private or personal use are fully met by the assessee.</p>	<p>₹1,800 (plus ₹ 900, if chauffeur is also provided to run the motor car)</p> <p>₹ 600 (plus ₹ 900, if chauffeur is also provided by the employer to run the motor car)</p>	<p>₹ 2,400 (plus ₹ 900, if chauffeur is also provided to run the motor car)</p> <p>₹ 900 (plus ₹ 900, if chauffeur is also provided by the employer to run the motor car)</p>

(2)	<p>Where the employee owns a motor car but the actual running and maintenance charges (including remuneration of the chauffeur, if any) are met or reimbursed to him by the employer and –</p>		
	<p>(a) such reimbursement is <u>for the use of the vehicle wholly and exclusively for official purposes</u></p> <p>(b) such reimbursement is <u>for the use of the vehicle partly for official purposes and partly for personal or private purposes</u> of the employee or any member of his household.</p>	<p>Not a perquisite, provided the documents specified in Note (2) below the table are maintained by the employer.</p> <p>The actual amount of expenditure incurred by the employer as reduced by the amount specified in Sl. No. (1)(c)(i) above (Also see note (2) below this table).</p>	<p>Not a perquisite, provided the documents specified in Note (2) below the table are maintained by the employer.</p> <p>The actual amount of expenditure incurred by the employer as reduced by the amount specified in Sl. No. (1)(c)(i) above (Also see note (2) below this table).</p>
(3)	<p>Where the employee owns any other automotive conveyance but the actual running and maintenance charges are met or reimbursed to him by the employer and</p>		

	<p>(a) such reimbursement is <u>for the use of the vehicle wholly and exclusively for official purposes</u></p> <p>(b) such reimbursement is <u>for the use of vehicle partly for official purposes and partly for personal or private purposes</u> of the employee</p>	<p>Not a perquisite, provided the documents specified in the note (2) below the table are maintained by the employer.</p> <p>The actual amount of expenditure incurred by the employer as reduced by the amount of ₹ 900. (Also see note (2) below the table)</p>	Not applicable.
--	---	---	-----------------

Notes:

- (1) **Where more than one motor car is provided** - Where one or more motor-cars are owned or hired by the employer and the employee or any member of his household are allowed the use of such motor-car or all of any of such motor-cars (otherwise than wholly and exclusively in the performance of his duties), the value of perquisite shall be the amount calculated in respect of one car as if the employee had been provided one motor-car for use partly in the performance of his duties and partly for his private or personal purposes and the amount calculated in respect of the other car or cars as if he had been provided with such car or cars exclusively for his private or personal purposes.
- (2) **Documents to be maintained in certain cases** - Where the employer or the employee claims that the motor-car is used wholly and exclusively in the performance of official duty or that the actual expenses on the running and maintenance of the motor-car owned by the employee for official purposes is more than the amounts deductible in Sl. No. 2(b) or 3(b) of the above table, he may claim a higher amount attributable to such official use and the value of perquisite in such a case shall be the actual amount of charges met or reimbursed by the employer as reduced by such higher amount attributable to official use of the vehicle provided that the following conditions are fulfilled :-

- (a) the employer has maintained complete details of journey undertaken for official purpose which may include date of journey, destination, mileage, and the amount of expenditure incurred thereon;
- (b) the employer gives a certificate to the effect that the expenditure was incurred wholly and exclusively for the performance of official duties.

(3) **Meaning of Normal wear and tear of a motor-car** - For computing the perquisite value of motor car, the normal wear and tear of a motor-car shall be taken at 10% per annum of the actual cost of the motor-car or cars.

(D) Valuation of benefit of provision of domestic servants
[Sub-rule (3) of Rule 3]

If servants are engaged by the employee and employer paid or reimbursed the employee for the wages of such servants, it will be perquisite in the hands of all employees. But if the domestic servants are engaged by the employer and facility of such servants is provided to the employee, it will be perquisite in the hands of specified employees only.

- (i) The value of benefit to the employee or any member of his household resulting from the provision by the employer of the services of a sweeper, a gardener, a watchman or a personal attendant, shall be the actual cost to the employer.
- (ii) The actual cost in such a case shall be the total amount of salary paid or payable by the employer or any other person on his behalf for such services **as reduced by** any amount paid by the employee for such services.

ILLUSTRATION 18

Mr. X and Mr. Y are working for M/s. Gama Ltd. As per salary fixation norms, the following perquisites were offered:

- (i) *For Mr. X, who engaged a domestic servant for ₹ 500 per month, his employer reimbursed the entire salary paid to the domestic servant i.e. ₹ 500 per month.*
- (ii) *For Mr. Y, he was provided with a domestic servant @ ₹ 500 per month as part of remuneration package.*

You are required to comment on the taxability of the above in the hands of Mr. X and Mr. Y, who are not specified employees.

SOLUTION

In the case of Mr. X, it becomes an obligation which the employee would have discharged even if the employer did not reimburse the same. Hence, the perquisite will be covered under section 17(2)(iv) and will be taxable in the hands of Mr. X. This is taxable in the case of all employees.

In the case of Mr. Y, it cannot be considered as an obligation which the employee would meet. The employee might choose not to have a domestic servant. This is taxable only in the case of specified employees covered by section 17(2)(iii). Hence, there is no perquisite element in the hands of Mr. Y.

**(E) Valuation of gas, electricity or water supplied by employer
[Sub-rule (4) of Rule 3]**

If gas, electricity or water connections are taken by the employee and employer paid or reimbursed the employee for such expenses, it will be perquisite in the hands of all employees. But if the gas, electricity or water connections are taken in the name of employer and facility of such supplies are provided to the employee, it will be perquisite in the hands of specified employees only. The value of benefit to the employee resulting from the provision of gas, electricity or water supplied by the employer shall be determined as follow:

Circumstances	Value of benefit
If payment is made to agency supplying of gas, electricity etc.	sum equal to the amount paid on that account by the employer to the agency supplying the gas, electric energy or water
If supply is made from resources owned by the employer	manufacturing cost per unit incurred by the employer

Where the employee is paying any amount in respect of such services, the amount so paid shall be deducted from the value so arrived at.

(F) Valuation of free or concessional educational facilities [Sub-rule (5) of Rule 3]

If school fees of children of employee or any member of employee's household is paid or reimbursed by the employer on employee's behalf, it will be perquisite in the hands of all employees. But if the education facility is provided in the school maintained by the employer or in any school by reason of his being employment at free of cost or at concessional rate, it would be perquisite in the hands of specified employees only. The value of benefit to the employee resulting from the provision of

free or concessional educational facility for any member of his household shall be determined as follow:

Circumstances	Value of benefit
If the educational institution is maintained and owned by the employer	cost of such education in a similar institution in or near the locality.
If free educational facilities are allowed in any other educational institution by reason of his being in employment of that employer	However, there would be no perquisite if the cost of such education or the value of such benefit per child does not exceed ₹ 1,000 p.m.
Others	amount of expenditure incurred by the employer in that behalf

Where any amount is paid or recovered from the employee on that account, the value of benefit shall be reduced by the amount so paid or recovered.

Note: The exemption of ₹ 1,000 p.m is allowed only in case of education facility provided to the children of the employee not in case of education facility provided to other household members.

(G) Free or concessional tickets [Sub-rule (6) of Rule 3]

The value of any benefit or amenity resulting from the provision by an employer

- who is engaged in the carriage of passengers or goods,
- to any employee or to any member of his household for personal or private journey free of cost or at concessional fare,
- in any conveyance owned, leased or made available by any other arrangement by such employer for the purpose of transport of passengers or goods

shall be taken to be the value at which such benefit or amenity is offered by such employer to the public as reduced by the amount, if any, paid by or recovered from the employee for such benefit or amenity.

However, there would be no such perquisite to the employees of an airline or the railways.

(H) Valuation of other fringe benefits and amenities [Sub-rule (7) of Rule 3]

Section 17(2)(viii) provides that the value of any other fringe benefit or amenity as may be prescribed would be included in the definition of perquisite and taxable in the hands of all employees. Accordingly, the following other fringe benefits or

amenities are prescribed and the value thereof shall be determined in the manner provided hereunder:-

(i) Interest-free or concessional loan [Sub-rule 7(i) of Rule 3]

(a) The value of the benefit to the assessee resulting from the provision of interest-free or concessional loan for any purpose made available to

- the employee or
- any member of his household

during the relevant previous year by the employer or any person on his behalf shall be determined as the sum equal to the interest computed at the rate charged per annum by the State Bank of India, as on the 1st day of the relevant previous year in respect of loans for the same purpose advanced by it on the maximum outstanding monthly balance as reduced by the interest, if any, actually paid by him or any such member of his household.

“Maximum outstanding monthly balance” means the aggregate outstanding balance for each loan as on the last day of each month.

(b) However, **no value would be charged** if such loans are made available for medical treatment in respect of prescribed diseases (like cancer, tuberculosis, etc.) or where the amount of loans are **not exceeding in the aggregate ₹ 20,000**.

(c) Further, where the benefit relates to the loans made available for medical treatment referred to above, the exemption so provided shall not apply to so much of the loan as has been reimbursed to the employee under any medical insurance scheme.

(ii) Travelling, touring and accommodation [Sub-rule 7(ii) of Rule 3]

(a) **If Travelling, touring, accommodation etc. expenses are paid or reimbursed by employer** - The value of travelling, touring, accommodation and any other expenses paid for or borne or reimbursed by the employer for any holiday availed of by the employee or any member of his household, other than leave travel concession or assistance, shall be determined as the sum equal to the amount of the expenditure incurred by such employer in that behalf.

(b) **If Travelling, touring, accommodation etc. facilities are maintained by employer to particular employees only** - Where such facility is maintained by the employer, and is not available uniformly to all employees, the value of benefit shall be taken to be the value at which such facilities are offered by other agencies to the public.

(c) **Expenses on any member of household accompanying such employee on office tour** - Where the employee is on official tour and the expenses are incurred in respect of any member of his household accompanying him, the amount of expenditure so incurred shall also be a fringe benefit or amenity.

(d) **If official tour is extended as vacation** -However, where any official tour is extended as a vacation, the value of such fringe benefit shall be limited to the expenses incurred in relation to such extended period of stay or vacation. The amount so determined shall be reduced by the amount, if any, paid or recovered from the employee for such benefit or amenity.

(iii) Free or concessional food and non-alcoholic beverages [Sub-rule 7(iii) of Rule 3]

(a) The value of free food and non-alcoholic beverages provided by the employer to an employee shall be the amount of expenditure incurred by such employer. The amount so determined shall be reduced by the amount, if any, paid or recovered from the employee for such benefit or amenity:

(b) However, the following would not be treated as a perquisite -

- (1) free food and non-alcoholic beverages provided by such employer during
 - working hours at office or business premises or
 - through paid vouchers which are not transferable and usable only at eating joints,to the extent the value thereof either case does not exceed fifty rupees per meal or
- (2) tea or snacks provided during working hours or
- (3) free food and non-alcoholic beverages during working hours provided in a remote area or an off-shore installation.

(iv) Value of gift, voucher or token in lieu of such gift [Sub-rule 7(iv) of Rule 3]

- (a) The value of any gift, or voucher, or token in lieu of which such gift may be received by the employee or by member of his household on ceremonial occasions or otherwise from the employer shall be determined as the sum equal to the amount of such gift;
- (b) However, if the value of such gift, voucher or token, as the case may be, is below ₹ 5,000 in the aggregate during the previous year, the value of perquisite shall be taken as 'Nil'.

(v) Credit card expenses [Sub-rule 7(v) of Rule 3]

- (a) The amount of expenses including membership fees and annual fees incurred by the employee or any member of his household, which is charged to a credit card (including any add-on-card) provided by the employer, or otherwise, paid for or reimbursed by such employer shall be taken to be the value of perquisite chargeable to tax as reduced by the amount, if any paid or recovered from the employee for such benefit or amenity.
- (b) However, such expenses incurred wholly and exclusively for official purposes would not be treated as a perquisite if the following conditions are fulfilled.
 - (1) complete details in respect of such expenditure are maintained by the employer which may, *inter alia*, include the date of expenditure and the nature of expenditure;
 - (2) the employer gives a certificate for such expenditure to the effect that the same was incurred wholly and exclusively for the performance of official duties.

(vi) Club expenditure [Sub-rule 7(vi) of Rule 3]

- (a) The value of benefit to the employee resulting from the payment or reimbursement by the employer of any expenditure incurred (including the amount of annual or periodical fee) in a club by him or by a member of his household shall be determined to be the actual amount of expenditure incurred or reimbursed by such employer on that account. The amount so determined shall be reduced by the

amount, if any, paid or recovered from the employee for such benefit or amenity.

However, where the employer has obtained corporate membership of the club and the facility is enjoyed by the employee or any member of his household, the value of perquisite shall not include the initial fee paid for acquiring such corporate membership.

- (b) Further, if such expenditure is incurred wholly and exclusively for business purposes, it would not be treated as a perquisite provided the following conditions are fulfilled:-
 - (1) complete details in respect of such expenditure are maintained by the employer which may, *inter alia*, include the date of expenditure, the nature of expenditure and its business expediency;
 - (2) the employer gives a certificate for such expenditure to the effect that the same was incurred wholly and exclusively for the performance of official duties.
- (c) There would be no perquisite for use of health club, sports and similar facilities provided uniformly to all employees by the employer.

(vii) Use of moveable assets [Sub-rule 7(vii) of Rule 3]

Value of perquisite is determined as under:

Asset given	Value of benefit
(a) Use of laptops and computers	Nil
(b) Movable assets, other than - (i) laptops and computers; and (ii) assets already specified	10% p.a. of the actual cost of such asset, or the amount of rent or charge paid, or payable by the employer, as the case may be

Note: Where the employee is paying any amount in respect of such asset, the amount so paid shall be deducted from the value of perquisite determined above.

(viii) Transfer of moveable assets [Sub-rule 7(viii) of Rule 3]

Value of perquisite is determined as under:

Assets transferred	Value of perquisite
Computers and electronic items	Depreciated value of asset [depreciation is computed @50% on WDV for each completed year of usage]
Motor cars	Depreciated value of asset [depreciation is computed @20% on WDV for each completed year of usage]
Any other asset	Depreciated value of asset [depreciation is computed @10% on SLM for each completed year of usage]

Note: Where the employee is paying any amount in respect of such asset, the amount so paid shall be deducted from the value of perquisite determined above.

(ix) Other benefit or amenity [Sub-rule 7(ix) of Rule 3]

The value of any other benefit or amenity, service, right or privilege provided by the employer shall be determined on the basis of cost to the employer under an arms' length transaction as reduced by the employee's contribution, if any.

However, there will be **no taxable perquisite in respect of expenses on telephones including mobile phone** actually incurred on behalf of the employee by the employer i.e., if an employer pays or reimburses telephone bills or mobile phone charges of employee, there will be no taxable perquisite.

ILLUSTRATION 19

Mr. X retired from the services of M/s Y Ltd. on 31.01.2020, after completing service of 30 years and one month. He had joined the company on 1.1.1990 at the age of 30 years and received the following on his retirement:

- (i) *Gratuity ₹ 6,00,000. He was covered under the Payment of Gratuity Act, 1972.*
- (ii) *Leave encashment of ₹ 3,30,000 for 330 days leave balance in his account. He was credited 30 days leave for each completed year of service.*

- (iii) As per the scheme of the company, he was offered a car which was purchased on 30.01.2017 by the company for ₹ 5,00,000. Company has recovered ₹ 2,00,000 from him for the car. Company depreciates the vehicles at the rate of 15% on Straight Line Method.
- (iv) An amount of ₹ 3,00,000 as commutation of pension for 2/3 of his pension commutation.
- (v) Company presented him a gift voucher worth ₹ 6,000 on his retirement.
- (vi) His colleagues also gifted him a Television (LCD) worth ₹ 50,000 from their own contribution.

Following are the other particulars:

- (i) He has drawn a basic salary of ₹ 20,000 and 50% dearness allowance per month for the period from 01.04.2019 to 31.01.2020.
- (ii) Received pension of ₹ 5,000 per month for the period 01.02.2020 to 31.03.2020 after commutation of pension.

Compute his gross total income from the above for Assessment Year 2020-21.

SOLUTION

Computation of Gross Total Income of Mr. X for A.Y. 2020-21

Particulars	₹
Basic Salary = ₹ 20,000 x 10	2,00,000
Dearness Allowance = 50% of basic salary	1,00,000
Gift Voucher (See Note - 1)	6,000
Transfer of car (See Note - 2)	56,000
Gratuity (See Note - 3)	80,769
Leave encashment (See Note - 4)	1,30,000
Uncommuted pension (₹ 5000 x 2)	10,000
Commuted pension (See Note - 5)	1,50,000
Gross Salary	7,32,769
Less: Standard deduction u/s 16(ia)	50,000
Taxable Salary /Gross Total Income	6,82,769

Notes:

(1) As per Rule 3(7)(iv), the value of any gift or voucher or token in lieu of gift received by the employee or by member of his household not exceeding ₹ 5,000 in aggregate during the previous year is exempt. In this case, the amount was received on his retirement and the sum exceeds the limit of ₹ 5,000.

Therefore, the entire amount of ₹ 6,000 is liable to tax as perquisite.

Note – An alternate view possible is that only the sum in excess of ₹ 5,000 is taxable. In such a case, the value of perquisite would be ₹ 1,000 and gross taxable income would be ₹ 7,27,769.

(2) **Perquisite value of transfer of car:** As per Rule 3(7)(viii), the value of benefit to the employee, arising from the transfer of an asset, being a motor car, by the employer is the actual cost of the motor car to the employer as reduced by 20% of WDV of such motor car for each completed year during which such motor car was put to use by the employer. Therefore, the value of perquisite on transfer of motor car, in this case, would be:

Particulars	₹
Purchase price (30.1.2017)	5,00,000
Less: Depreciation @ 20%	1,00,000
WDV on 29.1.2018	4,00,000
Less: Depreciation @ 20%	80,000
WDV on 29.1.2019	3,20,000
Less: Depreciation @ 20%	64,000
WDV on 29.1.2020	2,56,000
Less: Amount recovered	2,00,000
Value of perquisite	56,000

The rate of 15% as well as the straight line method adopted by the company for depreciation of vehicle is not relevant for calculation of perquisite value of car in the hands of Mr. X.

(3) **Taxable gratuity**

Particulars	₹
Gratuity received	6,00,000

Less :	Exempt under section 10(10) - Least of the following:	
(i)	Notified limit =	₹ 20,00,000
(ii)	Actual gratuity =	₹ 6,00,000
(iii)	15/26 x last drawn salary x no. of completed years of services or part in excess of 6 months	
	15/26 x ₹ 30,000 x 30 = ₹ 5,19,231	5,19,231
Taxable Gratuity		80,769

Note: As per the Payment of Gratuity Act, 1972, D.A. is included in the meaning of salary. Since in this case, Mr. X is covered under payment of Payment of Gratuity Act, 1972, D.A. has to be included within the meaning of salary for computation of exemption under section 10(10).

(4) Taxable leave encashment

Particulars	₹
Leave Salary received	3,30,000
Less : Exempt under section 10(10AA) - Least of the following:	
(i) Notified limit	₹ 3,00,000
(ii) Actual leave salary	₹ 3,30,000
(iii) 10 months x ₹ 20,000	₹ 2,00,000
(iv) Cash equivalent of leave to his credit	₹ 2,20,000
$\left(\frac{330}{30} \times 20,000 \right)$	2,00,000
Taxable Leave encashment	1,30,000

Note – It has been assumed that dearness allowance does not form part of salary for retirement benefits. In case it is assumed that dearness allowance forms part of pay for retirement benefits, then, the third limit for exemption under section 10(10AA) in respect of leave encashment would be ₹ 3,00,000 (i.e. 10 x ₹ 30,000) and the fourth limit ₹ 3,30,000, in which case, the taxable leave encashment would be ₹ 30,000 (₹ 3,30,000 - ₹ 3,00,000). In such a case, the gross total income would be ₹ 6,32,769.

(5) Commuted Pension

Since Mr. X is a non-government employee in receipt of gratuity, exemption under section 10(10A) would be available to the extent of 1/3rd of the

amount of the pension which he would have received had he commuted the whole of the pension.

Particulars	₹
Amount received	3,00,000
Exemption under section 10(10A) = $\frac{1}{3} \times \left[3,00,000 \times \frac{3}{2} \right]$	1,50,000
Taxable amount	1,50,000

(6) The taxability provisions under section 56(2)(x) are not attracted in respect of television received from colleagues, since television is not included in the definition of property therein.

ILLUSTRATION 20

Shri Bala employed in ABC Co. Ltd. as Finance Manager gives you the list of perquisites provided by the company to him for the entire financial year 2019-20:

- (i) *Domestic servant was provided at the residence of Bala. Salary of domestic servant is ₹ 1,500 per month. The servant was engaged by him and the salary is reimbursed by the company (employer).*
In case the company has employed the domestic servant, what is the value of perquisite?
- (ii) *Free education was provided to his two children Arthy and Ashok in a school maintained and owned by the company. The cost of such education for Arthy is computed at ₹ 900 per month and for Ashok at ₹ 1,200 per month. No amount was recovered by the company for such education facility from Bala.*
- (iii) *The employer has provided movable assets such as television, refrigerator and air-conditioner at the residence of Bala. The actual cost of such assets provided to the employee is ₹ 1,10,000.*
- (iv) *A gift voucher worth ₹ 10,000 was given on the occasion of his marriage anniversary. It is given by the company to all employees above certain grade.*
- (v) *Telephone provided at the residence of Shri Bala and the bill aggregating to ₹ 25,000 paid by the employer.*
- (vi) *Housing loan @ 6% per annum. Amount outstanding on 1.4.2019 is ₹ 6,00,000. Shri Bala pays ₹ 12,000 per month towards principal, on 5th of each month.*

Compute the chargeable perquisite in the hands of Mr. Bala for the A.Y. 2020-21.

The lending rate of State Bank of India as on 1.4.2019 for housing loan may be taken as 10%.

SOLUTION

Taxability of perquisites provided by ABC Co. Ltd. to Shri Bala

(i) Domestic servant was employed by the employee and the salary of such domestic servant was paid/ reimbursed by the employer. It is taxable as perquisite for all categories of employees.

Taxable perquisite value = ₹ 1,500 × 12 = ₹ 18,000.

If the company had employed the domestic servant and the facility of such servant is given to the employee, then the perquisite is taxable only in the case of specified employees. The value of the taxable perquisite in such a case also would be ₹ 18,000.

(ii) Where the educational institution is owned by the employer, the value of perquisite in respect of free education facility shall be determined with reference to the reasonable cost of such education in a similar institution in or near the locality. However, there would be no perquisite if the cost of such education per child does not exceed ₹ 1,000 per month.

Therefore, there would be no perquisite in respect of cost of free education provided to his child Arthy, since the cost does not exceed ₹ 1,000 per month.

However, the cost of free education provided to his child Ashok would be taxable, since the cost exceeds ₹ 1,000 per month. The taxable perquisite value would be ₹ 14,400 (₹ 1,200 × 12).

Note – An alternate view possible is that only the sum in excess of ₹ 1,000 per month is taxable. In such a case, the value of perquisite would be ₹ 2,400.

(iii) Where the employer has provided movable assets to the employee or any member of his household, 10% per annum of the actual cost of such asset owned or the amount of hire charges incurred by the employer shall be the value of perquisite. However, this will not apply to laptops and computers. In this case, the movable assets are television, refrigerator and air conditioner and actual cost of such assets is ₹ 1,10,000.

The perquisite value would be 10% of the actual cost i.e., ₹ 11,000, being 10% of ₹ 1,10,000.

(iv) The value of any gift or voucher or token in lieu of gift received by the employee or by member of his household not exceeding ₹ 5,000 in aggregate during the previous year is exempt. In this case, the amount was received on the occasion of marriage anniversary and the sum exceeds the limit of ₹ 5,000.

Therefore, the entire amount of ₹ 10,000 is liable to tax as perquisite.

Note- An alternate view possible is that only the sum in excess of ₹ 5,000 is taxable. In such a case, the value of perquisite would be ₹ 5,000

(v) Telephone provided at the residence of the employee and payment of bill by the employer is a tax free perquisite.

(vi) The value of the benefit to the assessee resulting from the provision of interest-free or concessional loan made available to the employee or any member of his household during the relevant previous year by the employer or any person on his behalf shall be determined as the sum equal to the interest computed at the rate charged per annum by the State Bank of India (SBI) as on the 1st day of the relevant previous year in respect of loans for the same purpose advanced by it. This rate should be applied on the maximum outstanding monthly balance and the resulting amount should be reduced by the interest, if any, actually paid by him.

"Maximum outstanding monthly balance" means the aggregate outstanding balance for loan as on the last day of each month.

The perquisite value for computation is 10% - 6% = 4%

Month	Maximum outstanding balance as on last date of month (₹)	Perquisite value at 4% for the month (₹)
April, 2019	5,88,000	1,960
May, 2019	5,76,000	1,920
June, 2019	5,64,000	1,880
July, 2019	5,52,000	1,840
August, 2019	5,40,000	1,800
September, 2019	5,28,000	1,760
October, 2019	5,16,000	1,720
November, 2019	5,04,000	1,680
December, 2019	4,92,000	1,640

January, 2020	4,80,000	1,600
February, 2020	4,68,000	1,560
March, 2020	4,56,000	1,520
Total value of this perquisite		20,880

Total value of taxable perquisite

= ₹ 74,280 [i.e. ₹ 18,000 + ₹ 14,400 + ₹ 11,000 + ₹ 10,000 + ₹ 20,880].

Note - In case the alternate views are taken for items (ii) & (iv), the total value of taxable perquisite would be ₹ 57,280 [i.e., ₹ 18,000 + ₹ 2,400 + ₹ 11,000 + ₹ 5,000 + ₹ 20,880].

(I) Valuation of specified security or sweat equity share for the purpose of section 17(2)(vi) [Sub-rule (8)]

The fair market value of any specified security or sweat equity share, being an equity share in a company, on the date on which the option is exercised by the employee, shall be determined in the following manner -

(1) **If shares are listed on recognized stock exchange** - In a case where, on the date of the exercising of the option, the share in the company is listed on a recognized stock exchange, the fair market value shall be the average of the opening price and closing price of the share on that date on the said stock exchange.

If shares are listed on more than one recognized stock exchange - However, where, on the date of exercising of the option, the share is listed on more than one recognized stock exchanges, the fair market value shall be the average of opening price and closing price of the share on the recognised stock exchange which records the highest volume of trading in the share.

If no trading in share on recognized stock exchange - Further, where on the date of exercising of the option, there is no trading in the share on any recognized stock exchange, the fair market value shall be—

- (a) the closing price of the share on any recognised stock exchange on a date closest to the date of exercising of the option and immediately preceding such date; or
- (b) the closing price of the share on a recognised stock exchange, which records the highest volume of trading in such share, if the closing price, as on the date closest to the date of exercising of the option

and immediately preceding such date, is recorded on more than one recognized stock exchange.

“Closing price” of a share on a recognised stock exchange on a date shall be the price of the last settlement on such date on such stock exchange.

However, where the stock exchange quotes both “buy” and “sell” prices, the closing price shall be the “sell” price of the last settlement.

“Opening price” of a share on a recognised stock exchange on a date shall be the price of the first settlement on such date on such stock exchange.

However, where the stock exchange quotes both “buy” and “sell” prices, the opening price shall be the “sell” price of the first settlement.

(2) **If shares are not listed on recognized stock exchange** - In a case where, on the date of exercising of the option, the share in the company is not listed on a recognised stock exchange, the fair market value shall be such value of the share in the company as determined by a merchant banker on the specified date.

For this purpose, **“specified date”** means,—

- (i) the date of exercising of the option; or
- (ii) any date earlier than the date of the exercising of the option, not being a date which is more than 180 days earlier than the date of the exercising.

Note: Where any amount has been recovered from the employee, the same shall be deducted to arrive at the value of perquisites.

ILLUSTRATION 21

AB Co. Ltd. allotted 1000 sweat equity shares to Sri Chand in June 2019. The shares were allotted at ₹200 per share as against the fair market value of ₹300 per share on the date of exercise of option by the allottee viz. Sri Chand. The fair market value was computed in accordance with the method prescribed under the Act.

- (i) *What is the perquisite value of sweat equity shares allotted to Sri Chand?*
- (ii) *In the case of subsequent sale of those shares by Sri Chand, what would be the cost of acquisition of those sweat equity shares?*

SOLUTION

(i) As per section 17(2)(vi), the value of sweat equity shares chargeable to tax as perquisite shall be the fair market value of such shares on the date on which the option is exercised by the assessee as reduced by the amount actually paid by, or recovered from, the assessee in respect of such shares.

Particulars	₹
Fair market value of 1000 sweat equity shares @ ₹ 300 each	3,00,000
Less: Amount recovered from Sri Chand 1000 shares @ ₹ 200 each	2,00,000
Value of perquisite of sweat equity shares allotted to Sri Chand	1,00,000

(ii) As per section 49(2AA), where capital gain arises from transfer of sweat equity shares, the cost of acquisition of such shares shall be the fair market value which has been taken into account for perquisite valuation under section 17(2)(vi). (*The provisions of section 49 are discussed in Unit 4: Capital Gains of this chapter*)

Therefore, in case of subsequent sale of sweat equity shares by Sri Chand, the cost of acquisition would be ₹ 3,00,000.

(J) Valuation of specified security, not being an equity share in a company for the purpose of section 17(2)(vi) [Sub-rule (9)]

The fair market value of any specified security, not being an equity share in a company, on the date on which the option is exercised by the employee, shall be such value as determined by a merchant banker on the specified date.

For this purpose, “**specified date**” means,—

- (i) the date of exercising of the option; or
- (ii) any date earlier than the date of the exercising of the option, not being a date which is more than 180 days earlier than the date of the exercising.

Definitions for the purpose of perquisite rules -

The following definitions are relevant for applying the perquisite valuation rules -

Term	Meaning
Member of household	shall include - <ul style="list-style-type: none"> (a) spouse(s), (b) children and their spouses,

	<p>(c) parents, and (d) servants and dependants;</p>
Salary	<p>includes the pay, allowances, bonus or commission payable monthly or otherwise or any monetary payment, by whatever name called from one or more employers, as the case may be, but does not include the following, namely:-</p> <ul style="list-style-type: none"> (a) dearness allowance or dearness pay unless it enters into the computation of superannuation or retirement benefits of the employee concerned; (b) employer's contribution to the provident fund account of the employee; (c) allowances which are exempted from payment of tax; (d) the value of perquisites specified in clause (2) of section 17 of the Income-tax Act; (e) any payment or expenditure specifically excluded under proviso to clause (2) of section 17; (f) lump-sum payments received at the time of termination of service or superannuation or voluntary retirement, like gratuity, severance pay, leave encashment, voluntary retrenchment benefits, commutation of pension and similar payments;

ILLUSTRATION 22

X Ltd. provided the following perquisites to its employee Mr. Y for the P.Y. 2019-20 –

- (1) *Accommodation taken on lease by X Ltd. for ₹ 15,000 p.m. ₹ 5,000 p.m. is recovered from the salary of Mr. Y.*
- (2) *Furniture, for which the hire charges paid by X Ltd. is ₹ 3,000 p.m. No amount is recovered from the employee in respect of the same.*
- (3) *A Car of 1,200 cc which is owned by X Ltd. and given to Mr. Y to be used both for official and personal purposes. All running and maintenance expenses are fully met by the employer. He is also provided with a chauffeur.*
- (4) *A gift voucher of ₹ 10,000 on his birthday.*

Compute the value of perquisites chargeable to tax for the A.Y. 2020-21, assuming his salary for perquisite valuation to be ₹ 10 lakh.

SOLUTION**Computation of the value of perquisites chargeable to tax in the hands of Mr. Y for the A.Y.2020-21**

	Particulars	Amount in ₹		
(1)	Value of concessional accommodation Actual amount of lease rental paid by X Ltd. 15% of salary i.e., 15% of ₹ 10,00,000 Lower of the above Less: Rent paid by Mr. Y (₹ 5,000 × 12)	1,80,000 1,50,000 1,50,000 60,000 90,000		
	<i>Add: Hire charges paid by X Ltd. for furniture provided for the use of Mr. Y (₹ 3,000 × 12)</i>	36,000	1,26,000	
(2)	Perquisite value of Santro car owned by X Ltd. and provided to Mr. Y for his personal and official use [(₹ 1,800 + ₹ 900) × 12]		32,400	
(3)	Value of gift voucher*		10,000	
Value of perquisites chargeable to tax				1,68,400

* An alternate view possible is that only the sum in excess of ₹ 5,000 is taxable. In such a case, the value of perquisite would be ₹ 5,000



1.4 DEDUCTIONS FROM SALARY

The income chargeable under the head 'Salaries' is computed after making the following deductions:

- (1) Standard deduction [Section 16(ia)]
- (2) Entertainment allowance [Section 16(ii)]
- (3) Professional tax [Section 16(iii)]

1.4.1 Standard Deduction

A standard deduction of **₹ 50,000** or the amount of salary, whichever is lower, is to be provided to the employees.

1.4.2 Entertainment allowance

Entertainment allowance received is fully taxable and is first to be included in the salary and thereafter the following deduction is to be made:

However, deduction in respect of entertainment allowance is available in case of Government employees. The amount of deduction will be lower of:

- (i) One-fifth of his basic salary or
- (ii) ₹ 5,000 or
- (iii) Entertainment allowance received.

Amount actually spent by the employee towards entertainment out of the entertainment allowance received by him is not a relevant consideration at all.

1.4.3 Professional tax on employment

Professional tax or taxes on employment levied by a State under Article 276 of the Constitution is allowed as deduction only when it is actually paid by the employee during the previous year. The total amount by way of professional tax payable in respect of any one person shall not exceed ₹ 2,500 per annum.

If professional tax is reimbursed or directly paid by the employer on behalf of the employee, the amount so paid is first included as salary income and then allowed as a deduction u/s 16.

ILLUSTRATION 23

Mr. Goyal receives the following emoluments during the previous year ending 31.03.2020.

Basic pay	₹ 40,000
Dearness Allowance	₹ 15,000
Commission	₹ 10,000
Entertainment allowance	₹ 4,000
Medical expenses reimbursed	₹ 25,000
Professional tax paid	₹ 2,000 (₹ 1,000 was paid by his employer)

Mr. Goyal contributes ₹ 5,000 towards recognized provident fund. He has no other income. Determine the income from salary for A.Y. 2020-21, if Mr. Goyal is a State Government employee.

SOLUTION

Computation of salary of Mr. Goyal for the A.Y.2020-21

Particulars	₹	₹
Basic Salary		40,000
Dearness Allowance		15,000
Commission		10,000
Entertainment Allowance received		4,000
Employee's contribution to RPF [Note]		-
Medical expenses reimbursed		25,000
Professional tax paid by the employer		1,000
Gross Salary		95,000
Less: Deductions under section 16		
under section 16(ia) - Standard deduction of upto ₹ 50,000		50,000
under section 16(ii) - Entertainment allowance being lower of :		
(a) Allowance received	4,000	
(b) One fifth of basic salary $[1/5 \times ₹ 40,000]$	8,000	
(c) Statutory amount	5,000	4,000
under section 16(iii) - Professional tax paid		2,000
Income from Salary		39,000

Note: Employee's contribution to RPF is not taxable. It is eligible for deduction u/s 80C.



1.5 RELIEF UNDER SECTION 89

- On account of arrears of salary or advance salary:** Where by reason of any portion of an assessee's salary being paid in arrears or in advance or by reason of his having received in any one financial year, salary for more than twelve months or a payment of profit in lieu of salary under section 17(3), his

income is assessed at a rate higher than that at which it would otherwise have been assessed, the Assessing Officer shall, on an application made to him in this behalf, grant such relief as prescribed. The procedure for computing the relief is given in Rule 21A.

(2) **On account of family pension:** Similar tax relief is extended to assessees who receive arrears of family pension as defined in the *Explanation* to clause (iia) of section 57.

“Family pension” means a regular monthly amount payable by the employer to a person belonging to the family of an employee in the event of his death.

(3) **No relief at the time of Voluntary retirement or termination of service:** No relief shall be granted in respect of any amount received or receivable by an assessee on his voluntary retirement or termination of his service, in accordance with any scheme or schemes of voluntary retirement or a scheme of voluntary separation (in the case of a public sector company), if exemption under section 10(10C) in respect of such compensation received on voluntary retirement or termination of his service or voluntary separation has been claimed by the assessee in respect of the same assessment year or any other assessment year.

ILLUSTRATION 24

In the case of Mr. Hari, who turned 67 years on 28.3.2020, you are informed that the salary (computed) for the previous year 2019-20 is ₹ 10,20,000 and arrears of salary received is ₹ 3,45,000. Further, you are given the following details relating to the earlier years to which the arrears of salary received is attributable to:

Previous year	Taxable Salary (₹)	Arrears now received (₹)
2010 – 2011	7,10,000	1,03,000
2011 – 2012	8,25,000	1,17,000
2012 – 2013	9,50,000	1,25,000

Compute the relief available under section 89 and the tax payable for the A.Y. 2020-21.

Note: Rates of Taxes:

Assessment Year	Slab rates of income-tax			
	For resident individuals of the age of 60 years or more at any time during the previous year		For other resident individuals	
	Slabs	Rate	Slabs	Rate
2011-12	Upto ₹ 2,40,000	Nil	Upto ₹ 1,60,000	Nil
	₹ 2,40,001 - ₹ 5,00,000	10%	₹ 1,60,001 - ₹ 5,00,000	10%
	₹ 5,00,001 - ₹ 8,00,000	20%	₹ 5,00,001 - ₹ 8,00,000	20%
	Above ₹ 8,00,000	30%	Above ₹ 8,00,000	30%
2012-13	Upto ₹ 2,50,000	Nil	Upto ₹ 1,80,000	Nil
	₹ 2,50,001 - ₹ 5,00,000	10%	₹ 1,80,001 - ₹ 5,00,000	10%
	₹ 5,00,001 - ₹ 8,00,000	20%	₹ 5,00,001 - ₹ 8,00,000	20%
	Above ₹ 8,00,000	30%	Above ₹ 8,00,000	30%
2013-14	Upto ₹ 2,50,000	Nil	Upto ₹ 2,00,000	Nil
	₹ 2,50,001 - ₹ 5,00,000	10%	₹ 2,00,001 - ₹ 5,00,000	10%
	₹ 5,00,001 - ₹ 10,00,000	20%	₹ 5,00,001 - ₹ 10,00,000	20%
	Above ₹ 10,00,000	30%	Above ₹ 10,00,000	30%

Note – Education cess@2% and secondary and higher education cess@1% was attracted on the income-tax for all above preceding years.

SOLUTION**Computation of tax payable by Mr. Hari for the A.Y.2020-21**

Particulars	Incl. arrears of salary ₹	Excl. arrears of salary ₹
Current year salary (computed)	10,20,000	10,20,000
Add: Arrears of salary	3,45,000	-
Taxable Salary	13,65,000	10,20,000
Income-tax thereon	2,19,500	1,16,000
Add : Health and education cess @4%	8,780	4,640
Total payable	2,28,280	1,20,640

Computation of tax payable on arrears of salary if charged to tax in the respective AYs

Particulars	A.Y. 2011-12		A.Y. 2012-13		A.Y. 2013-14	
	Incl. arrears (₹)	Excl. arrears (₹)	Incl. arrears (₹)	Excl. arrears (₹)	Incl. arrears (₹)	Excl. arrears (₹)
Taxable salary	7,10,000	7,10,000	8,25,000	8,25,000	9,50,000	9,50,000
Add: Arrears of salary	1,03,000	-	1,17,000	-	1,25,000	-
Taxable salary	8,13,000	7,10,000	9,42,000	8,25,000	10,75,000	9,50,000
Tax on the above	97,900	76,000	1,34,600	99,500	1,47,500	1,15,000
Add: Cess@3%	2,937	2,280	4,038	2,985	4,425	3,450
Tax payable	1,00,837	78,280	1,38,638	1,02,485	1,51,925	1,18,450

Computation of relief under section 89

	Particulars	₹	₹
i	Tax payable in A.Y.2020-21 on arrears: Tax on income including arrears <i>Less</i> : Tax on income excluding arrears	2,28,280 1,20,640	1,07,640
ii	Tax payable in respective years on arrears : Tax on income including arrears (₹ 1,00,837 + ₹ 1,38,638 + ₹ 1,51,925) <i>Less</i> : Tax on income excluding arrears (₹ 78,280 + ₹ 1,02,485 + ₹ 1,18,450)	3,91,400 2,99,215	92,185
	Relief under section 89 - difference between tax on arrears in A.Y 2020-21 and tax on arrears in the respective years		15,455

Tax payable for A.Y.2020-21 after relief under section 89

Particulars	₹
Income-tax payable on total income including arrears of salary	2,28,280
<i>Less</i> : Relief under section 89 as computed above	15,455
Tax payable after claiming relief	2,12,825



1.6 SALARY FROM UNITED NATIONS ORGANISATION

Section 2 of the United Nations (Privileges and Immunities) Act, 1947 grants exemption from income-tax to salaries and emoluments paid by the United Nations to its officials. Besides salary, any pension covered under the United Nations (Privileges and Immunities) Act and received from UNO is also exempt from tax.

EXERCISE

Question 1

Mr. Mohit is employed with XY Ltd. on a basic salary of ₹ 10,000 p.m. He is also entitled to dearness allowance @ 100% of basic salary, 50% of which is included in salary as per terms of employment. The company gives him house rent allowance of ₹ 6,000 p.m. which was increased to ₹ 7,000 p.m. with effect from 01.01.2020. He also got an increment of ₹ 1,000 p.m. in his basic salary with effect from 01.02.2020. Rent paid by him during the previous year 2019-20 is as under:

April and May, 2019

- Nil, as he stayed with his parents

June to October, 2019

- ₹ 6,000 p.m. for an accommodation in Ghaziabad

November, 2019 to March, 2020

- ₹ 8,000 p.m. for an accommodation in Delhi

Compute his gross salary for assessment year 2020-21.

Answer

Computation of gross salary of Mr. Mohit for A.Y. 2020-21

Particulars	₹
Basic salary [(₹ 10,000 × 10) + (₹ 11,000 × 2)]	1,22,000
Dearness Allowance (100% of basic salary)	1,22,000
House Rent Allowance (See Note below)	21,300
Gross Salary	2,65,300

Note: Computation of Taxable House Rent Allowance (HRA)

Particulars	April-May (₹)	June-Oct (₹)	Nov-Dec (₹)	Jan (₹)	Feb-March (₹)
Basic salary per month	10,000	10,000	10,000	10,000	11,000
Dearness allowance (included in salary as per terms of employment) (50% of basic salary)	5,000	5,000	5,000	5,000	5,500
Salary per month for the purpose of computation of house rent allowance	15,000	15,000	15,000	15,000	16,500
Relevant period (in months)	2	5	2	1	2

Salary for the relevant period (Salary per month \times relevant period)	30,000	75,000	30,000	15,000	33,000
Rent paid for the relevant period	Nil ($\text{₹ } 6,000 \times 5$)	30,000 ($\text{₹ } 8,000 \times 2$)	16,000 ($\text{₹ } 8,000 \times 1$)	8,000 ($\text{₹ } 8,000 \times 2$)	16,000
House rent allowance (HRA) received during the relevant period (A)	12,000 ($\text{₹ } 6,000 \times 2$)	30,000 ($\text{₹ } 6,000 \times 5$)	12,000 ($\text{₹ } 6,000 \times 2$)	7,000 ($\text{₹ } 7,000 \times 1$)	14,000 ($\text{₹ } 7,000 \times 2$)
Least of the following is exempt [u/s 10(13A)]	N.A.				
1. Actual HRA received	-	30,000	12,000	7,000	14,000
2. Rent paid (-) 10% of salary	-	22,500	13,000	6,500	12,700
3. 40% of salary (Residence at Ghaziabad – June to Oct, 2019)	- (40% \times ₹ 75,000)	30,000 (50% \times ₹ 30,000)	15,000 (50% \times ₹ 15,000)	7,500 (50% \times ₹ 33,000)	16,500
50% of salary (Residence at Delhi – Nov, 19 – March, 20)	Nil	22,500	12,000	6,500	12,700
Exempt HRA (B)	Nil				
Taxable HRA [Actual HRA (-) Exempt HRA] (A-B)	12,000	7,500	Nil	500	1,300

Taxable HRA (total) = ₹ 12,000 + ₹ 7,500 + ₹ 500 + ₹ 1,300 = ₹ 21,300

Question 2

Ms. Rakhi is an employee in a private company. She receives the following medical benefits from the company during the previous year 2019-20:

	Particulars	₹
1	<i>Reimbursement of following medical expenses incurred by Ms. Rakhi</i> (A) <i>On treatment of her self employed daughter in a private clinic</i> (B) <i>On treatment of herself by family doctor</i> (C) <i>On treatment of her mother-in-law dependent on her, in a nursing home</i>	4,000 8,000 5,000
2	<i>Payment of premium on Mediclaim Policy taken on her health</i>	7,500

3	<i>Medical Allowance</i>	2,000 p.m.
4	<i>Medical expenses reimbursed on her son's treatment in a government hospital</i>	5,000
5	<i>Expenses incurred by company on the treatment of her minor son abroad</i>	1,05,000
6	<i>Expenses in relation to foreign travel and stay of Rakhi and her son abroad for medical treatment</i> <i>(Limit prescribed by RBI for this is ₹ 2,00,000)</i>	1,20,000

Examine the taxability of the above benefits and allowances in the hands of Rakhi.

Answer

Tax treatment of medical benefits, allowances and mediclaim premium in the hands of Ms. Rakhi for A.Y. 2020-21

	Particulars
1.	Reimbursement of medical expenses incurred by Ms. Rakhi
	<p>(A) The amount of ₹ 4,000 reimbursed by her employer for treatment of her self-employed daughter in a private clinic is taxable perquisite.</p> <p>(B) The amount of ₹ 8,000 reimbursed by the employer for treatment of Ms. Rakhi by family doctor is taxable perquisite.</p> <p>(C) The amount of ₹ 5,000 reimbursed by her employer for treatment of her dependant mother-in-law in a nursing home is taxable perquisite.</p> <p>The aggregate sum of ₹ 17,000, specified in (A), (B) and (C) above, reimbursed by the employer is taxable perquisite</p>
2.	Medical insurance premium of ₹ 7,500 paid by the employer for insuring health of Ms. Rakhi is an exempt perquisite as per clause (iii) of the first proviso to section 17(2).
3.	Medical allowance of ₹ 2,000 per month i.e., ₹ 24,000 p.a. is a fully taxable allowance.
4.	As per clause (ii)(a) of the first proviso to section 17(2), reimbursement of medical expenses of ₹ 5,000 on her son's treatment in a hospital maintained by the Government is an exempt perquisite.
5. & 6.	As per clause (vi) of the first proviso to section 17(2), the following expenditure incurred by the employer would be excluded from perquisite subject to certain conditions –

	<p>(i) Expenditure on medical treatment of the employee, or any member of the family of such employee, outside India [₹ 1,05,000, in this case];</p> <p>(ii) Expenditure on travel and stay abroad of the employee or any member of the family of such employee for medical treatment and one attendant who accompanies the patient in connection with such treatment [₹ 1,20,000, in this case].</p>
	<p>The conditions subject to which the above expenditure would be exempt are as follows -</p>
	<p>(i) The expenditure on medical treatment and stay abroad would be excluded from perquisite to the extent permitted by Reserve Bank of India;</p> <p>(ii) The expenditure on travel would be excluded from perquisite only in the case of an employee whose gross total income, as computed before including the said expenditure, does not exceed ₹ 2 lakh.</p>
	<p>Assuming that the limit of ₹ 2 lakh prescribed by RBI pertains to both expenditure on medical treatment of minor son as well as expenditure on stay abroad of Ms. Rakhi and her minor son, such expenditure would be excluded from perquisite subject to a maximum of ₹ 2 lakh. If such expenditure is less than ₹ 2 lakh, it would be fully excluded. The foreign travel expenditure of Ms. Rakhi and her minor son borne by the employer would be excluded from perquisite only if the gross total income of Ms. Rakhi, as computed before including the said expenditure, does not exceed ₹ 2 lakh.</p>

Question 3

Mr. X is employed with AB Ltd. on a monthly salary of ₹ 25,000 per month and an entertainment allowance and commission of ₹ 1,000 p.m. each. The company provides him with the following benefits:

1. A company owned accommodation is provided to him in Delhi. Furniture costing ₹ 2,40,000 was provided on 1.8.2019.
2. A personal loan of ₹ 5,00,000 on 1.7.2019 on which it charges interest @ 6.75% p.a. The entire loan is still outstanding. (Assume SBI rate of interest on 1.4.2019 was 12.75% p.a.)
3. His son is allowed to use a motor cycle belonging to the company. The company had purchased this motor cycle for ₹ 60,000 on 1.5.2016. The motor cycle was finally sold to him on 1.8.2019 for ₹ 30,000.

4. Professional tax paid by Mr. X is ₹ 2,000.

Compute the income from salary of Mr. X for the A.Y. 2020-21.

Answer

Computation of Income from Salary of Mr. X for the A.Y. 2020-21

Particulars	₹	₹
Basic salary [₹ 25,000 × 12]		3,00,000
Commission [₹ 1,000 × 12]		12,000
Entertainment allowance [₹ 1,000 × 12]		12,000
Rent free accommodation [Note 1]	48,600	
Add : Value of furniture [₹ 2,40,000 × 10% p.a. for 8 months]	16,000	64,600
Interest on personal loan [Note 2]		22,500
Use of motor cycle [₹ 60,000 × 10% p.a. for 4 months]		2,000
Transfer of motor cycle [Note 3]		12,000
Gross Salary		4,25,100
Less : Deduction under section 16		
Under section 16(ia) – Standard deduction	50,000	
Under section 16(iii) - Professional tax paid	2,000	52,000
Income from Salary		3,73,100

Note 1: Value of rent free unfurnished accommodation

$$\begin{aligned}
 &= 15\% \text{ of salary for the relevant period} \\
 &= 15\% \text{ of } (\text{₹ } 3,00,000 + \text{₹ } 12,000 + \text{₹ } 12,000) = \text{₹ } 48,600
 \end{aligned}$$

Note 2: Value of perquisite for interest on personal loan

$$= [\text{₹ } 5,00,000 \times (12.75\% - 6.75\%) \text{ for 9 months}] = \text{₹ } 22,500$$

Note 3: Depreciated value of the motor cycle

$$\begin{aligned}
 &= \text{Original cost} - \text{Depreciation @ 10% p.a. for 3 completed years.} \\
 &= \text{₹ } 60,000 - (\text{₹ } 60,000 \times 10\% \text{ p.a.} \times 3 \text{ years}) = \text{₹ } 42,000. \\
 &\text{Perquisite} = \text{₹ } 42,000 - \text{₹ } 30,000 = \text{₹ } 12,000.
 \end{aligned}$$

Question 4

Mr. Balaji, employed as Production Manager in Beta Ltd., furnishes you the following information for the year ended 31.03.2020:

(i) Basic salary upto 31.10.2019 ₹ 50,000 p.m.

Basic salary from 01.11.2019 ₹ 60,000 p.m.

Note: Salary is due and paid on the last day of every month.

(ii) Dearness allowance @ 40% of basic salary.

(iii) Bonus equal to one month salary. Paid in October 2019 on basic salary plus dearness allowance applicable for that month.

(iv) Contribution of employer to recognized provident fund account of the employee@16% of basic salary.

(v) Professional tax paid ₹ 2,500 of which ₹ 2,000 was paid by the employer.

(vi) Facility of laptop and computer was provided to Balaji for both official and personal use. Cost of laptop ₹ 45,000 and computer ₹ 35,000 were acquired by the company on 01.12.2019.

(vii) Motor car owned by the employer (cubic capacity of engine exceeds 1.60 litres) provided to the employee from 01.11.2019 meant for both official and personal use. Repair and running expenses of ₹ 45,000 from 01.11.2019 to 31.03.2020, were fully met by the employer. The motor car was self-driven by the employee.

(viii) Leave travel concession given to employee, his wife and three children (one daughter aged 7 and twin sons aged 3). Cost of air tickets (economy class) reimbursed by the employer ₹ 30,000 for adults and ₹ 45,000 for three children. Balaji is eligible for availing exemption this year to the extent it is permissible in law.

Compute the salary income chargeable to tax in the hands of Mr. Balaji for the assessment year 2020-21.

Answer

Computation of Taxable Salary of Mr. Balaji for A.Y. 2020-21

Particulars	₹
Basic salary [(₹ 50,000 × 7) + (₹ 60,000 × 5)]	6,50,000
Dearness Allowance (40% of basic salary)	2,60,000
Bonus (₹ 50,000 + 40% of ₹ 50,000) (See Note 1)	70,000
Employers contribution to recognised provident fund in excess of 12% of salary = 4% of ₹ 6,50,000 (See Note 2)	26,000

Professional tax paid by employer	2,000
Perquisite of Motor Car (₹ 2,400 for 5 months) (See Note 4)	12,000
Gross Salary	10,20,000
Less: Deduction under section 16	
Standard deduction u/s 16(ia)	₹ 50,000
Professional tax u/s 16(iii) (See Note 6)	₹ 2,500
Taxable Salary	9,67,500

Notes:

1. Since bonus was paid in the month of October, the basic salary of ₹ 50,000 for the month of October is considered for its calculation.
2. It is assumed that dearness allowance does not form part of salary for computing retirement benefits.
3. As per Rule 3(7)(vii), facility of use of laptop and computer is an exempt perquisite, whether used for official or personal purpose or both.
4. As per the provisions of Rule 3(2), in case a motor car (engine cubic capacity exceeding 1.60 liters) owned by the employer is provided to the employee without chauffeur for personal as well as office use, the value of perquisite shall be ₹ 2,400 per month. The car was provided to the employee from 01.11.2019, therefore the perquisite value has been calculated for 5 months.
5. Mr. Balaji can avail exemption under section 10(5) on the entire amount of ₹ 75,000 reimbursed by the employer towards Leave Travel Concession since the same was availed for himself, his wife and three children and the journey was undertaken by economy class airfare. The restriction imposed for two children is not applicable in case of multiple births which take place after the first child.

It is assumed that the Leave Travel Concession was availed for journey within India.

6. As per section 17(2)(iv), a "perquisite" includes any sum paid by the employer in respect of any obligation which, but for such payment, would have been payable by the assessee. Therefore, professional tax of ₹ 2,000 paid by the employer is taxable as a perquisite in the hands of Mr. Balaji. As per section 16(iii), a deduction from the salary is provided on account of tax on employment i.e. professional tax paid during the year.

Therefore, in the present case, the professional tax paid by the employer on behalf of the employee ₹ 2,000 is first included in the salary and deduction of the entire professional tax of ₹ 2,500 is provided from salary.

Question 5

From the following details, find out the salary chargeable to tax for the A.Y.2020-21 - Mr. X is a regular employee of Rama & Co., in Gurgaon. He was appointed on 1.1.2019 in the scale of ₹ 20,000 - ₹ 1,000 - ₹ 30,000. He is paid 10% D.A. & Bonus equivalent to one month pay based on salary of March every year. He contributes 15% of his pay and D.A. towards his recognized provident fund and the company contributes the same amount.

He is provided free housing facility which has been taken on rent by the company at ₹ 10,000 per month. He is also provided with following facilities:

- (i) Facility of laptop costing ₹ 50,000.
- (ii) Company reimbursed the medical treatment bill of his brother of ₹ 25,000, who is dependent on him.
- (iii) The monthly salary of ₹ 1,000 of a house keeper is reimbursed by the company.
- (iv) A gift voucher of ₹ 10,000 on the occasion of his marriage anniversary.
- (v) Conveyance allowance of ₹ 1,000 per month is given by the company towards actual reimbursement.
- (vi) He is provided personal accident policy for which premium of ₹ 5,000 is paid by the company.
- (vii) He is getting telephone allowance @ ₹ 500 per month.

Answer

Computation of taxable salary of Mr. X for A.Y. 2020-21

Particulars	₹
Basic pay [(₹ 20,000 × 9) + (₹ 21,000 × 3)] = ₹ 1,80,000 + ₹ 63,000	2,43,000
Dearness allowance [10% of basic pay]	24,300
Bonus	21,000
Employer's contribution to Recognized Provident Fund in excess of 12% (15%-12% = 3% of ₹ 2,67,300) [See Note 1 below]	8,019

Taxable allowances	
Telephone allowance	6,000
Taxable perquisites	
Rent-free accommodation [See Note 1 & 2 below]	44,145
Medical reimbursement	25,000
Reimbursement of salary of housekeeper	12,000
Gift voucher [See Note 5 below]	10,000
Gross Salary	3,93,464
Less: Deduction under section 16(ia) – Standard deduction	50,000
Salary income chargeable to tax	3,43,464

Notes:

1. It has been assumed that dearness allowance forms part of salary for retirement benefits and accordingly, the perquisite value of rent-free accommodation and employer's contribution to recognized provident fund have been worked out.
2. Where the accommodation is taken on lease or rent by the employer, the value of rent-free accommodation provided to employee would be actual amount of lease rental paid or payable by the employer or 15% of salary, whichever is lower.

For the purposes of valuation of rent free house, salary includes:

- (i) Basic salary i.e., ₹ 2,43,000
- (ii) Dearness allowance (assuming that it is included for calculating retirement benefits) i.e. ₹ 24,300
- (iii) Bonus i.e., ₹ 21,000
- (iv) Telephone allowance i.e., ₹ 6,000

Therefore, salary works out to

$$₹ 2,43,000 + ₹ 24,300 + ₹ 21,000 + ₹ 6,000 = ₹ 2,94,300.$$

$$15\% \text{ of salary} = ₹ 2,94,300 \times 15/100 = ₹ 44,145$$

Value of rent-free house = Lower of rent paid by the employer (i.e. ₹ 1,20,000) or 15% of salary (i.e., ₹ 44,145).

Therefore, the perquisite value is ₹ 44,145.

3. Facility of use of laptop is not a taxable perquisite.
4. Conveyance allowance is exempt since it is based on actual reimbursement for official purposes.
5. The value of any gift or voucher or token in lieu of gift received by the employee or by member of his household below ₹ 5,000 in aggregate during the previous year is exempt. In this case, the gift voucher was received on the occasion of marriage anniversary and the sum exceeds the limit of ₹ 5,000.

Therefore, the entire amount of ₹ 10,000 is liable to tax as perquisite.

Note - An alternate view possible is that only the sum in excess of ₹ 5,000 is taxable. In such a case, the value of perquisite would be ₹ 5,000.

6. Premium of ₹ 5,000 paid by the company for personal accident policy is not liable to tax.

LET US RECAPITULATE

Basis of Charge [Section 15]

(i)	Salary is chargeable to tax either on 'due' basis or on 'receipt' basis, whichever is earlier.
(ii)	However, where any salary, paid in advance, is assessed in the year of payment, it cannot be subsequently brought to tax in the year in which it becomes due.
(iii)	If the salary paid in arrears has already been assessed on due basis, the same cannot be taxed again when it is paid.

Taxability/Exemption of certain Allowances

Section	Allowance	Exemption
10(13A)	House Rent Allowance	<p>Least of the following is exempt:</p> <p>(a) HRA actually received</p> <p>(b) Rent paid less 10% of salary</p> <p>(c) 50% of salary, if accommodation is located in Mumbai, Kolkata, Delhi or Chennai 40% of salary, if the accommodation is located in any other city.</p>

10(14)(ii)	Children education allowance	₹ 100 per month per child upto maximum of two children
	Transport allowance for commuting between the place of residence and the place of duty	₹ 3,200 per month for an employee who is blind or deaf and dumb or orthopedically handicapped
	Hostel expenditure of employee's children	₹ 300 per month per child up to a maximum of two children

Exemption of Terminal Benefits

Section	Component of salary	Category of employee	Particulars [Taxability / Exemption under section 10]
10(10)	Gratuity	Central Government employees/ Members of Civil Services/ local authority employees etc.	Fully exempt u/s 10(10)(i)
		Other employees	<p>Least of the following is exempt :</p> <p>(i) Gratuity actually received</p> <p><u>In case of employees covered by the Payment of Gratuity Act, 1972</u></p> <p>(ii) $15/26 \times \text{last drawn salary} \times \text{number of completed years or part in excess of six months}$</p> <p>(iii) ₹ 20,00,000</p>

			<p><u>In case of employees not covered by the Payment of Gratuity Act, 1972</u></p> <p>(ii) $1/2 \times \text{average salary of last 10 months} \times \text{number of completed years of service}$ (fraction to be ignored).</p> <p>(iii) ₹ 20,00,000</p>
10(10A)	Pension		
	Uncommuted pension	Government & Non-Government employees	Fully taxable
	Commutued pension	Employees of Central Government/ local authorities/ Statutory corporation/ members of Civil services/ All-India services/ Defence Services	Fully exempt under section 10(10A)(i)
		Other Employees	<p><u>If the employee is in receipt of gratuity</u> $1/3 \times (\text{commuted pension received} \div \text{commutation \%}) \times 100$</p> <p><u>If the employee is not in receipt of gratuity</u> $1/2 \times (\text{commuted pension received} \div \text{commutation \%}) \times 100$</p>

10(10AA)	Leave Salary		
	Received during service	Government & Non-Government	Fully taxable
	Received at the time of retirement, (whether on superannuation or otherwise)	Government	Fully exempt u/s 10(10AA)(i)
		Non-Government	<p>Least of the following is exempt :</p> <p>(i) ₹ 3,00,000</p> <p>(ii) Leave salary actually received</p> <p>(iii) Cash equivalent of leave standing at the credit of the employee [based on average salary of last 10 months] (maximum 30 days for every year of service)</p> <p>(iv) 10 months' salary (based on average salary of last 10 months preceding retirement)</p>
10(10B)	Retrenchment Compensation		<p>Least of the following is exempt :</p> <p>(i) Compensation actually received</p> <p>(ii) ₹ 5,00,000</p> <p>(iii) 15 days average pay × Completed years of service and part thereof in excess of 6 months</p>
10(10C)	Voluntary Retirement Compensation	Central and State Government, Public sector company, any other company, local authority, co-operative society, IIT etc.	<p>Least of the following is exempt :</p> <p>(i) Compensation actually received</p> <p>(ii) ₹ 5,00,000</p> <p>(iii) 3 months' salary × completed years of service</p> <p>(iv) Last drawn salary × remaining months of services left</p>

Section 10(5) [Leave Travel Concession]

Exemption is available for 2 trips in a block of 4 calendar years.

S. No.	Journey performed by	Exemption
1	Air	Amount not exceeding air economy fare by the shortest route.
2	Any other mode : <ul style="list-style-type: none"> (i) Where rail service is available (ii) Where rail service is not available <ul style="list-style-type: none"> a) and public transport does not exist b) but public transport exists. 	Amount not exceeding air conditioned first class rail fare by the shortest route to the place of destination Amount equivalent to air conditioned first class rail fares by the shortest route, as if the journey had been performed by rail Amount not exceeding the first class or deluxe class fare by the shortest route to the place of destination

Provident Funds - Exemption & Taxability provisions

Particulars	Recognized PF	Unrecognized PF	Statutory PF	Public PF
Employer's Contribution	Amount in excess of 12% of salary is taxable	Not taxable yearly	Fully exempt	N.A.
Employee's Contribution	Eligible for deduction u/s 80C	Not eligible for deduction	Eligible for deduction u/s 80C	Eligible for deduction u/s 80C
Interest Credited	Amount in excess of 9.5% p.a. is taxable	Not taxable yearly	Fully exempt	Fully exempt
Amount received on retirement, etc.	Exempt from tax if <ul style="list-style-type: none"> (i) employee served a continuous period of 5 years or more; or 	Employer's contribution and interest thereon is taxable as salary. Employee's	Fully exempt u/s 10(11)	Fully exempt u/s 10(11)

	<p>(ii) retires before rendering 5 years of service because of ill health, contraction or discontinuous of employer's business or reason beyond the control of the employee; or</p> <p>(iii) on cessation of employment, the employee obtains employment with any other employer, to the extent the accumulated balance in RPF is transferred to his RPF account maintained by the new employer.</p> <p>(iv) The entire balance standing to the credit of the employee is transferred to his NPS account referred to in section 80CCD and notified by the Central Government</p> <p>In other cases, it will be taxable.</p>	<p>contribution is not taxable. Interest on employee's contribution is taxable under income from other source.</p>		
--	---	--	--	--

Valuation of Perquisites [Section 17(2) read with Rule 3]											
(I) Rent-free residential accommodation											
S. No.	Category of Employee	Unfurnished accommodation	Furnished accommodation								
(A)	(B)	(C)	(D)								
1	Government employee	License fee determined as per Government rules as reduced by the rent actually paid by the employee.	<p>Value determined under column (C)</p> <p>Add: 10% p.a. of the furniture cost.</p> <p>However, if the furniture is hired, then hire charges payable/paid should be added to the value determined under column (C),</p> <p>as reduced by charges recovered from employee.</p>								
2	Non-government employee	<p>Where accommodation is owned by employer</p> <table border="1"> <thead> <tr> <th>Location</th> <th>Perquisite value</th> </tr> </thead> <tbody> <tr> <td>In cities having a population > 25 lacs as per 2001 census</td><td>15% of salary</td></tr> <tr> <td>In cities having a population > 10 lacs ≤ 25 lacs as per 2001 census</td><td>10% of salary</td></tr> <tr> <td>In other areas</td><td>7.5% of salary</td></tr> </tbody> </table> <p>The perquisite value should be arrived at by reducing the rent, if</p>	Location	Perquisite value	In cities having a population > 25 lacs as per 2001 census	15% of salary	In cities having a population > 10 lacs ≤ 25 lacs as per 2001 census	10% of salary	In other areas	7.5% of salary	<p>Value determined under column (C)</p> <p>Add: 10% p.a. of the furniture cost.</p> <p>However, if the furniture is hired, then hire charges payable/paid should be added to the value determined under column (C),</p> <p>as reduced by charges recovered from employee.</p>
Location	Perquisite value										
In cities having a population > 25 lacs as per 2001 census	15% of salary										
In cities having a population > 10 lacs ≤ 25 lacs as per 2001 census	10% of salary										
In other areas	7.5% of salary										

	any, actually paid by the employee, from the above value.	
	<p><u>Where the accommodation is taken on lease or rent by employer</u></p> <p>Lower of the following is taxable:</p> <p>(a) actual amount of lease rent paid or payable by employer or</p> <p>(b) 15% of salary</p> <p>The lower of the above should be reduced by the rent, actually paid by the employee, to arrive at the perquisite value.</p>	<p>Value determined under column (C)</p> <p>Add: 10% p.a. of the furniture cost.</p> <p>However, if the furniture is hired, then hire charges payable/paid should be added to the value determined under column (C),</p> <p>as reduced by</p> <p>charges recovered from employee.</p>

(II) Interest free or concessional loan

In respect of any loan given by employer to employee or any member of his household (excluding for medical treatment for specified ailments or where loans amount in aggregate does not exceed ₹ 20,000), the interest at the rate charged by SBI as on the first day of the relevant previous year at maximum outstanding monthly balance (aggregate outstanding balance for each loan as on the last day of each month) as reduced by the interest, if any, actually paid by him or any member of his household.

(III) Use of movable assets by employee/ any member of his household

Asset given	Value of benefit
(a) Use of laptops and computers	Nil
(b) Movable assets, other than - (i) laptops and computers; and (ii) assets already specified	10% p.a. of the actual cost of such asset, or the amount of rent or charge paid, or payable by the employer, as the case may be (-) Amount paid by/ recovered from an employee

(IV) Transfer of movable assets

Actual cost of asset to employer (-) cost of normal wear and tear (-) amount paid or recovered from employee

Assets transferred	Value of perquisite
Computers and electronic items	@50% on WDV for each completed year of usage
Motor cars	@20% on WDV for each completed year of usage
Any other asset	@10% of actual cost of such asset to employer for each completed year of usage [on SLM basis]

(V) Motor car

S. No.	Car owned/ hired by	Expenses met by	Wholly official use	Partly personal use (c)	
				cc of engine	Perquisite value
1	Employer	Employer	Not a perquisite*	upto 1.6 litres	₹ 1,800 p.m.
				above 1.6 litres	₹ 2,400 p.m.
				If chauffeur is also provided, ₹ 900 p.m. should be added to the above value.	
2	Employee	Employer	Not a perquisite*	Actual amount of expenditure incurred by the employer as reduced by the perquisite value arrived at in (1) above.	
3	Employer	Employee	-	cc of engine	Perquisite value
				upto 1.6 litres	₹ 600 p.m.
				above 1.6 litres	₹ 900 p.m.
				If chauffeur is also provided, ₹ 900 p.m. should be added to the above value.	

* Provided employer maintains the complete details of such journey and expenditure thereon and gives a certificate that such expenditure are incurred wholly for official use.

Note: Where car is owned by employer and expenses are also met by the employer, the taxable perquisites in case such car is used wholly for personal purposes of the employee would be equal to the actual expenditure incurred by the employer on running and maintenance expenses and normal wear and tear (calculated @10% p.a. of actual cost of motor car) less amount charged from the employee for such use.

Meaning of Salary:		
S. No.	Calculation of exemption of Allowance / Terminal benefit / Valuation of perquisite	Meaning of salary
1	Gratuity (in case of non-Government employees covered by the Payment of Gratuity Act, 1972)	Basic salary and dearness allowance.
2	a) Gratuity (in case of non- Government employee not covered by Payment of Gratuity Act, 1972) b) Leave Salary c) House Rent Allowance d) Recognized Provident Fund e) Voluntary Retirement Compensation	Basic salary and dearness allowance, if provided in terms of employment, and commission calculated as a fixed percentage of turnover.
3	Rent free accommodation and concessional accommodation	All pay, allowance, bonus or commission or any monetary payment by whatever name called but excludes- (1) Dearness allowance not forming part of computation of superannuation or retirement benefit (2) employer's contribution to the provident fund account of the employee; (3) allowances which are exempted from the payment of tax; (4) value of the perquisites specified in section 17(2); (5) any payment or expenditure specifically excluded under the proviso to section 17(2) i.e., payment of medical

		<p>insurance premium specified therein.</p> <p>(6) lump-sum payments received at the time of termination of service or superannuation or voluntary retirement, like gratuity, leave encashment, voluntary retirement benefits, commutation of pension and similar payments.</p>
--	--	---

Deductions from gross salary [Section 16]

(1)	Standard deduction [Section 16(ia)] Standard deduction of upto ₹ 50,000.
(2)	Entertainment allowance (allowable only in the case of government employees) [Section 16(ii)] Least of the following is allowed as deduction:
(1)	₹ 5,000
(2)	1/5 th of basic salary
(3)	Actual entertainment allowance received
(3)	Professional tax [Section 16(iii)] Any sum paid by the assessee on account of tax on employment is allowable as deduction. In case professional tax is paid by employer on behalf of employee, the amount paid shall be included in gross salary as a perquisite and then deduction can be claimed.

Relief when salary is paid in arrears or in advance [Section 89]

Step 1	Calculate tax payable of the previous year in which the arrears/advance salary is received by considering:
	(a) Total Income inclusive of additional salary
	(b) Total Income exclusive of additional salary
Step 2	Compute the difference the tax calculated in Step 1 and Step 2 i.e., (a) – (b)

Step 3	Calculate the tax payable of every previous year to which the additional salary relates:	
	(a)	On total income including additional salary of that particular previous year
	(b)	On total income excluding additional salary.
Step 4	Calculate the difference between (a) and (b) in Step 3 for every previous year to which the additional salary relates and aggregate the same.	
Step 5	Relief under section 89(1) = Amount calculated in Step 2 – Amount calculated in Step 4	



TEST YOUR KNOWLEDGE

1. *The maximum ceiling limit for exemption under section 10(10) in respect of gratuity for employees covered by the Payment of Gratuity Act, 1972 is -*
(a) ₹ 10,00,000
(b) ₹ 5,00,000
(c) ₹ 3,50,000
(d) ₹ 20,00,000
2. *The maximum ceiling limit for exemption under section 10(10C) with respect to compensation received on voluntary retirement is -*
(a) ₹ 2,50,000
(b) ₹ 3,00,000
(c) ₹ 3,50,000
(d) ₹ 5,00,000
3. *The HRA paid to an employee residing in Patna is exempt up to the lower of actual HRA, excess of rent paid over 10% of salary and -*
(a) 30% of salary
(b) 40% of salary
(c) 50% of salary
(d) 60% of salary
4. *Anirudh stays in New Delhi. His basic salary is ₹ 10,000 p.m., D.A. (60% of which forms part of pay) is ₹ 6,000 p.m., HRA is ₹ 5,000 p.m. and he is entitled to a commission of 1% on the turnover achieved by him. Anirudh pays a rent of ₹ 5,500 p.m. The turnover achieved by him during the current year is ₹ 12 lakhs. The amount of HRA exempt under section 10(13A) is -*
(a) ₹ 48,480
(b) ₹ 45,600
(c) ₹ 49,680
(d) ₹ 46,800

5. *Where there is a decision to increase the D.A. in March, 2020 with retrospective effect from 1.4.2018, and the increased D.A. is received in April, 2020, the increase is taxable -*

- in the previous year 2018-19*
- in the previous year 2019-20*
- in the previous year 2020-21*
- in the respective years to which they relate*

6. *Rajesh is provided with a rent free unfurnished accommodation, which is owned by his employer, XY Pvt. Ltd., in New Delhi. The value of perquisite in the hands of Rajesh is -*

- 20% of salary*
- 15% of salary*
- 10% of salary*
- 7.5% of salary*

7. *Anand is provided with furniture to the value of ₹ 70,000 along with house from February, 2019. The actual hire charges paid by his employer for hire of furniture is ₹ 5,000 p.a.. The value of furniture to be included along with value of unfurnished house for A.Y.2020-21 is-*

- ₹ 5,000*
- ₹ 7,000*
- ₹ 10,500*
- ₹ 14,000*

8. *For the purpose of determining the perquisite value of loan at concessional rate given to the employee, the lending rate of State Bank of India as on _____ is required;*

- 1st day of the relevant previous year*
- Last day of the relevant previous year*
- the day the loan is given*
- 1st day of the relevant assessment year*

9. Mr. Kashyap received basic salary of ₹ 20,000 p.m. from his employer. He also received children education allowance of ₹ 3,000 for three children and transport allowance of ₹ 1,800 p.m. The amount of salary chargeable to tax for P.Y. 2019-20 is -

(a) ₹ 2,62,600
(b) ₹ 2,12,600
(c) ₹ 2,22,200
(d) ₹ 2,12,200

10. The entertainment allowance received by a Government employee is exempt up to the lower of the actual entertainment allowance received, 1/5th of basic salary and-

(a) ₹ 4,000
(b) ₹ 6,000
(c) ₹ 5,000
(d) ₹ 10,000.

Answers

1. (d); 2. (d); 3. (b); 4. (a); 5. (b); 6. (b);
7. (a); 8. (a); 9. (b); 10. (c).