

# Direct Tax Alert

November 5, 2020



## Government announces tax-exempt LTC cash voucher scheme for non-Central Government employees

In an effort to boost consumption in the country, the Ministry of Finance in its Press Release dated October 29, 2020, has announced that all non-Central Government employees will also be entitled to claim cash allowance in lieu of their unutilised Leave Travel Concession ('LTC') available for block 2018-2021. Further, the cash allowance shall be tax-exempt subject to fulfilment of certain conditions.

### Background

- According to the provisions of section 10(5) of the Income-tax Act, 1961 ('the Act'), the value of LTC received by an employee from employer in connection with his/her travel, along with his/her family, to any place in India shall not be taxable subject to fulfilment of certain conditions. The conditions are prescribed under Rule 2B of the Income-tax Rules, 1962 ('the Rules').
- According to Rule 2B(2) of the Rules, exemption shall be available only in respect of

two journeys performed in the block of four calendar years, the current block being 2018-2021.

- Further, the amount of exemption shall in no case exceed the amount of expenses actually incurred for the purpose of such travel.

### LTC Cash Voucher Scheme

- The Government has taken cognizance of the fact that owing to Covid-19 pandemic and resultant nationwide lockdown, a number of employees across the country are not in a



position to travel. Consequently, employees are not able to claim LTC in the current block of 2018-2021.

- Initially, *vide* Office Memorandum dated October 12, 2020<sup>1</sup>, the Government had announced LTC cash voucher scheme only for Central Government Employees.
- In order to incentivise other employees and to boost consumption, the Government *vide* Press Release dated October 29, 2020 (hereinafter referred as 'Press Release') has announced that the benefit of payment of cash allowance equivalent to the LTC fare shall also be allowed to non-Central Government employees.
- Pursuant to the LTC cash voucher scheme ('Scheme'), an employer can now pay cash allowance to employees in lieu of their unutilised LTC available for the block of 2018-2021.
- The amount of cash allowance received by an employee shall be treated as exempt under section 10(5) of the Act, subject to fulfilment of the following conditions:
  - The amount of deemed LTC fare shall not exceed Rs. 36,000/- per person (round trip). For example, in case of an employee with two family members, maximum amount which can be paid as deemed LTC fare and which can be claimed as exempt shall in any case not exceed Rs. 1,08,000/- (Rs. 36,000 \* 3), subject to fulfilment of other conditions.
  - The employee is required to spend an amount equal to three times the value of deemed LTC fare on purchase of goods / services ('specified expenditure') which are subject to Goods and Services Tax ('GST') at a rate not less than 12% from registered vendor through digital mode.
  - The specified expenditure must be incurred during the period from October 12, 2020 to March 31, 2021.
  - In case an employee spends less than three times the value of deemed LTC fare, then the amount of exemption available under section 10(5) shall be reduced proportionately. Please refer to the Annexure for illustration in case an employee spends less than three times the amount of deemed LTC fare.

#### **Key conditions:**

- The employee shall exercise an option for receiving cash allowance as deemed LTC fare in lieu of unutilised LTC available for the block of 2018-2021. In other words, the option will not be available to employees who have already claimed LTC in respect of two journeys performed during the block of 2018-2021.
- The employee is required to obtain invoice/s or voucher indicating the GST number of the vendor/s and amount of GST paid. Further, the invoice/s must be in name of the employee.

#### **Clarifications issued by Government:**

The Ministry of Finance *vide* Office Memorandum dated October 20, 2020, has issued certain clarifications by way of FAQs in respect of the LTC cash voucher scheme which was announced for

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<sup>1</sup> F. No. 12(2) / 2020-EII(A)



Central Government Employees. The said clarifications shall apply *mutatis mutandis* to non-Central Government employees as well. Following are key clarifications which have been issued by the Government:

- It has been clarified that an employee can also claim the benefit of the Scheme by submitting multiple invoices. In other words, there is absolutely no limit on the number of transactions for which benefit can be claimed.
- Further, it has been clarified that the benefit is dependent upon production of relevant invoice/s. Thus, the benefit can also be claimed in a situation where the date of invoice is prior to March 31, 2021, but actual good / service has been received by an employee post March 31, 2021.
- It has been emphatically clarified that expenditure incurred for all types of goods / services on which GST is levied at a rate not lower than 12% shall qualify for claiming the benefit. For instance, an amount spent towards interior decoration services, mobile bills, gym membership fees etc. will also be treated as an eligible expenditure.
- Moreover, the benefit can also be claimed in cases where payment has been made by spouse or family member of an employee through digital mode, provided that the GST invoice is in the name of employee who is claiming such benefit.
- Also, it has been clarified that employee has the flexibility to avail the Scheme for part of eligible family members. Further, if LTC fare of any eligible family member is not utilized, then employees can avail LTC subject to provisions of section 10(5) of the Act.

**Other key considerations:**

• **Payment through digital mode:**

One of the conditions is that the employee is required to spend the amount through digital mode. According to our understanding, payment through any of the following generally accepted modes can be construed as payment through digital mode:

<b>Banking cards</b>	<b>Point of Sale</b>
<b>UPI</b>	<b>Internet Banking</b>
<b>Mobile wallets</b>	<b>Mobile Banking</b>

• **Eligible amount in case of cashbacks, credit card points etc.:**

It may be possible to claim exemption for total amount mentioned on the invoice, even though, subsequently certain amount has been refunded back to employee by way of cashbacks, credit card points etc. based on following arguments:

- Considering the clarifications issued by the Government, it can be construed that the exemption / benefit is purely linked to the date and amount mentioned on the GST invoice/s.
- Purchase of good / service made and subsequent receipt of cashback, credit card points should be treated as distinct and independent transactions.
- Generally, cashbacks, credit card points etc. are offered by the banks or credit card companies and not by the vendor.

• **Tax Deducted at Source ('TDS') implications:**

On duly satisfying the prescribed conditions, the amount of deemed LTC fare shall be treated as exempt in hands of the employee and consequently, the employer is not even required to deduct TDS on such payment.



- **No benefit under concessional tax regime:**  
It has been specifically mentioned in the Press Release that the tax exemption shall not be available in the case of an employee who has opted for concessional tax regime under the provisions of section 115BAC of the Act.

### **Dhruva Comments**

- The Press Release states that the benefit is available for “non-Central Government employees. There exists some ambiguity on applicability of Scheme to all class of employees. However, previously, Ministry of Finance in its Press Release dated October 12, 2020 had specifically mentioned that the Scheme shall be extended to employees working in private sector as well. Hence, we believe that benefit can now be claimed by all the employees including private sector employees.
- The move has been proposed by the Government with an objective of encouraging spending among the salaried class people which will in turn boost consumption in the country.
- Any employee who is contemplating to spend any amount which is in the nature of specified expenditure can now claim benefit in lieu of his/her unutilised LTC. Interestingly, employees can also claim benefit of the Scheme in respect of routine expenses incurred wherein GST rate of not lower than 12% is applicable.
- However, considering that there is no restriction on the number of transactions for

which benefit can be claimed, employers may decide to consider invoice/s only above the certain amount which will help them in reducing administrative and compliance burden.

### **Annexure**

- **Illustration (In a case where employee spends less than three times the amount of deemed LTC fare):**

- Deemed LTC fare per person which an employee is eligible to claim – Rs. 20,000/-.
- Number of people consisting of employee and his family members – 4
- Total deemed LTC fare – Rs. 80,000/- (Rs. 20,000\*4)
- Amount required to be spent – Rs. 2,40,000/- (Rs. 80,000\*3)

**Situation 1:** In a case where an employee spends Rs. 2,40,000/- or above by way of incurring specified expenditure.

- The entire amount pertaining to deemed LTC fare i.e. Rs. 80,000/- shall be treated as exempt.

**Situation 2:** However, say the employee incurs specified expenditure of Rs. 1,80,000/- only.

- The amount incurred constitutes 75% of total amount required by the employee to be expended.
- Thus, an amount of Rs. 60,000/- only shall be treated as exempt in the hands of the employee out of entire Rs. 80,000/- (75% of Rs. 80,000/-).



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