

**Just 5 Minutes**

**TAXCON<sup>TM</sup> INDIA PRIVATE LIMITED**

# INCOME TAX ACT

1. *CBDT notifies Rule for determination of value of perquisite in respect of residential accommodation provided by employer*

- The Finance Act, 2023 brought in an amendment for the purposes of calculation of “perquisite” with regard to the value of rent-free or concessional accommodation provided to an employee, by his employer.
- Accordingly, CBDT has modified Rule 3 of the Income-tax Rules, 1961 to provide for the same, effective from Sept 01, 2023.
- The categorisation and the limits of cities and population have now been based on the 2011 census as against the 2001 census earlier. The revised limits of population are 40 lakh in place of 25 lakh and 15 lakh in place of 10 lakh.
- The earlier perquisite rates of 15%, 10% and 7.5% of the salary have now been reduced to 10%, 7.5% and 5% of the salary respectively.
- In case the accommodation is continued to be provided to the same employee for more than one previous year, the amount calculated shall not exceed the amount so calculated for the first previous year, as multiplied by the ratio of the Cost Inflation Index (CII) for the previous year for which the amount is calculated and the CII for the previous year in which the accommodation was initially provided to the employee.

# INCOME TAX ACT

## 2. *Rule notified to Compute Taxable Income in case of sum received under Life Insurance Policies*

The Finance Act, 2023 has inserted a new clause (xiii) to section 56(2). This new clause provides for the taxability of any sum received under a life insurance policy (other than ULIP and Keyman Insurance Policy], to which exemption under Section 10(10D) does not apply. Any income arising from such receipt shall be chargeable to tax under the head 'Income from Other Sources'. Pursuant to such amendment, the CBDT has notified Rule 11UACA prescribing the manner of computation of income in the following manner:

### *a) Sum received under the Life Insurance Policy for the first time*

The income shall be the amount received, including the amount allocated by way of bonus, as reduced by the aggregate of premium paid during the term of such policy, till the date of receipt of such sum.

### *b) Sum received under the Life Insurance policy for second and subsequent times*

The income shall be the amount received during the subsequent previous year, as reduced by the amount of premium paid during the term of such policy until the date of receipt of such sum. However, the premiums already considered while computing income in earlier years shall not be considered.

# COMPANIES/LLP ACT

## 1. *One-time condonation of delay in filing of Form-3, 4 and 11 of LLPs*

Due to the difficulties faced by LLPs in filings and updation of master data, the Ministry has provided one-time relaxation in additional filing fee for filing Form 3, Form 4 and Form 11. The salient features of the scheme are:-

- a) All Form 3 & 4 shall be processed under STP mode, except for change in business activities.
- b) While filing these forms, the existing master data shall be pre-filled, with facility to edit to enable corrections in master data.
- c) The filing of Form 3 & 4 without additional filing fee shall be applicable for an event dates Jan 01, 2021 and onwards.
- d) The filing of Form 11 without additional filing fee shall be applicable for the FY 2020-21 and onwards.
- e) The forms for these filings shall be available from Sept 01, 2023 to Nov 30, 2023.
- f) The LLPs availing the scheme shall not be liable for any action for delay in such form filings.

# CASE LAWS - INCOME TAX

## 1. *Sanjay Kumar v. ITO*

It has been held that Assessing Officer could not have passed rectification order on assessee and disallowing employees' contribution to EPF and ESI being deposited by assessee after due date prescribed in respective Acts, where question of delay in deposit of employees' contribution was very much in assessment records upon which intimation under section 143(1) was served upon assessee and at relevant time there was law in favour of assessee allowing such expenditure.

## 2. *CIT (Exemption) v. Indian Trade Promotion Organisation*

The Apex Court dismissed the Special Leave Petition (SLP) against order of High Court that if dominant activity of charitable institution was not business, trade or commerce, merely because a fee or some other consideration was collected or received by institution, it would not lose its character of having been established for a charitable purpose.

# CASE LAWS - INCOME TAX

## 3. *DCIT. v. HSBC Asset Management (I) (P.) Ltd.*

It has been held that where assessee had received services from overseas AE towards Central & Regional Support Services and Business Support Services and for providing said services, AEs charged certain costs to assessee based on appropriate allocation key and, availing of various services from AEs was duly substantiated by documentary evidence and, cost allocation among group companies was also on basis of a well-accepted allocation key method, transfer pricing adjustment made by TPO/ Assessing Officer was to be deleted.

## 4. *Maheshkumar Bhagvandas Patel v. ITO*

When assessee had made a specific request to provide an opportunity of personal hearing through video conference, department was required to grant same to assessee, in view of provisions of section 144B(6)(viii)

## 5. *Utpala Pradeep Lain, legal heir of late Pradeep R Jain v. ACIT Anand*

In this case, Hon'ble Gujarat High Court ruled that reassessment proceedings against a dead person were invalid. The proceedings were quashed in the favour of assessee.

# CASE LAWS – INDIRECT TAX

## 1. *Commissioner of CGST & CE v. Flemingo Travel Retail Ltd.*

It has been held that Duty Free Shops, whether in arrival or departure terminals, being outside customs frontiers of India, any levy of indirect tax would be unconstitutional and following said order the IGST Collected was to be refunded.

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