

# Tax Flash News

22 August 2023

## Amendment in Rule for determining the perquisite value of residential accommodation provided by employer

### Background

As per the Finance Act, 2023, it was proposed to modify the Rule 3 of the Income-tax Rules, 1962 (the Rules) with respect to ascertaining the perquisite value of rent-free residential accommodation provided by the employer.

In this regard, the Central Board of Direct Taxes (CBDT) has issued a Notification<sup>1</sup> amending Rule 3 of the Rules, wherein *inter-alia*, effective 1 September 2023, the rates (on prescribed salary) at which perquisite value is determined has been reduced.

Further, CBDT vide the notification, has inserted a new proviso<sup>2</sup>, with respect to method of determination of perquisite valuation in cases where the accommodation is owned by the employer and the same accommodation is continued to be provided to the same employee for more than one Financial Year (FY).

### Amendments with respect to computation of perquisite value on accommodation provided by employer

- The comparison of the existing provision along with the new amendment with respect to perquisite valuation of residential accommodation provided by employer (un-furnished employer owned) is illustrated below.

| As per existing Rule 3 of the Rules     |   | As per Notification – Amended Rule 3 of the Rules |   |
|---|---|---|---|
| City with population as per 2001 census | Perquisite Value (% of prescribed salary) | City with population as per 2011 census           | Perquisite Value (% of prescribed salary) |
| More than 25 lakhs                      | 15%                                       | More than 40 lakhs                                | 10%                                       |
| Exceeding 10 lakhs and Upto 25 lakhs    | 10%                                       | Exceeding 15 lakhs and Upto 40 lakhs              | 7.50%                                     |
| Upto 10 lakhs                           | 7.50%                                     | Upto 15 lakhs                                     | 5%  |

- Separately, with respect to unfurnished accommodation as taken on lease by the employer and provided to the employee, the rates (on prescribed salary) on which perquisite value is determined has been reduced from 15% of the salary to 10% of salary.
- The perquisite value of Rent-Free Accommodation provided by an employer in a hotel (exceeding 15 days in aggregate in case of transfer) remain unchanged at lower of 24 percent of the prescribed salary or actual charges incurred.

<sup>1</sup> Notification No. 65/2023/F. No. 370142/21/2023-TPL Part (1)

<sup>2</sup> Rule 3 of the Rules

- The above may not be applicable for any temporary accommodation<sup>3</sup> located in a remote area, provided by the employer. Also, the CBDT vide this amendment has increased the plinth area to 1000 square feet from 800 square feet, as prescribed in Rule.
- Remote area has been redefined as an area within the local limits or 30 Kilometers (reduced from 40 Kilometers specified earlier) from the local limits of any municipality or a cantonment board having a population of 1,00,000 or more based on the 2011 census (increased from 20,000 based on latest published all India census)
- In cases where the same accommodation has been provided by the employer (for owned accommodation) for more than one FY, then the perquisite value for such accommodation shall be least of the following;
  - a) Perquisite value (determined as above) for that particular FY; (or)
  - b) Indexed perquisite value of the first FY = [Perquisite value of the first FY x Cost Inflation Index for the FY for which the perquisite value has to be determined] / [Cost Inflation Index for the FY in which the accommodation was initially provided to the employee]

The first FY means FY 2023-24 or the previous year in which accommodation is provided to the employee, whichever is later.

The Cost Inflation Index means the index notified by the central government<sup>4</sup>.

- The provisions relating to transfer where the employer may provide accommodation to an employee in the host and home location remain unchanged.

## Our comments

The CBDT vide this notification has reduced the rates for perquisite valuation, providing a relief to the non-Government employees for whom accommodation has been provided by the employer. Further, vide this amendment, the CBDT has taken into consideration the cost inflation rates for determination of perquisite value on accommodation provided by the employer for more than one FY.

<sup>3</sup> Rule 3 of the Rules and subject to specified conditions

<sup>4</sup> Section 48(v) of the Income tax act, 1961

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