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## TAX BOOSTER SHOT FOR COVID-19 VICTIMS

As the country is still reeling from the devastating impact of the second wave of Covid-19, causing substantial dent in the financial resources of families having to incur substantial expenses towards treatment of Covid-19 and/ or loss of earning member(s), magnanimous employers and well-wishers have stepped to offer financial help in various forms, having regard to the needs of the affected family. There was considerable apprehension in the minds of the recipient as to whether the financial assistance received by the family/ legal heirs from employers or well-wishers would be chargeable to tax, especially in the wake of present section 56(2)(x) of the Income-tax Act, 1961 (“the Act”)?

### **Similar legislative provisions, previous CBDT Circular & past judicial precedents**

In the past few months, many employers were apprehensive of the tax impact that the aforesaid financial assistance would have on their employees or in the hands of the family members in unfortunate case of death of employee.

Pertinently, in the wake of the Bhopal Gas Tragedy, the Government had introduced **section 10(10BB)** in the Income Tax Act, 1961 (“the Act”) providing for similar exemption in respect of payment received by a taxpayer under the Bhopal Gas Leak Disaster (Processing of Claims) Act, 1985.

Similarly, **section 10(10BC)** of the Act provides for exemption in respect of any amount received or receivable from the Central Government or a State Government or a local authority by an individual or his legal heir by way of compensation on account of any disaster.

The Central Board of Direct Taxes (“CBDT”) **vide Circular No.573 dated 21.08.1990** had clarified that any lump-sum payment received gratuitously or by way of compensation or otherwise, by a widow or legal heirs of an employee, who dies while still in active service, will not be taxable as income under the Act in the hands of the recipient.

In **DCIT vs Mrs Lakshmi M Aiyer: [2011] 131 ITD 436 (Mumbai)**, the amount received by a widow of a partner from the partnership firm upon his death and in terms of the partnership deed was held to be non-taxable. The Tribunal, relying on the decision of the Patna High Court in the case of *CIT vs Mrs Jaya Bhaskaran: 168 ITR 256 (Patna)* and drawing analogy from CBDT Circular No.573 (*supra*), held that since the payment made to the widow neither related to business done by her for the firm or services rendered by her to the firm nor to compensate the widow for any loss of profit suffered by her because of the firm, the payment received by her from the firm was not taxable in her hand as revenue receipt. It was observed that the amount received was a sort of relief to the distressed family and in recognition of the valued services rendered by her husband to the firm.

In **Smt Mahindro Devi vs AO: ITA No.486 to 488/Del/2016 (Del Trib.)**, the Tribunal, again, by relying upon CBDT Circular No.573 (*supra*), held that compensation received by legal heir of a Government employee, even if received on a monthly basis and not as lump sum payment, was capital receipt not chargeable to tax.

**To quell any lingering doubts, CBDT vide Press Release dated 25.06.2021**, announced much needed tax relief in the form of income-tax exemption in respect of financial assistance received for meeting expenses incurred and assistance in the form of ex-gratia payment received by family member(s) of a deceased person.

CBDT has announced following financial assistance received during financial year 2019-20 and subsequent years to be exempt from income-tax:

- (a) Assistance received, without any limit, by a person for meeting expenses for treatment of Covid-19, whether such assistance is received from the employer or any other person;
- (b) Ex-gratia payment received by family members in case of death of a person due to Covid-19 from the employer would be exempt from income-tax without any limit and upto Rs.10 lakhs from a person other than the employer of the deceased person.

The Press Release clarifies that necessary legislative amendment(s) will be proposed in due course of time.

### **VA Comments**

The steps taken by CBDT are very much welcome and will bring succour to grieving families or persons who were forced to pay huge bills for their medical treatment during the pandemic, by exempting from tax, monetary assistance received in that behalf.

The 'tax-pill' announced by the CBDT would also help alleviate the concerns of legal heirs with regard to the impact of section 56(2)(x) of the Act on gratuitous receipt in their hands from the employer for loss of life of the employee as well as from well-wishers.

Few questions still remain, which, it is hoped, will be addressed in the legislative amendment to be brought about, for instance:

1. Whether the recipient will have to keep record of expenses incurred along with supporting documents; especially considering that major expenses may have been incurred on home treatment in dire situations and/ or on expenses incurred in cash towards booking of ambulance, procurement of oxygen cylinders, life-saving drugs, etc., in order to claim exemption?

2. Whether only treatment undertaken in approved hospitals would be considered for exemption, as is the case under section 17(2) of the Act read with Rule 3A of the Income Tax Rules, 1962?
3. Whether amount received by the employee from the employer for loss of life of a family member(s) would also be exempt?
4. Whether the limit of Rs.10 lakhs in respect of financial assistance received by the family/ legal heirs from well-wishers is to be counted separately in respect of each deceased taxpayer, in cases where the same family lost more than one member due to Covid-19?

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