



INTERNATIONAL JOURNAL FOR LEGAL RESEARCH AND ANALYSIS

Open Access, Refereed Journal Multi Disciplinary
Peer Reviewed Edition :

www.ijlra.com

DISCLAIMER

No part of this publication may be reproduced or copied in any form by any means without prior written permission of Managing Editor of IJLRA. The views expressed in this publication are purely personal opinions of the authors and do not reflect the views of the Editorial Team of IJLRA.

Though every effort has been made to ensure that the information in Volume 2 Issue 7 is accurate and appropriately cited/referenced, neither the Editorial Board nor IJLRA shall be held liable or responsible in any manner whatsoever for any consequences for any action taken by anyone on the basis of information in the Journal.

Copyright © International Journal for Legal Research & Analysis

IJLRA

EDITORIAL TEAM

EDITORS



Megha Middha

Megha Middha, Assistant Professor of Law in Mody University of Science and Technology, Lakshmangarh, Sikar

Megha Middha, is working as an Assistant Professor of Law in Mody University of Science and Technology, Lakshmangarh, Sikar (Rajasthan). She has an experience in the teaching of almost 3 years. She has completed her graduation in BBA LL.B (H) from Amity University, Rajasthan (Gold Medalist) and did her post-graduation (LL.M in Business Laws) from NLSIU, Bengaluru. Currently, she is enrolled in a Ph.D. course in the Department of Law at Mohanlal Sukhadia University, Udaipur (Rajasthan). She wishes to excel in academics and research and contribute as much as she can to society. Through her interactions with the students, she tries to inculcate a sense of deep thinking power in her students and enlighten and guide them to the fact how they can bring a change to the society

Dr. Samrat Datta

Dr. Samrat Datta Seedling School of Law and Governance, Jaipur National University, Jaipur. Dr. Samrat Datta is currently associated with Seedling School of Law and Governance, Jaipur National University, Jaipur. Dr. Datta has completed his graduation i.e., B.A.LL.B. from Law College Dehradun, Hemvati Nandan Bahuguna Garhwal University, Srinagar, Uttarakhand. He is an alumnus of KIIT University, Bhubaneswar where he pursued his post-graduation (LL.M.) in Criminal Law and subsequently completed his Ph.D. in Police Law and Information Technology from the Pacific Academy of Higher Education and Research University, Udaipur in 2020. His area of interest and research is Criminal and Police Law. Dr. Datta has a teaching experience of 7 years in various law schools across North India and has held administrative positions like Academic Coordinator, Centre Superintendent for Examinations, Deputy Controller of Examinations, Member of the Proctorial Board



Dr. Namita Jain



Head & Associate Professor

School of Law, JECRC University, Jaipur Ph.D. (Commercial Law) LL.M., UGC -NET Post Graduation Diploma in Taxation law and Practice, Bachelor of Commerce.

Teaching Experience: 12 years, AWARDS AND RECOGNITION of Dr. Namita Jain are - ICF Global Excellence Award 2020 in the category of educationalist by I Can Foundation, India. India Women Empowerment Award in the category of "Emerging Excellence in Academics by Prime Time & Utkrisht Bharat Foundation, New Delhi.(2020). Conferred in FL Book of Top 21 Record Holders in the category of education by Fashion Lifestyle Magazine, New Delhi. (2020). Certificate of Appreciation for organizing and managing the Professional Development Training Program on IPR in Collaboration with Trade Innovations Services, Jaipur on March 14th, 2019

Mrs.S.Kalpana

Assistant professor of Law

Mrs.S.Kalpana, presently Assistant professor of Law, VelTech Rangarajan Dr. Sagunthala R & D Institute of Science and Technology, Avadi. Formerly Assistant professor of Law, Vels University in the year 2019 to 2020, Worked as Guest Faculty, Chennai Dr. Ambedkar Law College, Pudupakkam. Published one book. Published 8 Articles in various reputed Law Journals. Conducted 1 Moot court competition and participated in nearly 80 National and International seminars and webinars conducted on various subjects of Law. Did ML in Criminal Law and Criminal Justice Administration. 10 paper presentations in various National and International seminars. Attended more than 10 FDP programs. Ph.D. in Law pursuing.



Avinash Kumar



Avinash Kumar has completed his Ph.D. in International Investment Law from the Dept. of Law & Governance, Central University of South Bihar. His research work is on "International Investment Agreement and State's right to regulate Foreign Investment." He qualified UGC-NET and has been selected for the prestigious ICSSR Doctoral Fellowship. He is an alumnus of the Faculty of Law, University of Delhi. Formerly he has been elected as Students Union President of Law Centre-1, University of Delhi. Moreover, he completed his LL.M. from the University of Delhi (2014-16), dissertation on "Cross-border Merger & Acquisition"; LL.B. from the University of Delhi (2011-14), and B.A. (Hons.) from Maharaja Agrasen College, University of Delhi. He has also obtained P.G. Diploma in IPR from the Indian Society of International Law, New Delhi. He has qualified UGC - NET examination and has been awarded ICSSR - Doctoral Fellowship. He has published six-plus articles and presented 9 plus papers in national and international seminars/conferences. He participated in several workshops on research methodology and teaching and learning.

ABOUT US

INTERNATIONAL JOURNAL FOR LEGAL RESEARCH & ANALYSIS
ISSN

2582-6433 is an Online Journal is Monthly, Peer Review, Academic Journal, Published online, that seeks to provide an interactive platform for the publication of Short Articles, Long Articles, Book Review, Case Comments, Research Papers, Essay in the field of Law & Multidisciplinary issue. Our aim is to upgrade the level of interaction and discourse about contemporary issues of law. We are eager to become a highly cited academic publication, through quality contributions from students, academics, professionals from the industry, the bar and the bench. INTERNATIONAL JOURNAL FOR LEGAL RESEARCH & ANALYSIS ISSN 2582-6433 welcomes contributions from all legal branches, as long as the work is original, unpublished and is in consonance with the submission guidelines.

“TAXABILITY OF PERQUISITES -A BRIEF STUDY”

AUTHORED BY- MR. SHIVAM PANDEY

LLB, University of Delhi.

LLM, WBNUJS.

CO-AUTHOR- MR. EDWIN LEPCHA

BALLB, NLUO.

LLM, WBNUJS.

ABSTRACT

This research paper examines the historical development of perquisite taxation in India, investigating its origins and the different advantages and compensations included within this system. It also examines the methods used by the Income Tax Department to calculate valuations for perquisites and fringe benefits, and assesses their suitability for different categories of employees or taxpayers. In addition, the paper also examines the division between taxable and non-taxable perquisites and fringe benefits as described in Section 17, Clause 2 of the Income Tax Act, 1961, while evaluating the significant impact of these taxation policies on the country's economy.

The taxation of perquisites, a vital component of India's fiscal policies, has experienced substantial changes throughout the years. Gaining an understanding of its past development helps to shed light on its current system of regulations and the potential consequences for different groups involved. This concept can be traced back to legislation from the colonial era, and has evolved through subsequent amendments and legislative reforms. From its initial phases to its more modern iterations. Therefore, it is a complex and diverse occurrence that has significant historical origins and extensive economic consequences. Comprehending the complexities of this matter is crucial for policymakers, taxpayers, and stakeholders. It involves carefully managing the trade-off between financial responsibility and fairness in order to achieve economic growth and prosperity for the country.

INTRODUCTION

Before beginning to understand the topic in brief, it is important to clear the basics, and the same starts by clearing doubts about the term 'Perquisites'. There can be several definitions of the word available, however the author would stick to the basic definition as provided in layman language followed by the definition provided in the Legislation. "*For the common understanding of the readers, Perquisites are benefits enjoyed by employees in their respective professions and such are being provided to them in addition of their Salaries or Wages during the course of employment.*"ⁱ, however the definition cannot strictly bind itself to these mere words as they may also involve reimbursement costs provided to employees by their employers or where the employee gets paid the money which he/she must have paid while on duty which otherwise was supposed to be paid by their employer. It is to be noted that Perquisites doesn't necessarily involve monetary benefits but may also include some non-monetary benefits as well. "*Perquisites may also be referred to as Fringe benefits*".ⁱⁱ

The term Perquisite is not defined anywhere in the IT Act, 1961 but **Section 17 (2)**ⁱⁱⁱ of the Act mentions different values included in the perquisites. These are –

- (1) Whenever an Assessee/ Employee is provided with *an accommodation, and the rent for the same is not charged him/her*, that amount goes on to become the value included in Perquisites.
- (2) Whenever an Assessee/ Employee is provided accommodation by the Employer who charges the Rent for the same, but the *recoverable rent is lower than the actual cost pertaining to the Accommodation*, then the employer is said to have given Concession to the Assessee/ Employee and the concession amount is considered to be the value included as Perquisite.
- (3) Whenever an Employer (also including Companies) provides any form of benefit or amenity to a group of employees or known as Specified Employees whether for *free or at some lower price*, in such cases, value of these benefits or amenity are considered as Values included in Perquisites.
- (4) Whenever the assessee/ employee makes a payment on behalf of an employer where the obligation is on the employer to pay, the said amount should be considered included under Perquisite.

- (5) Whenever the employer happens to pay through a Fund whether in a real or virtual manner to the assessee for bringing *into effect an Assurance or Annuity*, the amount paid so is included within Perquisites.
- (6) Whenever the employer *contributes an amount to an approved superannuation fund to an extent that it exceeds One Lakh Rupees* in respect for the assessee/ employee, such an amount would be included under Perquisites.
- (7) *Any edge or any other form of benefit if in subsistence*, the value of the same would be considered included under Perquisites.

So, after the meaning and essence of Section 17(2) of the IT Act, 1961 is comprehended, now it is essential to appreciate and recognize that the perks or the fringe benefits are free from any levying of tax, rather these are divided in two categories^{iv},

- (i) Taxable Perquisites
- (ii) Non - Taxable Perquisite

Discussing about Perquisites that cannot be Taxed, there are several one of them available, some of them being Refreshments that are provided during Office hours, prices of medical treatment in medical institutions or hospitals run by or under the authority of Employer where services by assessee or his immediate family has been used. It is also to be understood that not everyone is taxed for Perquisites uniformly, an example of such a case is when Government and Non-Government employees are taxed for similar perquisites but differently^v. Where the same varies in the case of a Non-Government employee as the Value is determined according to the city such accommodation of the employer is located at, for instance, Where the city has a Population of Less than 10 Lakhs, the Value of perquisite would be **5% of the Salary** of the employee, when the same is located in a city with population ranging between 10 and 25 lakhs, the value would be **10% of the salary**, and when the city exceeds a population of over 25 lakhs, the value of perquisites is **15% of the entire salary**.^{vi}

Taxation of perquisites under Income Tax was a later addition which came into effect in the early 2000s. On 25th September, 2000 **Rule Number 3** of the IT Rules, 1962^{vii} was amended by the government via **notification no. S.O. 940 (E)**, which governed the valuation of perquisites. Out of the multiple amendments made to the Rule, one was the new rule of imposition of Tax according to the “Cost to Employer” basis. This characterized perks very much on the same lines as salary which too was taxed accordingly. However, after having done so, it became a tedious

and cumbersome process for the employers to follow as it demanded/ required the maintenance of records of all the perquisites provided to the employee by the employer. This resulted in the latter increasing the salary of his employees rather than providing them the grants/ perks which otherwise would be later paid under different heading. This continued to be followed by various individual businesses and employers thereby keeping close to no accounts of the Perquisites. However, it didn't take long for the revenue department to realize the amount of Tax evaded through this process which was not "Illegal" in Nature. They understood the benefits of collecting Tax directly from the employers and found it to be a more efficient practice thereby limiting the actions to a few steps. Another logical conclusion that backed this thought was the difficulty in accessing the details of the perquisite amounts which had to be filtered from the personal expenses as only the business expenditure was supposed to be taxable, thereby bringing the need to maintain records which was clearly something a majority of the employers refrained from doing. As a result of this, a new type of Tax known as the **Fringe Benefit Tax (FBT)** was introduced by the *Finance Act, 2005*. This tax was chargeable under "section 115WA of the *Income Tax Act, 1961*" and was to be in its entirety paid by the employer who provided perks to the employees and included both monetary as well as non-monetary benefits.^{viii} These taxes were levied at a rate of 30% of the value of the Fringe Benefits which were received by the employee^{ix}. Also following this addition was **Notification no. 68/2005** which was released on 28th February, 2005 and deleted the rule of taxing corresponding perks received by the employees. To create an understanding as well as making clear the definitions, **section 115W under Chapter XII-H** highlighting about Income-Tax on Fringe Benefits gave a clear meaning of the term "Employer" as used in the Fringe Benefit Tax, it stated that an employer would mean anything and anyone starting from a "**Company, Firm, an association of persons or a body of Individuals (incorporated or not), a local authority, an artificial juridical person**". Other than this list, Fringe Benefit Tax was not applicable to an Individual, Hindu Undivided Family, any Trust or Fund etc. Out of the list of people who did not fall under the law stated in *section 115W of the Income Tax Act, 1961* and were employers themselves, it was important to tax their respective employees as there was a possibility of them evading taxes. Therefore **Rule 3 (vii)** was reintroduced with effect and was brought in effect from the financial year 2008-2009 vide notification S.O. 1896 (E) on 7th November, 2007, to utilize this rule for the cause intended, a proviso was inserted stating the same would only be applicable to the Employees of the Employers not falling under the Fringe Benefit Tax. However, on 1st April, 2009 the Fringe Benefit Tax was scrapped by the then Finance Minister Pranab Mukherjee and was replaced by the Income-tax (13th Amendment) Rules, 2009.^{xi} This did not affect Rule 3 as it went on to be applicable for every employee the very next year

i.e. 2010. Other than the above-mentioned changes, Section 17 of the Act was amended and 2 new items were introduced which also fell under the definition of perks. These are:

- i. *“Employer’s contribution to the Superannuation fund of the employee over an amount of Rs. 100,000/- during the entire year*
- ii. *Employee Stock Option Plans.”*

Section 17(2) of the Income Tax Act, 1961 provides a number of items that define Perquisites, these are basically the headings which will help classify the items falling under Perquisites. These are:

First, the value of an accommodation which is either rent-free or has been provided at a concessional amount by the employer, Second, the value attached to any amenity or benefit which is granted for free to specified employees or is provided at a concessional rate, etc. Third, any sum which is being paid by the employer due to an obligation which otherwise would have been payable by the Assessee. Fourth, the value stored in any specified security or otherwise any sweat equity shares which will be/ have been allotted or being transferred, whether really or virtually by the assessee/ ex-employer either for particular price which is a concessional rate or otherwise free of cost. Fifth, the amount of any contribution to a superannuation fund which is approved, in respect of the assessee by the employer to the extent it exceeds INR 100,000/-. And finally, Sixth, which is the value of any fringe benefit or an amenity that is being prescribed.^{xii} Valuation of any residential accommodation depends on the nature of employment and employer. Because the valuation differs in the case of the employee being a Union/ State Government employee or a non-government employee. The point opens up huge list of items under it according to which the taxation is done, for instance such perquisites may again be divided according to the nature of residence, whether furnished or un furnished, between a hotel room and a rented place. All of the six points covered under section 17(2) have got a list of categories and subdivisions under them, thereby making it an extended scheme of things that would be covered as perquisites.

How are the Valuations on Perquisites and Fringe benefits determined by the Income Tax Department? Are such valuations applicable to all class/ group of Employees or Assessee?

For the purpose of taxation of salary as well as the valuation of perquisites which are either provided directly or indirectly by the employer to an assessee/ employee or to any other person being a member of the household for the reason of being employed with the concerned Employer as stated by the following rules and sub-rules.

RESIDENTIAL ACCOMMODATION

1. When an accommodation is provided to the Employee from the Employer, who is either the Central Government or the State Government.

Unfurnished Accommodation:

When a Central Government Employee/ State Government Employee is provided an unfurnished accommodation as a result of the employee holding an Office or a position in connection with the government, the valuation of perquisite would be determined by reducing the License fee decided in accordance with the orders of the union or state government as per the provisions framed, by the actual rent amount paid by the employee.

Furnished Accommodation:

When any worker or any person working for the union or the state Govt. is provided a Furnished accommodation as a result of the employee holding an Office or a position in connection with the government, the valuation of perquisite would be the same as the method of valuation of perquisite for an unfurnished accommodation followed by a 10% increase in the amount annually due to the cost of the Furnitures included in the furnished accommodation such as TV, Refrigerators, ACs etc. which could be generally found in a furnished accommodation. In the case such furniture are not made available by the Government and as a matter of fact have been hired from a third party, the valuation then would be the value of perquisite by reducing the License fee determined, from the Rent actually paid by the employee and in addition to that, the hire charges for the furnitures that are supposed to be paid to the concerned third party, during the previous year.

2. When an accommodation is provided to the Employee from the Employer who is not the Government.

Unfurnished accommodation owned by the Employer

When the employee is provided with an accommodation which is unfurnished and also owned by the employer, the valuation of the Perquisite would equal to 15% of the salary of such employee who is residing in a city with a population of more than 25 lakhs according to 2001 census. In case such an employee is residing in a city with a population ranging between 10 lakhs and not exceeding 10 lakhs as per the 2001 census, he/she shall be subjected to pay 10% of the Salary which would be calculated as the valuation of the perquisite. 5% of the employee's salary would be considered as the valuation of the perquisite in the event such employee resides in an area

where the population as per the 2001 census is below 10 Lakhs.^{xii}

Furnished accommodation owned by the Employer

When the employee is provided with an accommodation which is maintained and supplied by the person under which employee works, the calculation of perquisite will be exactly identical as the method of valuation of perquisite for an unfurnished accommodation (15%/10%/5%) followed by a 10% increase in the amount annually due to the cost of the Furnitures included in the furnished accommodation such as TV, Refrigerators, ACs etc. which could be generally found in a furnished accommodation. In the case such furniture are not made available by the Government and as a matter of fact have been hired from a third party, the valuation then would be the value of perquisite by reducing the License fee determined, from the Rent actually paid by the employee and in addition to that, the hire charges for the furniture that are supposed to be paid to the concerned third party, in the previous assessment year.

Unfurnished accommodation taken on rent or lease from the Employer

When the employee is provided with an accommodation which is unfurnished by the Employer and the same is not owned by the employer but has been taken as a leased or rented property, the valuation of perquisite would be at the rate of 15 percent of the salary or the real sum of lease rent payable by the employer, whichever of the two is lesser after being subtracted by the rent if there's any paid by the employee.

Furnished accommodation taken on lease/ rent by the Employer

When the employee is provided with an accommodation which is furnished and not owned by the employer but the same is not owned by the employer but has been taken as a leased or rented property, the valuation of perquisite would be the same as the method of valuation of perquisite by calculating the lowest of the lease rental or 15% of the salary which will be reduced by the rent in case the same has been paid by the employee. This is followed by a 10% increase in the amount annually due to the cost of the furnitures included in the furnished accommodation such as TV, Refrigerators, ACs etc. which could be generally found in a furnished accommodation. In the case such furniture are not made available by the Government and as a matter of fact have been hired from a third party, the valuation then would be the value of perquisite by reducing the License fee determined, from the Rent actually paid by the employee and in addition to that, the hire charges for the furniture that are supposed to be paid to the concerned third party, during the previous year.

3. Where the accommodation is provided in a Hotel by the Government/ Private Employer

When an employee is provided an accommodation in a hotel by the employer, the valuation of the perquisite would be 24% of the salary which is given or rewarded in the previous year or otherwise the prices given to the hotel, either one can be opted according to the lowest rate. This would then be reduced from the rent, if there's anything paid or payable by the employee.^{xiii}

These shall not be applicable to any such accommodation being provided to an employee who works at a Mine site/ On shore oil exploration site/ project execution site/ Dam/ Power generation site/ Off-shore site which will be temporary in nature and will not be having a plinth area that exceeds 800 sq. ft. The same shall be located more than 8 kms from the local limits of any cantonment board or municipality, or is located in a remote area.

Also, whenever the employee's nature of job demands him to shift places time to time and thereby is allotted new accommodations while retaining the previous one as well, the Perquisite value of only the accommodation with the lowest value must be calculated for a period of 90 days after which value of both perquisites would be charged accordingly.

MOTOR VEHICLE

- I. Where there is a motor vehicle/ car available with the Employer, either owned by him or purchased.

Motor car used with volume of engine not more than 1.6 litres

There will be no valuation of perquisite, however in order for the same to not be evaluated the Employer has to give a proof of effect which states that the expenses incurred on the vehicle wholly or exclusively have been for performing the official duties, along with maintenance of complete journey details which may include:

- A. The Actual date of journey
- B. The name of the destination/ place driven to.
- C. The total distance covered
- D. Total expenses incurred during the Journey.

When the Motor car used has a volume more than 1.6 litres of the engine

There will be no valuation of perquisite, however in order for the same to not be valued, the conditions applied are the same as the ones mentioned above with respect to Motor vehicles with engine not exceeding 1.6 Litres.

2. Where the motor vehicle is being used for anything but Official purposes by the employee and his family members and the maintenance cost incurred is being reimbursed by the Employer.

Motor car used with cubic capacity of engine that does not exceeding 1.6 litres

In such a situation the valuation of the perquisite would be determined by calculating the total expenses from the Expenditure incurred by the employer while having the vehicle put through checking over, preservation and conservation of the motor car during the previous year which also include the money paid to the hired professional, this in addition to the expenses incurred in the additional wear and tear of the vehicle. This amount would then be subtracted from the amount charged by the employer to the employee to evaluate the perquisite.

When the Motor car used has a cubic capacity of engine that exceeds 1.6 litres

The valuation of perquisite for a motor car with cubic capacity of engine exceeding 1.6 Litres would be the same as for a Motor Car with cubic capacity of engine not exceeding 1.6 Litres.

3. Where the motor car is used partly for performing Official as well as personal purposes.

When in doing so, the cost of running and maintaining the vehicle is reimbursed by the employer

Motor car used with volume of engine not more than 1.6 litres

The valuation of the perquisite would be Rs. 1800/-, in addition to this amount Rs. 900/- if a Chauffeur is allotted for driving the motor vehicle.

When the Motor car used has a cubic capacity of engine that exceeds 1.6 litres

The valuation of the perquisite would be Rs. 2400/-, in addition to this amount Rs. 900/- if a Chauffeur is allotted for driving the motor vehicle.

When in doing so, the cost for running and maintaining the vehicle is entirely taken care of by the Employee/ Assessee.

Motor car used with cubic capacity of engine that does not exceeding 1.6 litres

The valuation of the perquisite would be Rs. 600/-, in addition to this amount Rs. 900/- if a Chauffeur is allotted for driving the motor vehicle.

When the Motor car used has a cubic capacity of engine that exceeds 1.6 litres

The valuation of the perquisite would be Rs. 900/-, in addition to this amount Rs. 900/- if a Chauffeur is allotted for driving the motor vehicle.

II. Where there is a motor car/ vehicle available with the employee which is owned by him and the running and maintenance charges which also includes remuneration are paid by the Employer.

1. Where such remunerations are made to the person working for the substantial purpose solely of the vehicle and specifically for the duty purpose.

Motor car used with volume not more than 1.6 litres

There will be no valuation of perquisite, however in order for the same to not be evaluated the Employer has to give a certificate to the effect which states that the expenses incurred on the vehicle wholly or exclusively have been for performing the official duties, along with maintenance of complete journey details which may include:

- A. The Actual date of journey
- B. The name of the destination/ place driven to.
- C. The total distance covered
- D. Total expenses incurred during the Journey.

When the Motor car used has a volume of engine more than 1.6 litres

There will be no valuation of perquisite, however in order for the same to not be valued, the conditions applied are the same as the ones mentioned above with respect to Motor vehicles with engine not exceeding 1.6 Litres.

2. Where such reimbursements made are for using the vehicles partly for Official and partly for personal usage by the employee/ assessee.

Motor car used with cubic capacity of engine that does not exceeding 1.6 litres

The valuation of the perquisite would be the actual amount of expenditure incurred by the employer as reduced by Rs. 1800/-, in addition to this amount Rs. 900/- if a Chauffeur is allotted for driving the motor vehicle.

When the Motor car used has a cubic capacity of engine that exceeds 1.6 litres

The valuation amount of perquisite would be the same as the value obtained in case of a motor car with the cubic capacity of engine not exceeding 1.6 Litres above i.e. the actual amount of expenditure incurred by the employer as reduced by Rs. 1800/-, in addition to this amount Rs. 900/- if a Chauffeur is allotted for driving the motor vehicle.

III. Where there is any other Automotive conveyance owned by the employee/ assessee, and the running charges including maintenance costs are being provided by the Employer.

1. Where such money is being paid to the person working under the employer for the use of such automotive conveyance substantially for official purposes.

Motor car used with cubic capacity of engine that does not exceeding 1.6 litres

There will be no valuation of perquisite, however in order for the same to not be evaluated the Employer has to give a certificate to the effect which states that the expenses incurred on the vehicle wholly or exclusively have been for performing the official duties.

When the Motor car used has a cubic capacity of engine that exceeds 1.6 litres

Valuation of the perquisite is not applicable.

2. Where such reimbursements made are for purposes of such automotive conveyance in part for official uses and in part for personal conveyance by the employee/ assessee.

Motor car used with volume not more than 1.6 lts.

The valuation of perquisite would be determined by deducting the actual amount of expenditure incurred by the employer, with an amount of Rs. 900.

When the Motor car used has a cubic capacity of engine that exceeds 1.6 litres

Valuation of the perquisite is not applicable.^{xiv}

PERSONAL SERVICES

The valuation of perquisite/ benefit to the Employee from the Employer in the form of services such as that of a Sweeper, Gardner, Personal Attendant, Watchman will be the actual cost incurred. Meaning thereby, that the amount taxed would be complete with respect to the save borne by the employer.^{xv} In the case of the employee paying some amount for such, the valuation would be the gross amount of salary paid deducted with the payments made by the employee. xiv

THE SUPPLY OF GAS, WATER AND ELECTRICAL POWER

The valuation of perquisite for the benefits enjoyed in the form of free gas, water and electricity according to the rules would be the payment made to the agency/ service supplying the same by the employer. In the event of the same being generated and used from the resources owned by the employer himself, the valuation would be the manufacturing cost incurred per unit. Sum settled up by employee if any must be reduced to find final valuation amount.

EDUCATION

The valuation of the perquisite arising from any such educational facilities which bears no costs or have been provided at discounted sum for any family member will be calculated as the sum that should be equal to the amount of expenses being levied by the employer on that behalf, otherwise in situations where the institution is itself being taken care of by the employer or concessional/ free education services are provided to the family members of the employee on account of being employed under the concerned employer, then the valuation cost would be the cost of similar education in a different institutions with similar environment in case such benefits per child exceeds Rs. 1000/- per month.

INTEREST FREE, CONCESSIONAL LOANS

Many a times financial institutions provide to their employees' loans that are interest free or provide so at a concessional rate, the valuation of the perquisites "*from such loans would be the sum equal to the interest which would be computed at the rate charged yearly by the State Bank of India.*"

What are the different Taxable and Non-Taxable perquisites and Fringe Benefits recognized under the IT Act, 1961? Assess the importance of such taxations in relation to the Economy of the Country.

There are five different categories of perquisites which are divided, them being,

Firstly, are the perquisites taxed from employees irrespective of their position and category, *second* are the perquisites that are taxable on the employees when they belong to a particular group and are thereby also known as specified employees. *Next* are the perquisites on Sweat equity shares that are allotted or sometimes transferred to the assessee by the employer. *Fourth* are the perquisites on the contribution of the employer to the superannuation fund in respect of the assessee exceeding over Rs. 1,50,000/- and the *final* category are the Tax-Free perquisites or the Non-Taxable perquisites under the Income Tax Act.

Taxable perquisites fall under the first four categories, starting from the First, which is Perquisites which are valued and taxed for categories of employees^{xvi}, we have

1. Rent Free Accommodations: As being discussed in the previous research question about how valuations are done for the same, Taxing on perquisites such as the accommodations

that are received by the employee from the employer, free of cost, given the fact that remunerations too are provided are applicable to all the categories of employees.

2. Rental concession: Rental concessions on accommodations that are being provided by the employer to the assessee are perquisites that are taxable in the hands of all employees irrespective of their category.
3. Monetary obligation: The sum of money that is being paid by the employer to the employee in sectors such as that of education, etc. and which otherwise would have been payable by the employee are perquisites that are taxed in the hands of all categories of employees.
4. Payments made to the employee by the employer in the form of funds, schemes etc. are also taxed directly from the employees.

Some of the perquisites are however taxable in the hands of a specified group of employees, these are as follows:

1. When an employee is provided with certain facilities by the employer which otherwise would have been provided separately in the form of Monetary obligations, thereby bringing the employee under a separate category from the rest of the employees who have not been provided such services by the employer. This is according to section 17(2)(iii) of the Income Tax Act, 1961.

Examples: The employer providing Motor car services to an employee brings the latter under the category of a Specified employees, as the other employees may be provided remunerations for the transportation services utilized by them for Official/Personal purposes.

2. When the employer provides the employee/ Assessee the services of a Gardner/ Watchman etc.
3. When the employer provides the employee/ Assessee the services such as Gas, water, electricity either free or at a concessional rate.
4. When the employer provides the employee services of free transportation either for an official or a personal journey.
5. Other benefits in the form of Amenities, services facilities etc.

There are a number of perquisites which are not taxed by the Income Tax Department, them being^{xvii}

Serial Number	Perquisites
I.	Leave travel concessions which are subjected to certain conditions and when only the actual amount is spent.
II.	The cost incurred for purchasing a Computer/ Laptop which is supposed to be used for personal gains
III.	The initial fees paid for obtaining corporate membership
IV.	The cost incurred in purchasing refreshments for the employees during the working hours.
V.	Money spent on making payments on policies such as personal accident policy.
VI.	Cost incurred on the subscription of certain journals and other related documents for discharging work.
VII.	Perquisites in the form of provisions in medical facilities.
VIII.	No Gifts exceeding the cost of Rs. 5000 per annum
IX.	Perquisites such as health club, sports facility.
X.	Facility of free telephones
XI.	Allowances in the form of Children education (Rs. 300 monthly) and hostel (Rs. 300 Per month), Transport (Rs. 800 Monthly)
XII.	Value from any benefit which is provided free or at a concessional rate by the company to its employees by allotting shares and other such allotments under the provisions of the Employees Stock Option Plan
XIII.	Any free meal which is provided during the working hours or by providing coupons the value of which doesn't exceed Rs. 50
XIV.	Any contribution made to a recognized provident fund or any approved super annuation fund, pension etc. are not taxable.
XV.	Even though fixed medical allowances are taxable, any such facility taken in a private clinic and government hospitals are exempted to the extent of Rs. 15000/-

Taxation is an important tool of the state which is important for carving out a significant amount of money which is essential to be utilized for the development of the nation and various other economic structures. It is taxation that ensures a state-level growth, payment of salaries to the government workers and development of state infrastructure. For a budget restricted economy such as India a relationship between Tax and Growth is an important pillar which enables issues

such as budget crisis, and other related problems to be tackled by having the support of Tax revenues. Salary includes Perquisites under its heading, the reason being, such are additional incomes being provided to an employee by his employer. The very first time when the Fringe Benefits Tax was introduced in the year 2005, the Tax department hoped on increasing number of incomes being deducted as Taxes as was applicable under the appropriate definition, However the same was being difficult to manage by the employers who in turn had to maintain cumbersome records which was not feasible option given the opportunity to grow their respective businesses. Many employers started to increase the salaries of their employees on account of removing the burden of maintaining records which further required segregation between Personal and Official expenses. The regular amendments to the Income Tax Rules pertaining to Perquisites is evidence of them holding a significant value to the country.^{xviii}

CONCLUSION

Taxation of perquisites in relation to the Income Tax was an addition which came into effect in the early 2000s. On 25th September, 2000 the government amended via **notification no. S.O. 940 (E), Rule 3^{xix}** which governed the valuation of perquisites. Out of the multiple amendments made to the Rule, one was the new rule of imposition of Tax according to the “Cost to Employer” basis. The reason for doing so was to characterize perks on the same lines as Salaries and tax them accordingly as they too resembled modes of income. However, the Income Tax Authorities soon discovered about the cumbersome process and tedious work associated with the imposition of tax according to a cost to employer basis when the latter started to increase salaries of his employees rather than maintaining records on perquisites. As a result of this, a new type of Tax known as the **Fringe Benefit Tax (FBT)** was introduced by the Finance Act, 2005. This tax was chargeable under **section 115 Clause WA, IT Act 1961** and was to be in its entirety paid by the employer who provided perks to the employees and included both monetary as well as non-monetary benefits, However Fringe Benefit Tax too had its drawbacks due to which it was no longer applicable from the Financial Year 2010 owing to which Rule 3 of the Income Tax Rules, 1962 was re-enacted thereby making the Employees responsible to pay the Perquisite taxes on everything as provided under Section 17(2) of the Income Tax Act, 1961. However, the same is not applicable to all kinds of perquisites. Going down the further classification it was understood that perquisites have got certain levels of classifications them being one’s taxable to all employees, some by specified employees and some that are non-taxable in nature. Perquisites have got a huge economic point attached to them when linked to the Income Tax returns, this

way incomes are regulated and thereby financially builds a pillar for the country to continue with its developmental plans.

ⁱ *Value of Perquisites*, Appendix – 1, Shodhganga (Visited on 30/07/2020)

ⁱⁱ Tax Payer Information Series – 36, *Valuation of Perquisites*, Income Tax Department (Visited on 01/08/2020)

ⁱⁱⁱ Refer to, Taxmann's Guide to Income tax Act, 1961

^{iv} *Taxable and Non-Taxable Perquisites under Salary Income*, Income Tax Management.Com (Visited on 02/08/2020)

^v *Taxation of Perquisites*, Coverfox Insurance, <https://www.coverfox.com/personal-finance/tax/taxability-of-perquisites/> (Visited on 31/08/2020)

^{vi} *Taxation of Perquisites - Under IT Act, 1961*, Bank Bazaar (Aug. 3, 2020), <https://www.bankbazaar.com/tax/taxability-of-perquisites.html>

^{vii} Tax Guru Team, *Notification: S.O.940(E) Section(s) Referred: s. 3 Statute: INCOME TAX* Date of Issue: 25/9/2001 Tax Guru (2001), <https://taxguru.in/income-tax/notification-noso940e-income-tax-dated-2592001.html> (last visited Oct 25, 2020).

^{viii} GST Gyan, *History of Taxation in India* XATTAS GST BLOG (2017), <https://xattax.in/blog/history-indian-tax-structure/> (last visited Oct 25, 2020).

^{ix} *Taxability of Perquisites under Income Tax Act*, Bank Bazaar, <https://www.bankbazaar.com/tax/taxability-of-perquisites.html#:~:text=According%20to%20the%20Finance%20Act,the%20value%20of%20fringe%20benefit> s. (last visited Oct 25, 2020).

^x *Income-Tax on Fringe Benefits*, Income Tax of India, <https://www.incometaxindia.gov.in/Acts/Income-tax%20Act.%201961/2012/102120000000025281.htm> (last visited Oct 25, 2020).

^{xi} Special Correspondent, *New income-tax rules on perks to replace FBT notified* The Hindu (2016), <https://www.thehindu.com/business/Economy/New-income-tax-rules-on-perks-to-replace-FBT-notified/article16854582.ece#:~:text=However%2C%20with%20Finance%20Minister%20Pranab,salaries%20for%20computation%20of%20personal> (last visited Oct 25, 2020).

^{xii} *Taxability of Salary Income, Perquisites & Allowances*, Tax Guru (2020), <https://taxguru.in/income-tax/taxability-salary-income-perquisites-allowances.html> (last visited Oct 25, 2020).

^{xiii} Rohit Pithisaria, *Rent free accommodation - Perquisite* TaxAdda (2018), <https://www.taxadda.com/rent-free-accommodation-perquisite/> (last visited Oct 25, 2020).

^{xiv} *Valuation of Perquisites*, Income Tax India, <https://incometaxindia.gov.in/Rules/Income-Tax%20Rules/10312000000007059.htm> (last visited Oct 25, 2020).

^{xv} TG Team, *Rules for valuation of perquisite forming part of Salary* Income Tax Guru (2020), <https://taxguru.in/income-tax/rules-valuation-perquisite-forming-part-salary-income.html#:~:text=The%20value%20of%20perquisite%20arising,any%20member%20of%20his%20household.&text=Perquisite%20value%20would%20be%20calculated,maximum%20outstanding%20monthly%20balance%20method>. (last visited Oct 25, 2020).

^{xvi} *Taxable & Non-Taxable Perquisites under 'Salary Income'*, Income Tax - Management, <http://incometaxmanagement.com/Pages/IT-at-a-Glance/Taxable-Non-Taxable-Perquisites.html> (last visited Oct 25, 2020).

^{xvii} TG Team, *Taxable & Non-Taxable Perquisites under 'Salary Income'* Income Tax-Management (2020), <http://incometaxmanagement.com/Pages/IT-at-a-Glance/Taxable-Non-Taxable-Perquisites.html> (last visited Oct 25, 2020).

^{xviii} Neog, Y., Gaur, A.K. *Tax structure and economic growth: a study of selected Indian states. Economic Structures* **9**, 38 (2020). <https://doi.org/10.1186/s40008-020-00215-3>

^{xix} Tax Guru Team, *Notification: S.O.940(E) Section(s) Referred: s. 3 Statute: INCOME TAX Date of Issue: 25/9/2001 Tax Guru (2001)*, <https://taxguru.in/income-tax/notification-noso940e-income-tax-dated-2592001.html> (last visited Oct 25, 2020).

