

Superannuation & Income Tax

1. Superannuation is the act of discharging someone because of age. In fact it is the act of causing someone to retire from service on a pension. It also mean to assure assures old-age **pension**, retirement benefit, retirement check, retirement fund, retirement **pension**.
2. A **pension** is a fund into which a sum of money is added during an employee's employment years and from which payments are drawn to support the person's retirement from work in the form of periodic payments. A pension may be a "defined benefit plan", where a fixed sum is paid regularly to a person, or a "defined contribution plan", under which a fixed sum is invested that then becomes available at retirement age. Pensions should not be confused with severance pay; the former is usually paid in regular instalments for life after retirement, while the latter is typically paid as a fixed amount after involuntary termination of employment prior to retirement.
3. Most employers provide various retirement benefits to their employees either due to a statutory mandate or voluntarily to retain employees for a longer period. Such retirement benefits include provident fund, gratuity, National Pension System etc. Superannuation benefit is one such retirement benefit offered to employees by their employers. Many a times employees ignore this retirement benefit. In fact, many, may not even know that they have been provided with superannuation benefit as the contribution to the benefit does not go out of their pocket. Some may also be unaware of the superannuation amount they are entitled to at retirement. Given this, it becomes imperative to understand what the superannuation benefit is in order to help individuals have better financial planning and plan retirement efficiently.

What is Superannuation benefit?

4. The dictionary meaning of the word 'superannuation' or 'superannuate' is to become retired, to retire because of age **or** infirmity.
5. Superannuation benefit is a retirement benefit offered by an employer to its working class. Superannuation is an organisational pension program created by a company for the benefit of its employees. It is also referred to as a company pension plan.

Types of Superannuation benefit

6. Superannuation benefit is classified into the following in India based on the investment and benefit it offers:
 - (1) **Defined benefit plans** - As the name itself suggests, in this kind of superannuation, the benefit derived is already fixed irrespective of contribution to the plan. The pre-determined benefit is based on various factors such as a number of years of service in the organisation, salary, age at which employee starts

reaping the benefit. This is comparatively complex and risk of generating such benefit lies on employer. Upon retirement, an eligible employee receives a fixed amount which is determined by the pre-existing formula, at regular intervals.

(2) Defined contribution plans - This superannuation benefit is opposite to defined benefit plan. While in case of a defined benefit plan, the benefit is fixed and pre-determined, defined contribution plan has a fixed contribution and benefit is directly correlated with the contribution and market forces. This type of benefit is better to manage and the risk is with the employee as he does not know how much he will receive at retirement.

Understanding Superannuation

7. As funds are added by employer (and potentially employee) contribution and other traditional growth vehicles, the funds are reserved in a superannuation fund.
8. This form of monetary fund will be used to pay out employee pension benefits as participating employees become eligible.
9. An employee is deemed to be superannuated upon reaching the proper age **or** as a result of an infirmity. At that point, the employee will be able to draw benefits from the fund.
10. A superannuation fund differs from some other retirement investment mechanisms in that the benefit available to an eligible employee is defined by a set schedule and not by the performance of the investment.

How does superannuation work?

11. The employer contributes to a superannuation benefit for /on behalf of employees towards **group superannuation policy** held by him. Organisations either manage superannuation fund by their own trusts or open a superannuation benefit fund with any of the approved insurance companies or buy the product from insurance companies like -
 - * LIC's New Group Superannuation Cash Accumulation Plan **or**
 - * ICICI's Endowment superannuation plans *etc.*
12. The employer contributes a fixed percentage (up to a maximum of 15%) of employees' basic pay and dearness allowance and the same percentage of contribution need to be made for a particular category of employees.
13. Though contribution is made by employer, ideally superannuation is part of "Cost To Company" (CTC).

14. However, employee may also voluntarily contribute an additional amount to fund in case of defined contribution plans.
15. At the time of retirement, the employee can withdraw up to 1/3rd of the accumulated benefit and convert the balance into a regular pension, which is in turn kept in the annuity fund for receiving annuity returns at chosen intervals.
16. In case the employee changes his job, he has an option to transfer the superannuation amount to a new employer.
17. In case the new employer does not have a superannuation scheme, the employee may either choose to withdraw the amount or retain the amount in the fund till retirement and withdraw as discussed above.

Types of annuity options available

18. Common annuity options available are:
 - Payable for life;
 - Payable for life guaranteed for 5 yrs/10 years/15 years;
 - Payable for life with a return of capital;
 - Payable jointly on the life of husband and wife.

Features of Superannuation

19. A scheme of superannuation **serves the employees** at the time of their retirement. The following are some of the major features of superannuation:
 - (i) The employer deposits the funds for the purpose of paying off the pension fund for the employee.
 - (ii) The employee obtains a **right to utilize the funds** when the employee reaches a stipulated age limit which deems the person to be eligible for superannuation.
 - (iii) Once termed **superannuated**, the employee can draw benefits from the fund.
 - (iv) IT is a **monetary compensation plan to benefit employees** of an organisation **after retirement**.
 - (v) A **pension plan** is another name for a superannuation fund. Funds deposited in a superannuation account will grow **without any tax implications** until **retirement or withdrawal**.
 - (vi) Like a provident fund, the superannuation fund is also a **scheme of retirement benefit** for the employees.
 - (vii) An employee can make **use of the funds in a superannuation account** at times of incapability to continue work.

- (viii) The family members of the employee can also deploy the funds on retirement **or** death.
- (ix) The funds support the family members when the employee faces a medical emergency.
- (x) As a defined-benefit plan, superannuation supplies a fixed, predetermined benefit depending on a variety of factors.
- (xi) Certain factors that may be considered while issuing the fund are:
 - (a) The number of years the person was employed with the company.
 - (b) The salary received by the employee.
 - (c) The exact age at which the employee begins to draw the benefit.
- (xii) Superannuation funds have a highly predictable return.
- (xiii) Upon qualifying for retirement, the eligible employee receives a fixed amount, usually on a monthly basis. The amount is determined by a pre-existing formula that facilitates the employees to receive social and security benefits upon reaching the **qualifying age or** under **qualifying circumstances**.

Income treatment and tax benefits of Superannuation

20. Salient features of taxation aspects are as follows:
- (1) Superannuation is a fund received by an employee from the employer.
 - (2) Hence, superannuation funds become taxable when it exceeds a certain threshold.
 - (3) In the case of the superannuation fund, the following categories decide the types of tax treatments available:
 - (i) Employee's Contribution
 - (ii) Employer's Contribution
 - (iii) Interest on accumulated balance
 - (iv) Payment from the fund
21. Like any other retirement benefit, superannuation benefit also provides income tax benefits to both employer and employee. However, such benefits are restricted to an approved superannuation fund. This approval is required to be obtained from the Commissioner of Income Tax in accordance with the rules set out in Part B of the Fourth Schedule of the Income Tax Act, 1961 *{hereinafter referred to the IT Act}* because such fund has to be a "approved superannuation fund", which is defined in section 2(6) of the IT Act.

Approved Superannuation Fund

22. Part B of Schedule IV of the Income Tax Act, 1961 provides law in respect of “Approved Superannuation Fund”.

It relates to following sections of the Act:

- (i) Section 2(6) - Definition of “approved superannuation fund”.
- (ii) Section 10(13) - Exemption in respect of payment from an “approved superannuation fund”.
- (iii) Section 10(25)(iii) - any income received by the trustees on behalf of an approved superannuation fund.
- (vi) Section 36(1)(iv) - deduction to be allowed in computing the income referred to in section 28 for any sum paid by the assessee being an employer by way of contribution towards an approved superannuation subject to prescribed rules.
- (v) Section 192(5) - TDS on payment from an approved superannuation fund in so far the amount relates to contribution made by employer, including interest thereon, to the extent provided in rule 6 of Part B of the Fourth Schedule.

Benefit for Employer

23. Contribution to approved superannuation fund is deductible business expense u/s 36(1)(iv) of the IT Act.
24. Any income received by self managed trusts of an approved superannuation fund is also exempt u/s 10(25)(iii) of the IT Act.

Benefit for Employee

25. Employee’s contribution to the approved superannuation fund is deductible under Section 80C(2)(vii) of the IT Act subject to overall limit of Rs 150,000/-.
26. Amount withdrawn if any by the employee at the time of change of job is taxable under the head “Salaries” u/s 15 r.w. section 17(1)(ii), being in the nature of pension.
27. Amount withdrawn if any by the employee at the time of change of job is taxable under the head “Salaries” u/s 15 r.w. section 17(1)(ii), being in the nature of pension.
28. However, exemption is available for payment from an approved superannuation fund u/s 10(13) of the IT Act in the following circumstances:
- (i) On the **death** of the beneficiary, **or**

- (ii) To any employee in lieu of an **annuity** on his/her retirement at **or** after the stipulated age, **or**
 - (iii) If the employee **becomes incapable** of working prior to his/her retirement, **or**
 - (iv) By **refunding the contributions** on the death of the beneficiary, **or**
 - (v) By **transfer** of the account of the employee under a **pension scheme** referred to, in section 80CCD that in-turn is notified by the Central Government.
29. In case an assessee does not qualify any of the above conditions mentioned in section 10(13) of the IT Act, Part B of the Schedule IV of the IT Act comes into action.
30. Rule 6 of the Part B of Schedule IV of the ITax Act provides that where any **contributions made by an employer, including interest on contribution**, if any, are paid to an employee during his life time in circumstances **other than** those referred to in section 10(13) of the Act, **tax on the amount so paid shall be deducted** at the average rate of tax at which the employee was liable to tax during the preceding three years **or** during the period, if less than three years, when he was member of the fund, **and** shall be paid by the trustees to the credit of the Central Government within the **prescribed** time and in such manner as the Board may direct.
31. The tax so deductible shall be deducted u/s 192(5) of the IT Act.
32. It means that if the amount so paid is covered by any of the sub-clauses of section 10(13), this rule shall **not** apply, and accordingly **no** tax shall be deducted.
33. In case such amount becomes taxable, it is to be declared as income from salary u/s 17(1) of the Act as “pension” income.

ASF balance transfer to NPS account: Process, benefits and other details

34. However, the amount of approved superannuation fund transferred to NPS u/s 80CCD, it is to be declared as exempt income u/s 10(13)(v) in Schedule EI {Details of Exempt Income (Income not to be included in Total Income or not chargeable to tax)} The relevant amount is to be disclosed as follows:

4 Other exempt income, (including exempt income of minor child)				
Sl. No.	Nature of Income	Description	Amount	
1	Sec10(13)-Approved superannuation fund received			
2	(Select)			

35. For the purposes of transfer of fund of “approved superannuation fund” to NPS account, the Pension Fund Regulatory and Development Authority (PFRDA) has issued a **Circular** No. PFRDA/2017/11/PD/3 dated 6.3.2017, prescribing the procedure of such transfer, which is as follows:

Pension Fund Regularity and Development Authority
B-14A, Chhatrapati Shivaji Bhavan,
Qutab Institutional Area,
Katwaria Sarai,
New Delhi-110016
Phone : 011-26517503
Fax : 011-26517507
Website : www.pfrda.org.in

Circular

PFRDA/2017/11/PD/3

06 March. 2017

To,

All Stakeholders in the National Pension System

Subject: Transfer of amount from recognised Provident Fund/Superannuation fund to National Pension System (Applicable for the individual employees)

1. With a view to facilitate transfer from recognised provident funds to the National Pension System (NPS), Clause (iv) in Rule 8 of Part A of the Fourth Schedule to the Income Tax Act has been inserted through the Finance Act 2016 so as to provide exemption from taxation to one time portability from a recognised provident fund to the NPS. Further, a sub clause (v) to section 10(13) of Income Tax act has been inserted so as to provide for the exemption from tax to any payment from an approved superannuation fund by way of transfer to the account of the employee under NPS referred to in section 80CCD and notified by the Central government. With introduction of this provision in the said clause, transfer of funds of an assessee employee from his existing superannuation fund to a pension account under National Pension System (NPS), is not liable to be treated as income of such assessee for the said Assessment Year.

2. Accordingly, in case the subscriber is interested to get his recognised provident fund/superannuation fund transferred to NPS, he may follow the below mentioned process:

- The subscriber should have an active NPS Tier I account which can be opened either through the employer (where NPS is implemented) by filling up the prescribed subscriber registration form or through the Points-of-Presence(POPs)

(Banks/non-banks entities registered as POPs with PFRDA) or online through eNPS on the NPS Trust website www.npstrust.org.in

- The subscriber presently under Govt. / Private Sector employment is required to approach the recognised provident fund/superannuation Fund Trust through the current employer by giving request for transfer of his recognised provident fund / superannuation fund to his NPS account.
- The Recognised Provident fund/superannuation Fund Trust may initiate transfer of the Fund as per the provisions of the Trust Deed read with the provisions of the Income Tax Act, 1961.
- The Recognised Provident fund/superannuation Fund may issue the cheque/draft in the name of:

In Case of Govt. employee : Nodal Office Name

(PAO or CDDO Name)<>**Employee Name**<> **PRAN (12 Digit No.)**

In case of Subscriber presently under Private Sector including All Citizen Model : POP (Name of the POP)
Collection Account-NPS Trust<>**Subscriber Name**<>PRAN (12 Digit No.)

- In case of Government Employee, the employee should request the recognised provident fund / Superannuation Fund to issue a letter to his present employer mentioning that the amount is being transferred from the recognised provident fund/ superannuation fund to be credited in the NPS Tier I account of the employee.
- The Present employer / POP i.e. nodal office shall while uploading the fund may mention the transfer from recognised provident fund/ superannuation fund in the remarks column while uploading it through Arrears mode. The upload may be made as per the request letter of the ex-employer.
- In case of Private Sector employee including subscriber covered under All Citizen model, the employee should request the recognised provident fund / Superannuation Fund to issue a letter to his present employer / POP as the case may be mentioning that amount is being transferred from the recognised provident fund/ superannuation fund to be credited in the NPS account of the employee/individual Tier I account.

- The POP will get the amount collected and the same may be uploaded by the POP in the NPS account of the subscriber.

3. It may be noted that as per the provisions of the Income Tax Act, 1961 the amount so transferred from recognised provident fund/superannuation Fund to NPS is not treated as income of the current year and hence not taxable. Further, the transferred recognised provident fund/superannuation fund will not be treated as contribution of the current year by employee/employer and accordingly the subscriber would not make IT claim of contribution for this transferred amount.

4. For further clarification, if any, the person may like to contact the undersigned on email akhilesh.kumar@pfrda.org.in, Telephone No. 011-26543158.

Yours faithfully
Sd/-
Deputy General Manager

36. The fund so transferred from an approved superannuation fund to NPS and which is exempt in view of the provisions of section 10(13)(v), shall **not** be treated “profits in lieu of salary” *vide* section 17(3)(ii) of the Act.

Employer’s contribution taxable as perquisite

37. Up to assessment year 2016-17, employer’s contribution to an approved superannuation fund in respect of an employee was not considered “perquisite” in the hands of such employee. However, such contribution in excess of Rs. 1 Lakh was considered as “perquisite” in the hands of such employee u/s 17(2)(vii) of the Act.

38. The Finance Act, 2016 had increased the threshold provided in section 17(2)(vii) to Rs. 1.5 Lakh *w.e.f.* 1.4.2017, *i.e.* from assessment year 2017-18.

39. It means that from assessment year 2017-18 employer’s contribution to an approved superannuation fund in respect of an employee was not considered “perquisite” in the hands of such employee. However, such contribution in excess of Rs. 1.5 Lakh was considered as “perquisite” in the hands of such employee.

40. The Finance Act, 2020 has substituted new clause (vii) in section 17(2) of the act specifying **combined upper limit of Rs 7.5 lakh in a previous year in respect of employer’s contribution** to-

- * Recognised Provident Fund (RPF),
- * National Pension Fund (NPS) as referred in section 80CCD, **and**
- * Approved Superannuation Fund (ASF)

41. It means that any contribution made by the employer in excess of Rs 7.5 lakh in a previous year will be taxable as “**perquisites**” in the hand of the employee.
42. The Finance Act, 2020 has also inserted sub-clause (viiia) in section 17(2) to provide that 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 the scheme referred to in sub-clause (vii) shall also be treated as *perquisite to the extent it relates to the employer’s contribution*, which is added in his total income computed in the manner as may be prescribed in rules.

43. The above amendments were explained in the “**Memorandum**” to the budget, 2020 proposals, as follows:

Rationalization of tax treatment of employer’s contribution to recognized provident funds, superannuation funds and national pension scheme.

Under the existing provisions of the Act, the contribution by the employer to the account of an employee in a *recognized provident fund* exceeding 12% of salary is taxable. {as provided in Rule 6(a) of Part A of Schedule IV of the Income Tax Act, 1961}

Further, the amount of any contribution to an *approved superannuation fund* by the employer exceeding Rs. 1,50,000/- is treated as *perquisite* in the hands of the employee.

Similarly, the assessee is allowed a **deduction** under **National Pension Scheme (NPS)** for the 14% of the salary contributed by the Central Government **and** 10% of the salary contributed by any other employer. {as provided in clause (a) **and** Clause (b) of section 80CCD(2) of the Income Tax Act, 1961 respectively as **substituted** by the Finance (No. 2) Act, 2019 w.e.f. 1.4.2020}

However, **there is no combined upper limit** for the purpose of deduction on the amount of *contribution made by the employer*.

This is giving undue benefit to employees earning high salary income.

While an employee with low salary income is not able to let employer contribute a large part of his salary to all these three funds, employees with high salary income are able to design their salary package in a manner where a large part of their salary is paid by the employer in these three funds. **Thus, this portion of salary does not suffer taxation at any point of time**, since **Exempt – Exempt - Exempt (EEE)** regime is followed for these three funds. Thus, not having a combined upper cap is iniquitous and hence, not desirable.

Therefore, it is proposed to provide a combined upper limit of Rs. 7,50,000/- in respect of **employer's contribution in a year** to -

- national pension scheme (NPS),
 - superannuation fund **and**
 - recognised provident fund
- and** any excess contribution is proposed to be taxable.

Consequently, it is also proposed that 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 fund or scheme may be treated as perquisite to the extent it relates to the employer's contribution which is included in total income.

This amendment will take effect from 1st April, 2021 and will, accordingly, apply in relation to the assessment year 2021-22 and subsequent assessment years.

44. It means that from assessment year 2021-22, to the extent of Rs. 7,50,000/- per year the amount paid by any employer to an employee towards "Cost to Employer" (CTE) may be added to the savings of an employee in above three accounts without any tax effect in the hands of such employee in that year.
45. In the event of **payment of any contributions made by an employer, including interest on such contributions**, to an employee during his lifetime, in the circumstances other than referred in section 10(13) of the IT Act, such payment shall be liable to be taxed in such year as it amounts to amount received from an employer from pension fund.
46. Such payment shall also be subjected to TDS under rule 6 of Part B of the IVth Schedule r.w section 192(5) of the IT Act.

Disclaimer

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5.8.2020