

F NO. 275/67/2024-IT(B)
Government of India
Ministry of Finance
Department of Revenue
Central Board of Direct Taxes

North Block, New Delhi
Dated 06 August 2024

Office Memorandum

Subject: Revised comments with regards to the taxability of the allowances to the judicial officers as per the Income-tax Act read with Income-tax Rules, 1962- reg.

Ref: (i) Email dated 20.07.2024 received from your office email dated 04.08.2024 of JS, TPRU.

(ii) This office email dated 04.08.2024.

The undersigned is directed to refer to email dated 20.07.2024 and email dated 04.08.2024 on the subject mentioned above.

2. The matter was examined by this Division and the comments with regards to the taxability of allowances to the judicial officers as per the Income-tax Act read with Income-tax Rules, 1962 were submitted vide email dated 04.08.2024. Vide email dated 04.08.2024 received from the JS, TPRU, the details of taxability of allowances to the judicial officers as per the New tax Regime were also sought from this Division.

3. Accordingly, comments of this Division with regards to the taxability of the said allowances to the judicial officers are re-submitted as per **Annexure-A (Revised)**.

4. This is for kind information and further necessary action at your end.

Surjeet
06.08.24

(Surjeet Kumar)

Under Secretary (IT-Budget)

Tel : 23095478

Encl: As above

To,

DCIT (OSD) ITJ-I, CBDT

Annexure-A (Revised)

Comments with regards to the taxability of allowances to the judicial officers as per the Income-tax Act read with Income-tax Rules, 1962 as under:-

S.No.	Name of Allowance	Taxability as per Income-tax Act, 1961 (the Act) read with Income-tax Rules, 1962 (Old Tax Regime)	Limits prescribed under relevant Section/Rule as per Old Tax Regime	Taxability as per Income-tax Act, 1961 (the Act) read with Income-tax Rules, 1962 (New Tax Regime)
1.	Children Education Allowance ✓	Non-taxable under section 10(14)(ii) of the Act upto the limit prescribed under Rule 2BB(2).	As per Rule 2BB(2), Children Education Allowance is exempt upto a maximum of amount of Rs 100 per month per child upto a maximum of two children Further, any allowance granted to meet the hostel expenditure on the child is exempt upto a maximum amount of Rs. 300 per month per child up to a maximum of two children.	No exemption provided under the new tax regime under section 115BAC(2)(i) of the Act read with Rule 2BB(3). Whole amount is taxable.
2.	Concurrent Charges Allowance	Taxable under section 17 of the Act.	-	Taxable under section 17 of the Act.
3.	Conveyance/Transport Allowance <i>Exempted</i> ✓	Conveyance allowance is exempt under section 10(14)(ii) of the Act read with Rule 2BB(1)(c). Transport allowance is not exempt under the Act w.e.f. 01.04.2019, for employee other than an employee referred to in S.No. 11 of the table in Rule 2BB(2)	Whole amount of conveyance allowance.	Conveyance allowance is exempt under section 10(14)(ii) of the Act read with Rule 2BB(1)(c) and under section 115BAC(2)(i) of the Act read with Rule 2BB(3). Whole amount Conveyance allowance is exempt. Transport allowance is not exempt for employee other than an employee referred to in S.No. 11 of the table in Rule 2BB(2).

4.	Dearness Allowance	Taxable under section 17 of the Act.	-	Taxable under section 17 of the Act.
5.	Leave Encashment	Exempt upto the limit prescribed by Central Government u/s 10(10AA)(ii) of the Act.	Vide notification S.O. 2276(E) dated 24.05.2023, the limit for exemption under section 10(10AA)(ii) of the Act has been specified at Rs. 25,00,000 -	Exempt upto the limit prescribed by Central Government u/s 10(10AA)(ii) of the Act.
6.	Electricity/Water charges	Taxable under section 17 of the Act.	-	Taxable under section 17 of the Act.
7.	Higher qualification Allowance	Exempt under section 10(14)(i) of the Act read with Rule 2BB(1)(c)	Whole amount ✓	No exemption provided under the new tax regime under section 115BAC(2)(i) of the Act read with Rule 2BB(3). Whole amount is taxable.
8.	Hill area/Tough location allowance	Exempt under section 10(14)(ii) of the Act upto the limit prescribed under Rule 2BB(2).	As per Rule 2BB(2), different limits for exemption of allowance per month is provided as per the place.	No exemption provided under the new tax regime under section 115BAC(2)(i) of the Act read with Rule 2BB(3). Whole amount is taxable.
9.	Home orderly/Domestic help Allowance <i>Taxable</i>	Taxable under section 17 of the Act.	Rule 2BB(1)(d) provides exemption to any allowance granted to meet the expenditure incurred on a helper, where such helper is engaged for the performance of the duties of an office, and not for a domestic helper.	Taxable under section 17 of the Act.
10.	House Rent Allowance	Taxable u/s 17 of the Act subject to exemption provided under section 10(13A) read with Rule 2A.	Lowest of the amount : (a) the actual amount of HRA received (b) Actual rent paid in excess of 10% of salary (c) Amount equal to- (i) 50% of salary for those living in Delhi, Kolkata, Mumbai or Chennai, and (ii) 40% of salary for those living in any other place.	No exemption provided under the new tax regime under section 115BAC(2)(i) of the Act. Whole amount is taxable.

Taxable

11.	Furniture & AC Allowance	Taxable under section 17 of the Act.	-	Taxable under section 17 of the Act.
12.	Leave Travel Concession /Home Travel Concession ✓	Exempt u/s 10(5) of the Act.	Whole amount	No exemption provided under the new tax regime under section 115BAC(2)(i) of the Act. Whole amount is taxable.
13.	Medical Allowance	Taxable under section 17 of the Act.	-	Taxable under section 17 of the Act.
14.	Newspaper & Magazine Allowances	Taxable under section 17 of the Act.	-	Taxable under section 17 of the Act.
15.	Robe Allowance ✓	Exempt under section 10(14)(i) of the Act read with Rule 2BB(1)(f)	Whole amount	No exemption provided under the new tax regime under section 115BAC(2)(i) of the Act read with Rule 2BB(3). Whole amount is taxable.
16.	Special pay for admin work	Taxable under section 17 of the Act.	-	Taxable under section 17 of the Act.
17.	Sumptuary Allowance Exempted	Not specifically mentioned under the Act. However, exemption from its taxability has been provided in the relevant section of Acts enacted to regulate salaries and certain conditions of service of the Judges.	As per the amount of sumptuary allowance specified in relevant Acts enacted to regulate salaries and certain conditions of service of the Judges.	No exemption provided under the new tax regime under section 115BAC(2)(iv) of the Act. Whole amount is taxable.
18.	Telephone Allowance	Taxable under section 17 of the Act.	-	Taxable under section 17 of the Act.
19.	Transfer Grant ✓	Exempt under section 10(14)(i) of the Act read with Rule 2BB(1)(a) & (b)	Whole amount	Exempt under section 10(14)(i) of the Act read with Rule 2BB(1)(a) & (b) and under section 115BAC(2)(i) of the Act read with Rule 2BB(3). Whole amount is exempt.

Taxable

Taxable

Taxable

Taxable