

# CHAPTER-3 SALARIES

## Amendment: 1

### 1. Interest Credited on Contribution by such person/employee

As per section 10(11), any payment from

1. Public Provident Fund (PPF)
2. Statutory Provident Fund (SPF)
3. Recognize Provident Fund (RPF)

Accumulated balance due and becoming payable to an employee is exempt under section 10(11) & 10(12). The Finance Act 2021 provided that any interest to the extent it relates to the amount of Provident Fund contribution exceeding Rs 2,50,000 made by employees would be subject to tax [Assume, if employee contributes Rs. 4,50,000, the interest on 2,00,000 shall not exempt]. However, in cases where only the **employee is making contributions to the Provident Fund, the threshold limit of Rs 2,50,000 would be enhanced to Rs 5,00,000** [Assume, if employee contributes Rs. 6,00,000 then interest on Rs. 1,00,000 shall not be exempt]. Thus, such an amendment would lead to dual accounts within the Provident Fund account i.e. the Taxable as well as the Non-Taxable component.

It may be noted that interest accrued on contribution to such funds upto **31st March, 2021 would be exempt without any limit**, even if the accrual of income is after that date.

### **Note: Exemption of PF will be available in following Circumstances:**

1. Employee has completed the service of 5 years.
2. Employee has not completed the service of 5 years but service was Terminated by reason of
  - a) Ill health
  - b) Discontinuation by Employee
  - c) Reason beyond the Control of Employee.
3. Employer Transfer the accumulated balance related to employee towards
  - a) Account of New Employer
  - b) NPS u/s 80CCD
  - c) Govt. Notified Account

### Illustration 1 Based on Amendment

Mr. Pinku retires from service on December 31, 2021, after 25 years of service. Following are the particulars of his income/investments for the previous year 2021-22:

Particulars	₹
Basic Pay @ ₹20,000 per month for 9 Months	1,80,000
Dearness pay (50% forms part of the retirement benefits) ₹ 10,000 per month for 9 months	90,000
Lump sum payment received from the Unrecognised Provident Fund	7,00,000
Deposits in the PPF account	50,000

Out of the amount received from the unrecognized provident fund, the employer's contribution was ₹ 2,80,000 and the interest thereon ₹ 55,000. The employee's contribution was ₹3,00,000 and the interest thereon ₹ 65,000. What is the taxable portion of the amount received from the unrecognized provident fund in the hands of Mr. Sohan for the assessment year 2022-23?

#### Solution-

Taxable portion of the amount received from the URPF in the hands of Mr. Sohan for the A.Y. 2022-23 is computed hereunder:

Particulars	₹
Amount taxable under the head "Salaries":	
Employer's share in the payment received from the URPF	2,80,000
Interest on the employer's share	55,000
<b>Total</b>	<b>3,35,000</b>
Amount taxable under the head "Income from Other Sources":	
Interest on the employee's share	65,000
<b>Total amount taxable from the amount received from the fund</b>	<b>4,00,000</b>

Note: The employee is not eligible for deduction under section 80C for his contribution to URPF at the time of such contribution. Hence, 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-2 (Based On Amendment).

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

#### Solution-

The receipt of accumulated balance in a recognized provident fund would be exempt in the hand of the employee if the employee has rendered continuous service of 5 years or more. In the given case, since the withdrawal is taking place after a service of 25 years, the entire amount received from the RPF will be fully exempt from tax.

### Amendment: 2

**Annual accretion to the balance at the credit of the recognised provident fund/ NPS/ approved superannuation fund which relates to the employer's contribution and included in total income (on account of the same having exceeded ₹ 7,50,000)**

Any annual accretion by way of interest, dividend or any other amount of similar nature during the previous year to the balance at the credit of the recognized provident fund or NPS or approved superannuation fund to the extent it relates to the employer's contribution shall also be Taxable as Perquisite.

**The CBDT has, vide Rule 3B**, notified the manner to compute the annual accretion by way of interest, dividend or any other amount of similar nature during the previous year-

$$TP = (PC/2)*R + (PC1 + TP1)*R$$

Where,

TP	Taxable perquisite under section 17(2)(viiia) for the current previous year
PC	Excess Contribution for the Current Previous year.
PC1	Amount or aggregate of amounts of employer's contribution in excess of ₹ 7.5 lakh to recognized provident fund, national pension scheme u/s 80CCD and approved superannuation fund for the previous year or years commencing on or after 1st April, 2020 other than the current previous year
TP1	Aggregate of taxable perquisite under section 17(2)(viiia) for the previous year or years commencing on or after 1st April, 2020 other than the current previous year
R	I/ Favg
I	Amount or aggregate of amounts of income accrued during the current previous year in recognized provident fund, national pension scheme u/s 80CCD and approved superannuation fund

Favg	(Amount or aggregate of amounts of balance to the credit of recognized provident fund, national pension scheme u/s 80CCD and approved superannuation fund on 1st April, 2021 + Amount or aggregate of amounts of balance to the credit of recognized provident fund, national pension scheme u/s 80CCD and approved superannuation fund on 31st March, 2022)/2
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Where the amount or aggregate of amounts of TP1 and PC1 exceeds the amount or aggregate of amounts of balance to the credit of the specified fund or scheme on 1st April, 2021, then, the amount in excess of the amount or aggregate of amounts of the said balance shall be ignored for the purpose of computing the amount or aggregate of amounts of TP1 and PC1.

### Illustration 1 Based on Amendment.

Mr. X is appointed as a CFO of ABC Ltd. in Mumbai from 1.5.2020. His basic salary is ₹ 5,50,000 p.m. He is paid 10% as D.A. He contributes 11% of his pay and D.A. towards his recognized provident fund and the company contributes the same amount. The accumulated balance in recognized provident fund as on 1.4.2021 and 31.3.2022 is ₹ 15,35,000 and ₹ 33,55,000, respectively. Compute the perquisite value chargeable in the hands of Mr. X u/s 17(2)(vii) and 17(2)(viia) for the P.Y. 2021-22.

### Solution-

- Perquisite value taxable u/s 17(2)(vii) = ₹ 7,98,600, being employer's contribution to recognized provident fund during the P.Y. 2021-22 - ₹ 7,50,000 = ₹ 48,600
- Annual accretion on perquisite taxable u/s 17(2)(vii) =  $(PC/2)*R + (PC1 + TP1)*R$   
 $= (48,600/2)*0.091 + 0$   
 $= ₹ 2,211$

PC ABC Ltd.'s contribution in excess of ₹ 7.5 lakh to recognized provident fund during P.Y. 2021-22 = ₹ 48,600

PC1 Nil since employer's contribution is less than ₹ 7.5 lakh to recognized provident fund in P.Y. 2020-21.

TP1 Nil

R  $I/Favg = 2,22,800/24,45,000 = 0.091$

I RPF balance as on 31.3.2022 – employee’s and employer’s contribution during the year – RPF balance as on 1.4.2021 = ₹ 2,22,800  
(₹ 33,55,000 – ₹ 7,98,600 – ₹ 7,98,600 – ₹ 15,35,000)

Favg Balance to the credit of recognized provident fund as on 1st April, 2021 + Balance to the credit of recognized provident fund as on 31st March, 2022)/2 = (₹ 15,35,000 + ₹ 33,55,000)/2 = ₹ 24,45,000

**Note** – Since the employee’s contribution to RPF exceeds ₹ 2,50,000 in the P.Y.2021-22, interest on ₹ 5,48,600 (i.e., ₹ 7,98,600 – ₹ 2,50,000) will also be chargeable to tax.

## CHAPTER-4

### PGBP

#### Amendment: 1

##### 1) Sec.2(11) Block of assets:

Block of Assets: A “block of assets” is defined in section 2(11), as a group of assets falling within a class of assets comprising –

- ✓ Tangible assets, being buildings, machinery, plant or furniture;
- ✓ Intangible assets, being know-how, patents, copyrights, trademarks, licenses, franchises or any other business or commercial rights of similar nature, **not being goodwill of a business or profession.**

#### Amendment: 2

##### 2) Sec.43(6) Written down value

While computing W.D.V. of the block of assets as on 1.4.2020 i.e., for P.Y. 2020- 21, if goodwill of a business or profession was part of the block of assets and depreciation was allowed on that to the assessee upto P.Y. 2019-20, actual cost of the goodwill as reduced by the amount of depreciation that would have been allowable to the assessee for such goodwill as if goodwill was the only asset in the block, has to be reduced. However, such amount of reduction cannot exceed the WDV.

### Amendment: 3

- 3) **Sec.36(1)(VA) Amount received by assessee-employer as contribution from his employees towards their welfare fund to be allowed only if such amount is credited on or before due date**

any sum received by the employee as contribution towards any welfare fund of such employees will be allowed only if such sum is credited by the taxpayer to the employee's account in the relevant fund on or before the due date.

As per EPF Scheme 1952, the amounts under consideration in respect of wages of the employees for any particular month shall be paid within 15 days of the close of every month.

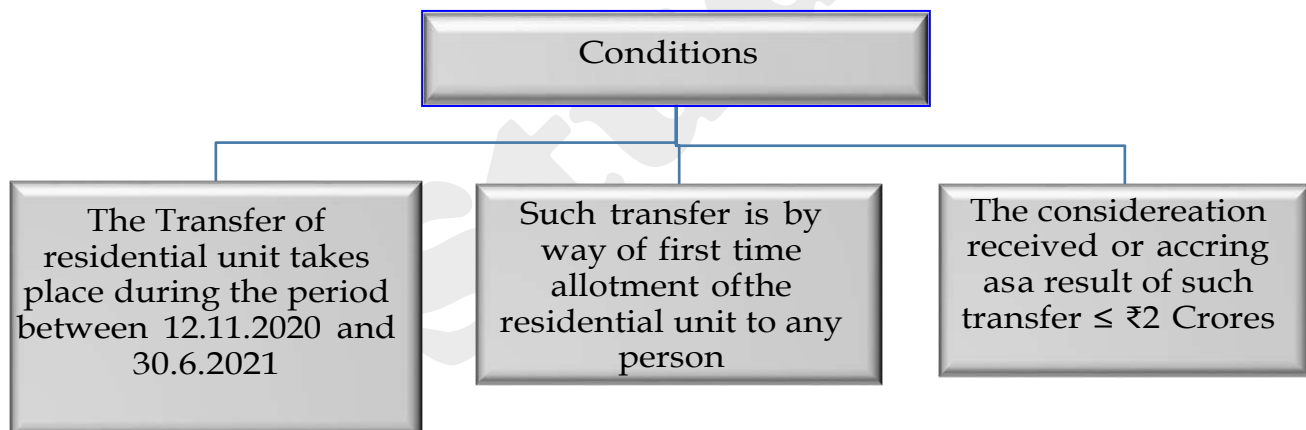
Note - It is clarified that the provisions of section 43B shall not be applicable.

### Amendment: 4

- 4) **Sec.43CA: Land & Building Held as Stock in trade.**

Where the stamp duty value exceeds 110% of the consideration received or accruing then Stamp duty value shall be Full Value of consideration for the purposes of computing PGBP.

Instead of 110% take **120%** if Following Conditions are satisfied



#### Meaning of residential unit -

An independent housing unit with separate facilities for living, cooking and sanitary requirement, distinctly separated from other residential units within the building, which is directly accessible from an outer door or through an interior door in a shared hallway and not by walking through the living space of another household.

### Example based on amendment

X Purchases a newly constructed residential unit of 4,500 sq.ft (under first allotment) from DEF Builders Ltd. The following information is available-

	Case 1	Case 2	Case 3
Date of agreement	October 18,2020	October 18,2020	October 18,2020
Agreed Consideration	Rs. 2 Crore	Rs. 2 Crore	Rs. 2 Crore
Advance paid on October 14, 2020 through NEFT	Rs. 20 Lakhs	Rs. 20 Lakhs	Rs. 20 Lakhs
Stamp duty value on October 14, 2020	Rs. 2.4 Crore	Rs. 2.7 Crore	Rs. 2.3 Crore
Date of conveyance deed and its registration in favour of X	March 7, 2021	June 30, 2021	July 25, 2021
Stamp duty value on the date of registration	Rs. 2.5 Crore	Rs. 2.4 Crore	Rs. 2.6 Crore

X and DEF Builders Ltd. want to know tax implications of aforesaid transaction under sections 43CA and 56(2)(x).

### Solution:-

In the above cases, a part of consideration is paid through NEFT on the date of agreement, Consequently, stamp duty value on the date of agreement shall be taken for the purpose of safe harbour limit. Moreover, safe harbour limit for the purpose of sections 43CA and 56(2)(x) has been increased from 10% to 20% if a few conditions are satisfied. These conditions are discussed in the table (infra) along with the data given in the case study-

	Whether conditions for applying the safe harbour limit of 20% are satisfied-		
	Situation 1	Situation 2	Situation 3
<b>Condition 1-</b> Residential Unit is transferred during November 12, 2020 and June 30, 2021	Yes	Yes	Yes
<b>Condition 2-</b> Residential unit is transferred by way of first allotment	Yes	Yes	Yes
<b>Condition 3-</b> Consideration does not exceed Rs. 2 Crore	Yes	Yes	Yes
What is safe harbour limit under Sec. 43CA & 56(2)(x)	20%	20%	10%
Sale consideration	Rs. 2 Crore	Rs. 2 Crore	Rs. 2 Crore
Sale consideration as increased by safe harbour	Rs. 2.4 Crore	Rs. 2.4 Crore	Rs. 2.2 Crore

limits			
Stamp duty value on the date of agreement (as a part of consideration is paid through	Rs. 2.4 Crore		
NEFT on the before the date of agreement Whether stamp duty value exceeds 120%/110% of sale consideration	No	Rs. 2.4 Crore No	Rs. 2.4 Crore No
Full value of consideration in the hands of DEF Ltd. under section 43CA Amount taxable in the hands of X under Section 56(2)(x)	Rs. 2 Crore NIL	Rs. 2.7 Crore Rs. 70 lakh	Rs. 2.3 Crore Rs. 30 lakh

### Amendment: 5

#### AUDIT OF ACCOUNTS OF CERTAIN PERSONS CARRYING ON BUSINESS OR PROFESSION [SECTION 44AB]

	Persons	When tax audit is required?
(1)	(2)	(3)
<b>Business</b>		
(a)	In case of a person <b>carrying on business</b>	If his total sales, turnover or gross receipts in business > ₹ 1 crore in the relevant PY Note - The requirement of audit u/s 44AB does not apply to a person who declares profits and gains on presumptive basis u/s 44AD and his total sales, turnover, or gross receipts does not exceed ₹ 2 crore.
	If in case of <b>such person carrying on business</b> - (i) Aggregate cash receipts in the relevant PY ≤ 5% of total receipts (including receipts for sales, turnover, gross receipts); and (ii) Aggregate cash payments in the relevant PY ≤ 5% of total payments (including amount incurred for expenditure)	If his total sales, turnover or gross receipts in <b>business &gt; ₹ 10 crore</b> in the relevant PY
<b>Note</b> - For this purpose, the payment or receipt, as the case may be, by cheque drawn on a bank or by a bank draft, which is not account payee, would be deemed to be the payment or receipt, as the case may be,		

	in cash.	
(b)	In case of an assessee covered u/s 44AE i.e., an assessee engaged in the business of plying, hiring or leasing goods carriages who owns not more than 10 goods carriages at any time during the P.Y.	If such assessee claims that the profits and gains from business in the relevant P.Y. are lower than the profits and gains computed on a presumptive basis u/s 44AE [i.e., ₹ <b>1000 per ton of gross vehicle weight</b> or unladen weight in case of each heavy goods vehicle and ₹ 7,500 for each vehicle, other than heavy goods vehicle, for every month or part of the month for which the vehicle is owned by the assessee].
(c)	In case of an eligible assessee carrying on business, whose total turnover, sales, gross receipts $\leq$ ₹ 200 lakhs, and who has opted for section 44AD in any earlier PY (say, P.Y.2020-21)	If he declares profit for any of the five successive PYs (say, P.Y.2021-22) not in accordance with section 44AD (i.e., he declares profits lower than 8% or 6% of total turnover, sales or gross receipts, as the case may be, in that year), then he cannot opt for section 44AD for five successive PYs after the year of such default (i.e., from P.Y.2022-23 to P.Y.2026-27). For the year of default (i.e., P.Y.2021-22) and five successive previous years (i.e., P.Y.2022-23 to P.Y.2026-27), he has to maintain books of account u/s 44AA and get them audited u/s 44AB, if his income exceeds the basic exemption limit.

### PROFESSION CASES

(a)	In case of a person carrying on profession	If his gross receipts in profession $>$ ₹ 50 lakh in the relevant PY
(b)	In case of an assessee carrying on a notified profession under section 44AA(1) i.e., legal medical, engineering, accountancy, architecture, interior decoration, technical consultancy, whose gross receipts $\leq$ ₹ 50 lakhs	If such resident assessee claims that the profits and gains from such profession in the relevant PY are lower than the profits and gains computed on a presumptive basis u/s 44ADA (50% of gross receipts) and his income exceeds the basic exemption limit in that PY.

### Example Based on Amendment

Let us consider the following particulars relating to a resident individual, Mr. A, being an eligible assessee carrying on retail trade business whose total turnover do not exceed ₹ 2 crore in any of the previous years relevant to A.Y.2022-23 to A.Y.2024-25

Particulars	A.Y.2022 -23	A.Y.2023 -24	A.Y.2024 -25
Total turnover ( ₹ )	1,80,00,000	1,90,00,000	2,00,00,000

Amount received through prescribed electronic modes on or before 31st October of the A.Y.	1,60,00,000	1,45,00,000	1,80,00,000
Income offered for taxation ( ₹)	11,20,000	12,30,000	10,00,000
% of gross receipts	6% on ₹ 1.60 crore and 8% on ₹ 20 lakhs	6% on ₹ 1.45 crore and 8% on ₹ 45 lakhs	5% on ₹ 2 crore
Offered income as per presumptive taxation scheme u/s 44AD	Yes	Yes	No

In the above case, Mr. A, an eligible assessee, opts for presumptive taxation under section 44AD for A.Y.2022-23 and A.Y.2023-24 and offers income of ₹ 11.20 lakh and ₹ 12.30 lakh on gross receipts of ₹ 1.80 crore and ₹ 1.90 crore, respectively.

However, for A.Y.2024-25, he offers income of only ₹ 10 lakh on turnover of ₹ 2 crore, which amounts to 5% of his gross receipts. He needs to maintain books of account under section 44AA and gets the same audited under section 44AB. Since he has not offered income in accordance with the provisions of section 44AD(1) for five consecutive assessment years, after A.Y. 2022-23, he will not be eligible to claim the benefit of section 44AD for next five assessment years succeeding A.Y.2024-25 i.e., from A.Y.2025-26 to 2029-30.