

Income from Salaries

(Section 15 to 17)

- Income under the head 'Salaries' comprise remuneration in any form(including perquisites) due for services in the nature of employment under an express or implied contract of employment or service Thus the contractual relationship should be as between an employer and employee.
- Income from "salaries" is chargeable to tax on due basis.
- Any amount received, whether in cash or in kind from the employer or ex-employer for the services rendered under the contract of service is chargeable under the head SALARY.

Principles of salary

- Here must be a **relationship of employer & employee**. An Employee should not be an agent of the Employer.
- Salary from the former employer also treated as salary.
- Salary accrues where the service is rendered.
- Foregoing salary.
- Tax free salary.
- Surrender of salary.
- Accrual basis.

SALARY [SECTION 17]

Salary includes;

- Wages
- any annuity or pension,
- any gratuity any fee, commissions, perquisites or profits in lieu of or in addition to any salary or wages.
- Any advance of salary; any payment received by an employee in respect of any period of leave not availed of by him.
- employer's contribution to recognized provident fund in excess of 12% of salary of an employee.

Computation of income from salary

Particulars	Amount
Basic Salary
Add:
1. Fees, Commission and Bonus
2. Allowances
3. Perquisites
4. Retirement Benefits
5. Fees, Commission and Bonus
Gross Salary
Less: Deductions from Salary
1. Entertainment Allowance u/s 16
2. Professional Tax u/s 16
Net Salary

Deduction from Salary

1) Entertainment Allowance [Sec 16 (ii)] :

Only Govt employees can claim following deduction :

a) Actual Entertainment Allowance. b) 1/5TH of Salary.....[Here, Salary = Basic Pay] c) Rs.5000/Whichever is lower.

2) Professional Tax [Sec 16 (iii)] :

Deduction is available in the year in which professional tax is actually paid.

If employee have paid professional tax of more than one year then entire Professional Tax so paid is allowed as deduction.

If Professional Tax is reimbursed by the employer then it will first added as perquisite (in case of all employees, whether specified or not & then allowed as deduction)

Specific Exemptions from Salary

1. GRATUITY [Sec 10 (10)]

Sr	Particulars	Exemption
1	Gratuity Received by Govt & Local Authority employees.	Fully Exempt
2	Gratuity in case of employees covered by Payment of Gratuity Act,1972. <i>(Here, Salary means, = Basic + DA entire)</i>	Lower of following, a. Actual Gratuity b. ₹ 10,00,000/- c. Salary last drawn x [15/26] x completed years of service or part thereof in excess of 6 months.
3	Gratuity in respect of other employees. <i>(Here, Salary means, = Basic + DA, if terms of employment so provide + Commission, if based on fixed % of turnover.)</i>	Lower of following, a. Actual Gratuity b. ₹ 10,00,000/- c. Salary last drawn x [15/30] x completed years of service. { ignore fraction. Only completed years to be taken, even more than 6 months not to be considered. }

Specific Exemptions..

GRATUITY [Sec 10 (10)]

- Gratuity received during continuation of service is Fully Taxable.
- Maximum exemption available under this section during life time of the assessee cannot exceed ₹ 10,00,000/
- Completed year of service include period of service under current employer as well as previous employer (if no gratuity has been received from former employer at that time.)

Specific Exemptions from Salary

2. Pension [Sec 10 (10 A)]

Sr	Particulars	Exemption
1	Commuted Pension received by Govt employees	Fully Exempt
2	Commuted Pension received by Non-Govt employees : ▪ If Such employees receives Gratuity ▪ If Such employees does not receives Gratuity	➤ 1/3 rd of Commuted Value of Pension is exempt. ➤ ½ of Commuted Value of Pension is exempt.
3	Uncommuted Pension received by ALL employees	Fully taxable as Salary.

Specific Exemptions from Salary

3. Leave Encashment [Sec 10 (10 AA)]

Sr	Particulars	Exemption
1	Leave Encashment received by Govt employees (State + Central Govt)at the time of retirement.	Fully Exempt
2	Leave Encashment received at the time of retirement by Other employees. <i>(Here, Salary means, = Basic + DA, if terms of employment so provide + Commission, if based on fixed % of turnover.)</i>	Lower of following is Exempt : a. Actual Leave Encashment. b. Maximum ₹ 3,00,000/- c. Avg. Monthly Salary x 10 d. Avg. Monthly Salary x earned leave months.
3	Leave Encashment received <u>during continuous</u> of Service.	Fully taxable as salary.

Specific Exemptions..

Leave Encashment

Calculation of earned Leave :

- a. No. of Years in Actual Service
 - b. No. of leave entitlement for each completed year of service as per rules of employer (subject to 30 days)
 - c. Gross total leave (in days) (a x b)
 - d. Less Leave encashed & availed (in days)
 - e. Period of earned leave (in days)
 - f. Period of leave in month (e/30 days)
- Last 10 months average salary shall be considered from the date of immediately before the date of retirement. (for e.g. if employee retired on 15th Sept 2013, then last 10 months will be considered from 15th Nov 2012)

□ Maximum leave of Rs.3,00,000/- will be reduced by amount of leave encashment exempted under section 10(10AA) from previous employer.

□ Leave Encashment received by legal heirs of deceased employee also covered for exemption on compassionate grounds. (CBDT Circular)

Specific Exemptions from Salary 4. House Rent Allowance [Sec 10 (13A)]

Sr	Particulars	Exemption
1	In case of all employees → <i>(Here, Salary means, Basic + DA, if terms of employment so provide + Commission, if based on fixed % of turnover.)</i>	Lower of following is Exempt : a. Actual HRA Received. b. Rent paid in excess of 10% of Salary c. 40% of Salary [50% if house situated at Delhi ,Mumba Kolkata & Chennai)

Specific Exemptions from Salary

5. Retrenchment Compensation [Sec 10 (10 B)]

Sr	Particulars	Exemption
1	<p>Compensation received at time of retrenchment is exempt from tax to the extent →</p> <p><i>(Here, Salary means, Basic + DA, if terms of employment so provide + Commission, if based on fixed % of turnover.)</i></p>	<p>Lower of following is Exempt :</p> <p>a. Actual Amount Received.</p> <p>b. Maximum Amount ₹ 5,00,000/-</p> <p>c. 15 days average pay for <u>every</u> completed years of continuous service or any part in excess of six months.</p>

ALLOWANCES :-:

FULLY TAXABLE IN ALL CASES :

- City compensatory Allowance
- Fixed Medical Allowance
- Tiffin/Lunch/Dinner/Refreshment Allowance.
- Servant Allowance
- Dearness Allowance

- Project Allowance
- Overtime Allowance.
- Interim Allowance
- Any other Cash Allowance

-: OTHER ALLOWANCES WITH EXEMPTION LIMIT :-

SR	Allowances	Exemption Limit
1	Children Education Allowance	Rs.100/- pm per child. Max 2 Children.
2	Children Hostel Exp Allowance	Rs.300/- pm per child. Max 2 Children.
3	Tribal Area Allowance	Rs.200/- pm
4	Transport Allowance (between residence & office)	Rs.800/- pm ; Rs.1600 pm for blind/handicapped.
5	Transport Allowance for transport employee (During the course of transport)	Least of 70% of Allowance or Rs.10000/- pm
6	Underground Allowance	Rs.800 pm
7	Compensatory Field Area Allowance	Max Rs.2600 pm
8	Compensatory modified Hill Area Allowance	Max Rs.1000 pm

9	Special Compensatory hill area or high altitude	Rs.300 to Rs.700 pm allowance etc.
10	Border Area, Remote Area, Disturbed Area allowance	Rs.200 to Rs. 1300 pm
11	High Altitude allowance (Non-Congenial climate)	Rs.1,060 pm (Altitude for 9000 to 15000 ft); Rs.1600 pm (above 15000 ft)
12	Special Compensatory for highly active filed area allowance to member of armed force	Max Rs.4,200 pm
13	Island allowance to member of armed force	Max Rs.3250 pm
14	Counter Insurgency allowance	Max Rs.3900 pm

PERQUISITE [SEC. 17(2)]

Meaning and Chargeability In common parlance, perquisite means, any casual emoluments or benefits attached to an office or position, in addition to salary or wages, which is availed by an employee. In other words, perquisites are the benefits in addition to normal salary. As per sec. 17(2) of the Income tax Act, Perquisite includes –

- i. Value of rent-free accommodation provided by the employer.

- ii. Value of concession in rent in respect of accommodation provided to the assessee by his employer.
- iii. The value of any benefit or amenity granted or provided free of cost or at concessional rate to 'specified employees'.
- iv. Amount paid by an employer in respect of any obligation which otherwise would have been payable by the employee. Tax point: Any obligation of the employee met by employer shall be taxable on cash basis i.e. in the year in which amount is paid by the employer.

Example: Employer paid employees' professional tax liability pertaining to period 2017-18 in April 2018, such perquisite shall be taxable in the previous year 2018-19.

v Sum payable by an employer, whether directly or through a fund other than recognised provident fund or approved superannuation fund or deposit-linked insurance fund, to effect an assurance on the life of the assessee or to effect a contract for an annuity. Tax point: Such sum shall be taxable on accrual basis.

- v. 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.
- vi. Any contribution in excess of ₹ 1,50,000 to an approved superannuation fund by the employer in respect of the assessee.

viii. the value of any other fringe benefit or amenity as may be prescribed.

a) Perquisites are taxable under the head “Salaries” only if, they are: ● Allowed by an employer to his employee or any member of his household. ● Resulting in the nature of personal advantage to the employee. ● Derived by virtue of employee’s authority.

b) Perquisite may be contractual or voluntary. In other words, it is not necessary that the benefit must have been received under an enforceable right.

c) Perquisite may be received from the former, present or prospective employer

d) Member of household includes: ● Spouse (whether dependent or not) ● Parents (whether dependent or not);

- Servants; and
- Children and their spouse (whether dependent or not);
- Dependents.

Specified employees [Sec. 17(2)(iii)]

Specified employee means:

1. A director employee. Note: It is immaterial –
 - a) whether he is a nominee of the workers, financial institutions, etc. on the board;
 - b) whether the employee is full time director or a part time; and
 - c) whether he was a director throughout the previous year or not.

Tax point:

- A director-employee shall be treated as specified employee of that company only. Example: If Manu is working with X Ltd. as director-employee and with Y Ltd. as employee only, she will be treated as specified employee only for X Ltd. and not for Y Ltd.
- Director even for a day is construed as specified employee of such company.

2. An employee who has substantial interest in the employer company.

Substantial interest means the employee who beneficially holds 20% or more voting power in the employer company.

3. An employee whose aggregate salary from all employers together exceeds ` 50,000 p.a. For computing the sum of ` 50,000, following are to be excluded/deducted:

- a) All non-monetary benefits;
- b) Non-taxable monetary benefits;
- c) *Deduction u/s 16(ia), 16(ii) and 16(iii) [Discussed later in this chapter]; and
- d) Employer's contribution to Provident Fund.

Exempted Perquisites

Following perquisites are exempted in hands of employee:

- 1. Tea or snacks: Tea, similar non-alcoholic beverages and snacks provided during working hours.
- 2. Food: Food provided by employer in working place.

3. Recreational facilities: Recreational facilities extended to a group of employees

4. Goods sold to employee at concessional rate: Goods manufactured by employer and sold by him to his employees at concessional (not free) rates.

5. Conveyance facility: Conveyance facility provided –

- to employees for journey between office and residence and vice versa.
- to the judges of High Court and Supreme Court

6. Training: Amount spent on training of employees including boarding & lodging expenses for such training.

7. Services rendered outside India: Any perquisite allowed outside India by the Government to a citizen of India for rendering services outside India.

8. Contribution in some specified schemes

- Employer's contribution to a pension or deferred annuity scheme.
- Employer's contribution to staff group insurance scheme.

- Annual premium paid by the employer on personal accident policy affected by him in respect of his employee.

9. *Loans

- Loan given at nil or at concessional rate of interest by the employer provided the aggregate amount of loan does not exceed ₹ 20,000.

- Interest free loan for medical treatment of the diseases specified in Rule 3A.

10. *Medical facility: A provision of medical facility at office is exempt. Note: However, medical allowance is fully taxable.

11. Periodicals and journals: Periodicals and journals required for discharge of work.

12. Telephone, mobile phones: Expenses for telephone, mobile phones actually incurred on behalf of employee by the employer whether by way of direct payment or reimbursement.

13. *Free education facility: Free education facility to the children of employee in an institution owned or maintained by the employer provided cost of such facility

does not exceed ` 1,000 p.m. per child. Note: Such facility is not restricted to two children as in case of Children Education allowance.

14. Computer or Laptop: Computer or Laptop provided whether to use at office or at home (provided ownership is not transferred to the employee).

15. *Movable assets: Sale or gift of any movable asset (other than car and electronic items) to employee after being used by the employer for 10 or more years.

16. *Leave Travel Concession: Leave Travel Concession (LTC) subject to few conditions.

17. Rent-free accommodation

- Rent-free official residence provided to a Judge of a High Court or the Supreme Court.

- Rent-free furnished residence (including maintenance thereof) to Official of Parliament, a Union Minister or a Leader of opposition in Parliament.

*Accommodation: Accommodation provided –

- on transfer of an employee in a hotel for a period not exceeding 15 days in aggregate.

- in a remote area to an employee working at a mining site or an onshore exploration site or a project execution site or a dam site or a power generation site or an offshore site.

19. Tax on non-monetary perquisite paid by employer on behalf of employee. With effect from A.Y. 2003-04 a new sec. 10(10CC) has been inserted which provides that income tax paid by employer on behalf of employee on income, being non-monetary perquisite, is not a taxable perquisite.

20. Health club, Sports club facility

LEAVE TRAVEL CONCESSION [SEC. 10(5)]

If an employee goes on travel (on leave) with his family and traveling cost is reimbursed by the employer, then such reimbursement is fully exempted.

Notes

1) Journey may be performed during service or after retirement.

2) Employer may be present or former.

3) Journey must be performed to any place within India.

4) In case, journey was performed to various places

together, then exemption is limited to the extent of cost of journey from the place of origin to the farthest point reached, by the shortest route.

5) Employee may or may not be a citizen of India

. 6) Stay cost is not exempt.