

1.2 What is a Perquisite?

As per Section 17(2) of the Act, perquisites include:

- i) **The value of rent-free accommodation provided to the employee by his employer;**
- ii) **The value of any concession in the matter of rent in respect of any accommodation provided to the employee by his employer;**
- iii) **The value of any benefit or amenity granted or provided free of cost or at concessional rate in any of the following cases:**
 - a) **By a company to an employee who is a director of such company;**
 - b) **By a company to an employee who has a substantial interest in the company;**
 - c) **By an employer (including a company) to an employee, who is not covered by (a) or (b) above and whose income under the head "Salaries" (whether due from or paid or allowed by, one or more employers), exclusive of the value of all benefits or amenities not provided for by way of monetary payment, exceeds Rs.50,000/-.**

[What constitutes concession in the matter of rent have been prescribed in Explanations 1 to 4 below section 17(2)(ii) of the Act.]

- iv) **Any sum paid by the employer in respect of any obligation which would otherwise have been payable by the assessee.**
- v) **Any sum payable by the employer, whether directly or through a fund, other than a recognized **provident** fund or an approved superannuation fund or other specified funds u/s 17, to effect an assurance on the life of an assessee or to effect a contract**

for an annuity.

vi) 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 employee. For this purpose,

(a) "specified security" means the securities as defined in section 2(h) of the Securities Contracts (Regulation) Act, 1956 and, where employees' stock option has been granted under any plan or scheme therefore, includes the securities offered under such plan or scheme;

(b) "sweat equity shares" means equity shares issued by a company to its employees or directors at a discount or for consideration other than cash for providing know-how or making available rights in the nature of intellectual property rights or value additions, by whatever name called;

(c) the value of any specified security or sweat equity shares shall be the fair market value of the specified security or sweat equity shares, as the case may be, 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 security or shares;

(d) "fair market value" means the value determined in accordance with the method as may be prescribed (refer Rule 3(9) of the IT Rules);

(e) "option" means a right but not an obligation granted to an employee to apply for the specified security or sweat equity shares at a predetermined price;

(vii) the amount or the aggregate of amounts of any contribution made to the account of the assessee by the employer—

(a) in a recognised provident fund;

(b) in the scheme referred to in sub-section (1) of section SOCCD; and

(c) in an approved superannuation fund,

to the extent it exceeds seven lakh and fifty thousand rupees in a previous year;

(viii) the 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 fund or scheme referred to in clause (vii) above **to the extent it relates to the contribution** referred to in the said clause which is included in total income; and

(viii) the value of any other fringe benefit or amenity as prescribed in **Rule 3**.

1.3 What is profit in lieu of salary ?

As per Section 17(2) of the Act, 'Profits in lieu of salary' include:

1. 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 or the modification of the terms and conditions relating thereto;

11 any payment (other than any payment referred to in clauses (10), (10A), (10B), (11), (12) (13) or (13A) of section 10) due to or received by an assessee from an employer or a former employer or from a provident or other fund, to the extent to which it does not consist of contributions by the assessee or interest on such contributions or any sum received under a Keyman insurance policy including the sum allocated by way of bonus on such policy.

"Keyman insurance policy" shall have the same meaning as assigned to it in section 10(1 DD);

111. any amount due to or received, whether in lump sum or otherwise, by any assessee from any person—

- (A) before his joining any employment with that person; or
- (B) after cessation of his employment with that person.

2. RATES OF INCOME-TAX AS PER FINANCE ACT, 2021

As per the Finance Act, 2021, the rates of income tax for the FY 2021-22 (i.e. Assessment Year 2022-23) are as follows:

21 Rates of tax

A. Normal Rates of tax: In the case of *every* individual other than the individuals referred to in para (B) and (C) below:

S. No	Total Income	Rate of tax
1	Where the total income does not exceed Rs. 2,50,000/,	Nil;
2	Where the total income exceeds Rs. 2,50,000/- but does not exceed Rs. 5,00,000/,	5 per cent of the amount by which the total income exceeds Rs. 2,50,000/-;
3	Where the total income exceeds Rs, 5,00,000/- but does not exceed Rs. 10,00,000/,	Rs. 12,500/- plus 20 per cent of the amount by which the total income exceeds Rs, 5,00,000/-;
4	Where the total income exceeds Rs. 10,00,000/,	Rs. 1,12,500/- plus 30 per cent of the amount by which the total income exceeds Rs. 10,00,000/,

B. Rates of tax for every individual, being a resident in India, who is of the age of sixty years or more but less than eighty years at any time during the financial year:

Sl No	Total Income	Rate of tax
1	Where the total income does not exceed Rs. 3,00,000/-	Nil:
2	Where the total income exceeds Rs. 3,00,000 but does not exceed Rs. 5,00,000/-	5 per cent of the amount by which the total income exceeds Rs. 3,00,000/-;
3	Where the total income exceeds Rs. 5,00,000/- but does not exceed Rs. 10,00,000/-	Rs. 10,000/- plus 20 per cent of the amount by which the total income exceeds Rs. 5,00,000/-;
4	Where the total income exceeds Rs. 10,00,000/-	Rs. 1.10,000/- plus 30 per cent of the amount by which the total income exceeds Rs. 10,00,000/-

C. In case of every individual, being a resident in India, who is of the age of eighty years or more at any time during the financial year:

Sl No	Total Income	Rate of tax
1	Where the total income does not exceed Rs. 5,00,000/-	Nil;
2	Where the total income exceeds Rs. 5,00,000 but does not exceed Rs. 10,00,000/-	20 per cent of the amount by which the total income exceeds Rs. 5,00,000/-;
4	Where the total income exceeds Rs. 10,00,000/-	Rs. 1,00,000/- plus 30 per cent of the amount by which the total income exceeds Rs. 10,00,000/,

2.2 Surcharge on Income-tax

The amount of Income-tax computed in accordance with the provisions of section 111A or section 112 or section 112A or the provisions of section 115BAC of the Income-tax Act, shall be increased by a surcharge for the purposes of the Union, calculated, in the case of every individual or Hindu undivided family or association of persons or body of individuals, whether incorporated or not, or every artificial juridical person referred to in sub-clause (vii) of clause (31) of section 2 of the Income-tax Act 1961—

(a) having a total income (including the income by way of dividend or income under the provisions of section 111A and section 112A of the Income-tax Act) exceeding fifty lakh rupees but not exceeding one crore rupees, at the rate of ten per cent. of such income-tax;

(b) having a total income (including the income by way of dividend or income under the provisions of section 111A and section 112A of the Income-tax Act) exceeding one crore

rupees but not exceeding two crore rupees, at the rate of fifteen per cent. of such income-tax;

(c) having a total income (excluding the income by way of dividend or income under the provisions of section 111A and section 112A of the Income-tax Act) exceeding two crore rupees but not exceeding five crore rupees, at the rate of twenty-five per cent of such income-tax;

(d) having a total income (excluding the income by way of dividend or income under the provisions of section 111A and section 112A of the Income-tax Act) exceeding five crore rupees, at the rate of thirty-seven per cent of such income-tax; and

(e) having a total income (including the income by way of dividend or income under the provisions of section 111A and section 112A) exceeding two crore rupees, but is not covered under clauses (c) and (d), shall be applicable at the rate of fifteen per cent. of such income-tax:

Provided that in case where the total income includes any income by way of dividend or income chargeable under section 111A and section 112A of the Income-tax Act, the rate of surcharge on the amount of Income-tax computed in respect of that part of income shall not exceed fifteen per cent.:

Provided further that in the case of persons mentioned above having total income exceeding,

(a) fifty lakh rupees but not exceeding one crore rupees, the total amount payable as income-tax and surcharge on such income shall not exceed the total amount payable as income-tax on a total income of fifty lakh rupees by more than the amount of income that exceeds fifty lakh rupees;

(b) one crore rupees but does not exceed two crore rupees, the total amount payable as income-tax and surcharge on such income shall not exceed the total amount payable as income-tax and surcharge on a total income of one crore rupees by more than the amount of income that exceeds one crore rupees;

(c) two crore rupees but does not exceed five crore rupees, the total amount payable as income-tax and surcharge on such income shall not exceed the total amount payable as income-tax and surcharge on a total income of two crore rupees by more than the amount of income that exceeds two crore rupees;

(d) five crore rupees, the total amount payable as income-tax and surcharge on such income

shall not exceed the total amount payable as income-tax and surcharge on a total income of five crore rupees by more than the amount of income that exceeds five crore rupees.

23 Health and Education Cess

The amount of Income tax as increased by the applicable surcharge shall be further increased by an additional surcharge, for the purposes of Union, to be called "Health and Education Cess on Income-tax".

Health and Education Cess on Income-tax shall be levied at the rate of four percent of income tax including surcharge wherever applicable. No marginal relief shall be available in respect of such cess.

2.4 Concessional Rates of Tax u/s 115BAC

Section 115BAC of the Income-tax Act, 1961 was inserted by the Finance Act, 2020 w.c.f. Assessment Year 2021-22. The new section 115BAC provides that the income-tax payable in respect of the total income of a person, being an individual or a HUF, for any previous year relevant to the assessment year beginning on or after the 1st day of April, 2021, shall, at the option of such person, be computed at the concessional rates as given in table below:

Sl. No	Total Income	Rate of tax
1	Up to Its. 2,50,000	Nil
2	From its. 2,50,001 to Its. 5,00,000	5 per cent
3	From Rs. 5,00,001 to Rs. 7,50,000	10 per cent
4	From Rs. 7,50,001 to Rs. 10,00,000	15 per cent
5	From Rs. 10,00,001 to Rs. 12,50,000	20 per cent
6	From Rs. 12,50,001 to Rs. 15,00,000	25 per cent
7	Above Rs. 15,00,000	30 per cent

Such person is required to exercise the option in the prescribed manner along with the return of income to be furnished under section 139(1) of the Act for the previous year relevant to the assessment year. The concessional rates of tax provided under section 115BAC are subject to the condition that the total income of the individual or HUF shall be computed : -

- a) Without any exemption or deduction specified under clause (i) of sub-section (2) of section 115BAC.
- b) Without set off of any loss specified in clause (ii) of sub-section (2) of section 115BAC.
- c) Without any exemption or deduction for allowances or perquisite, by whatever name called, provided under any other law for the time being in force, as specified in the clause (iv) of subsection (2) of section 115BAC.

Further, surcharge on income-tax as contained in Para 2.2 shall *be* applicable in case of person opting for concessional tax regime. Where the person fails to satisfy the conditions contained in sub-section (2) in any previous year, the option shall become invalid in respect of the assessment year relevant to that previous year and other provisions of the Act shall apply, as if the option had not been exercised for the assessment year relevant to that previous year. Further, where the option is exercised under clause (1) of say-section (5), in the event of failure to satisfy the conditions contained in sub-section (2), it shall become invalid for subsequent assessment years also and other provisions of the Act shall apply for those years accordingly.

The conditions specified in subsection (2) of section 11513AC is as follows:

For the purposes of sub-section (1), the total income of the individual or Hindu undivided family shall be computed--

- 0) without any exemption or deduction under the provisions of clause (5) or clause (13A) or prescribed under clause (14) (other than those as may be prescribed for this purpose) or clause (17) or clause (32), of section 10 or section 10AA or section 16 or clause (b) of section 24 (in respect of the property referred to in sub-section (2) of section 23) or clause (iia) of sub-section (1) of section 32 or section 32AD or section 33AB or section 33ABA or sub-clause (ii) or sub-clause (iia) or sub-clause (iii) of sub-section (1) or sub-section (2AA) of section 35 or section 35AD or section 35CCC or clause (iia) of section 57 or under any of the provisions of Chapter VI--A other than the provisions of sub-section (2) of section 80CCD or section 80JJAA;*
- (ii) without set off of any loss,—*
 - (a) carried forward or depreciation from any earlier assessment year, if such loss or depreciation is attributable to any of the deductions referred to in clause (1);*
 - (b) under the head "Income from house property" with any other head of income;*
- (iii) by claiming the depreciation, if any, under any provision of section 32, except clause (iia) of sub-section (1) of the said section, determined in such manner as may be prescribed; and*
- (iv) without any exemption or deduction for allowances or perquisite, by whatever name called, provided under any other law? for the time being in force.*

Furthermore, in case of a person having income from business or profession, such person is required to exercise the option in prescribed manner on or before the due date specified under such-section (1) of section 139 of the Act for any previous year relevant to assessment year commencing on or after 01.04.2021 and such option once exercised shall apply to subsequent assessment years. However, in case of such persons, the option once exercised can be withdrawn only once and such person shall never be eligible to exercise the option again unless such person ceases to have income from business or profession.

3. SECTION 192 OF THE INCOME-TAX ACT, 1961; BROAD SCHEME OF TAX DEDUCTION AT SOURCE FROM "SALARIES"

3.1 Method of Tax Calculation

Every person who is responsible for paying any income chargeable under the head "Salaries" shall deduct income-tax on the estimated income of the assessee under the head "Salaries" for the financial year 2021-22. The income-tax is required to be calculated on the basis of the rates given in para 2 above, subject to the provisions related to requirement to furnish PAN or Aadhaar number, as the case may be, as per sec 206AA of the Act, and TDS u/s 192 shall be deducted at the time of each payment.

As per section 192(IC) of the Act, a person, being an eligible start-up referred to in section 80-IAC, responsible for paying any income to the assessee being perquisite of the nature specified in sub-clause (vi) of clause (2) of Section **17 in any previous** year relevant to Assessment year 2021-22 and thereafter, shall deduct or pay, as the case may be, tax on such income within 14 days—

- a) after the expiry of 48 months from end of the relevant assessment year; or
- b) from the date of sale of such specified security or sweat equity share by the assessee; or
- c) from the date of the assessee ceasing to be the employee of the person.

whichever is the earliest, on the basis of rates in force for the financial year in which the said specified security or sweat equity share is allotted or transferred.

Any employee intending to opt for the concessional rates of tax under section 115BAC of the Act, may intimate the deductor, being his employer, of such intention for each previous year and upon such intimation, the deductor shall compute his total income, and make TDS thereon in accordance with the provisions of section 115BAC. If such intimation is not made by the employee, the employer shall make TDS without considering the provision of section 115BAC of the Act. The intimation so made to the deductor shall be only for the purpose of TDS during the previous year and cannot be modified during that year. (CBDT Circular No. CI of 2020 dated 13.04.2020)

No tax, however, will be required to be deducted at source in a case unless the estimated salary income including the value of perquisites is taxable after giving effect to the exemptions, deductions and relief as applicable. (*Some typical illustrations of computation of tax are given at Annexure I*).