

SALARY

Meaning of Salary -sec 17

The term salary is defined to include the following :

A. wages

B. Any annuity or pension

C. Any Gratuity

D. Any fees, commission perquisite or profits in lieu of the or in addition to any salary or wages

E. Any advance of salary

F. Any payment received by employee in respect of any period of leave not availed by him

G. Portion of annual accretion in any previous year to the balance at the credit of an employee participating in a recognized provident fund to the extent it is taxable and

H. Transferred balance in a recognized provident fund to the extent it is taxable and

I. Contribution by the central Government to the account of an employee under pensions scheme referred to in sec 80CCD

- BASIS OF CHARGE Sec 15
- For the basis of chargeability to tax salary consists of
- Any salary due from an employer (or a former employer) to an assessee in the previous year.
- Whether actually paid or not.
- Any salary paid or allowed to him in the previous year by or on behalf of an employer (or a former employer) though not due or before it became due and
- Any arrears of salary paid or allowed to him in the previous year by or on behalf of an employer (or a former employer) if not charged to tax for any earlier year
- Salary income is chargeable to tax either on due basis or receipt basis. Once salary has accrued its subsequent waiver is only an application of income and is liable to be taxed. Income is taxable as salary u/15 only if an EMPLOYER AND EMPLOYEE relationship exists between payer and payee.

LEAVE SALARY

- In the case of an employee of the central Government or State Government any amount received as cash equivalent of leave salary in respect of the period of earned leave at his credit at the time of retirement or superannuation is exempt from tax Sec 10[10AA(i)]
- In case of Non Government employee leave salary is exempt to the extent of least of the following.

a) Cash equivalent of leave salary in respect of period of earned leave to the credit of an employee only at the time of retirement whether superannuation or otherwise (earned leave entitlement cannot exceed 30 days for every year of actual service rendered for the employer from whose service he has retired).

INCOME FROM HOUSE PROPERTY

- Chargeability sec 22:
- While income from building or land appurtenant thereto i.e land attached or situated in the vicinity of building) is taxable as property income head Income from House Property and rental income from any vacant plot or plot is taxable under the head Income from other sources
- It is the legal owner of a house property who is chargeable to tax in respect of income. In the following case u/s 27 persons are deemed to be owners of the house property .

a) An individual who transfers house property otherwise than for adequate consideration to his or her spouse (not being a transfer in connection with an agreement to live apart) or to his minor child (not being a married daughter) is treated ad deemed owner of the house property.

b)The holder of an impartible estate is treated as deemed owner of the house property

c)a member of a co operative society company or other association of persons. To whom a building or a part thereof is allotted or leased under a house building scheme of the society, company or association of persons is treated as deemed owner of such property.

d) a person who comes to have control over the property in part performance of a contract of the nature referred in sec 53 A of the Transfer of the Property Act or by virtue of such transactions as are referred in clause (f) of section 269UA⁹taking a property on lease for not less than 12 years) is deemed as owner of such property.

- Basis of computing income from a let out property
- Gross Annual Value
- Less Municipal taxes
- Less Standard Deduction u/s 24
- Less interest on borrowed capital
- Income from House Property
- All care is to be taken at arriving at fair rental value like location municipal value neighbors value etc.
- However rent is covered Rent Control Act then the standard Rent cannot the same.
- Sometimes the tenant pays composite rent of property as well as certain benefits provided by the landlord. To determine rent received receivable composite rent must be disintegrated and it is only that part of it attributable to the let out of property which would be form the basis for the aforesaid calculation.
- **WHEN UNREALISED RENT SHALL BE EXCLUDED FROM RENT RECEIVED u/ s 23(1)**
- A. The tenancies bonafide.
- b. the defaulting tenant has vacated or steps have been taken to compel him to vacate the property.

- C the defaulting tenant is not in occupation of any other property of the assessee.
- The assessee has taken all reasonable steps to institute legal proceedings for the recovery of unpaid rent or satisfies the Assessing Officer that legal proceedings would be useless.

UNREALISED RENT u/s 24(1):

- Any unrealized rent is allowed as deduction
- Unrealized Rent collected taxable u/s 25 AA
- If owner has more than one house one house is allowed for self occupation.
- The interest payable out of India is not deductible if tax is not deducted at source.

PROFITS AND GAINS OF BUSINESS OR PROFESSION

GENERAL DEDUCTIONS- SECTION 37.

- a) It should be in respect of a business carried on by assessee.

It should be laid out or expended wholly and exclusively for the purpose of the business.

- c) It must have been incurred during the previous year.
- d) It should not be in the nature of capital expenditure or personal expenditure.
- e) The expenditure should not have been incurred for any purpose which is an offence or is prohibited by any law.

CHARGEABILITY-SECTION 28:

- Profits and gains of any business or profession by the assessee at any time during the previous year.
Income earned from the

exercise of any profession or vocation which involves the idea of occupation requiring either purely intellectual skill or any manual skill is taxable under this head.

- Rent rates taxes repairs insurance to building Sec 30
- Repairs and insurance of machinery plant and furniture Sec 31
- Depreciation Sec 32
- Expenses expressly allowed .
- Average Salary means average salary drawn during the period of 10 months immediately preceding the retirement superannuation
- Where the cash equivalent of unutilized earned leave is received by an employee from two or more employers in the same year or different years the maximum amount exempt from tax is as above.
- Investment Allowance Sec 32A for investment in New Plant and Machinery.

a) 10 Months average salary or

b) The amount not chargeable to tax as specified by the Government Rs 3,00,000

c) Leave encashment actually received at the time of retirement

- Relief u/s 89 read with rule 21 A would be admissible in respect of encashment of leave salary by an employee when in service CIRCULAR No 431 Date 12 Sept 1985
- Salary paid to the legal heirs of the deceased employee in respect of the privilege salary standing to his credit of such employee at time of his/her death is not taxable as salary.
- CIRCULAR NO F35/1/65-it(B) Date 5 September 1965
- sum equivalent to leave salary received by the family of a Government Servant who died in harness is not taxable in the hands of recipient CIRCULAR NO 309 3 July 1981.
- GRATUITY Sec 10(10).
- Any death cum retirement Gratuity received by an employee of the Central Government or State Government or local authority is wholly exempt from tax.

AMOUNTS NOT DEDUCTABLE IN RESPECT OF EXPENDITURE EXCEEDING RS.20,000 SEC 40A(3).

- If an assessee incurs any expenditure in respect of which payment in excess of Rs.20,000 is made otherwise than by an account payee cheque or an account payee bank draft 100% of such expenditure will not be allowable as deduction read with rule 6 DD. Even payment made for purchase of goods falls within the expression expenditure.

EXCEPTIONS:

- Payment made to banking and other credit institutions such as RBI, commercial banks, private and public, co-operative banks, land mortgage banks, primary credit/agricultural credit societies, LIC.
- Payment made to Government both Central and State if such payment is to be made in legal tender, such as a payment of direct taxes, custom duty, excise, railway freight, sales tax etc.
- It covers any payment to Government(not merely taxes).
- Payment through the banking system letters of credit, mail or telegraphic transfer, book adjustment in the same bank or between one bank and another and bills of exchange payable to a bank, use of electronic clearing system through a bank account, credit card and debit card.
- Payment made by book adjustment by an assessee in the account of payee against money due for an assessee for any goods supplied or services rendered by him to the payee.
- Payment to a cultivator, grower or producer in respect of agricultural or forest produce including horticulture.
- **UNPAID STATUTORY LIABILITY U/S 43B.**

AMOUNT EXPRESSLY DISALLOWED:

- No deduction is allowed u/s 28 to 44 C in respect of income referred in section 115A, 115AB, 115AC, 115AD, 115BBa and 115D.

AMOUNT NOT DEDUCTABLE(U/S 40a):

- Interest, royalty, fees for technical services payable outside India.

DIFFERENT PERQUISITIES GIVEN UNDER SECTION 17(2) CHARGEABLE TO TAX.

- Furnished/unfurnished house without rent or at concessional rent.
 - a) Not chargeable to tax if provided in a “remote area”.
- b) Hotel accommodation for 15 days can be provided immediately after transfer at the new location as a tax-free perquisite.
- c) If an employee is transferred and housing facility is provided to him at the new location for a period of 90 days immediately after transfer only one house is chargeable to tax and the other one will be tax-free.
- d) further, rent-free house is not taxable if it is provided to a High Court Judge, Supreme Court Judge, Union Minister, Leader of Opposition in Parliament, an Official in Parliament and serving Chairman and members of UPSC.
 - Service of a sweeper, gardener, watchman or personal attendant-not taxable if the employee is a non-specified employee.
 - Supply of gas, electricity or water for house hold purposes-not taxable if the employee is a non-specified employee.
 - Education facility to employee’s family members-not taxable if the employee is a non-specified employee.
 - Leave travel concession-
 - a) Amount paid by an employer in respect of any obligation which otherwise would have been payable by the employee-
 - b) Tax borne by employer on non-monetary perquisites of employees.
 - c) Amount payable by an employer directly or indirectly to effect an assurance on the life of employee or to effect a contract of annuity – contribution to recognized provident fund.
 - Interest-free/concessional loan-
 - a) If aggregate amount of original loan does not exceed Rs.20,000 the perquisite is not taxable.
 - b) Loan for medical treatment is not taxable subject to a few conditions.
 - Providing use of movable asset-providing use of computer/laptop in any case.
 - Transfer of movable asset.
 - Medical facility.
 - a) Medical facility provided in a hospital owned or maintained by the employer is not chargeable to tax.
 - b) Medical facility provided by an employer in a Government hospital or approved hospital or a private hospital is not chargeable to tax.
 - c) Medical insurance premium paid or reimbursed by the employer is not chargeable to tax.
 - d) Any other expenditure incurred or reimbursed by the employer for providing medical facility in India is not chargeable to tax up to Rs.15,000 in aggregate per assessment year.
- e) Expenditure on medical treatment outside India is not chargeable to tax, if a few conditions are satisfied.

f) Further, the perquisite in respect of medical facility is not taxable if the employee is non-specified employee.

- Car or any other automotive conveyance-
 - a) Not taxable if the employee is a non-specified employee.
 - b) Conveyance facility between office and residence is not taxable.
 - c) Conveyance facility to High Court judges, Supreme Court judges and serving Chairman and members of UPSC, is not chargeable to tax.
- Transport facility by a transport undertaking-
 - a) Not taxable if it is provided by an airline or the railways.
 - b) Not taxable if the employee is a non-specified employee.
- Free food and beverage-
 - a) Food and non-alcoholic beverages provided in working hours in remote area or in an offshore installation are exempt from tax.
 - b) Tea, coffee or non-alcoholic beverages and snacks in working hours are tax-free perquisites.
- Travelling, touring accommodation.
- Gift or gift voucher-gift is in kind up to Rs.5,000 is exempt.
- Credit card.
- Club.
- Tax of employee paid by employer-tax on non-monetary perquisite paid by employer to employee.
- Value of any specified security/sweat equity shares allotted or transferred to an employee or former employee.
- Employer's contribution towards superannuation fund in excess of Rs.1 lakh per year-not chargeable to tax up to

Rs. 1 lakh per year.

- Perquisites received by a teacher/professor from SAARC Member States-not taxable for 2 years.
- Any other benefit or amenity, service, right or privilege-telephone/mobile is not chargeable to tax.