

SECTION 89-

RELIEF FROM INCOME TAX PAYABLE WHEN SALARY/FAMILY PENSION/COMPENSATION ON TERMINATION OF EMPLOYMENT PAID IN ARREAR/ADVANCE

Framework of the relief: Section 89 creates the eligibility for the relief, Rule 21A prescribes mode of computation of relief, and Rule 21AA prescribes form 10E to be filed by employee or Government servant

Persons Covered: Any assessee in receipt of any kind of salary or profits in lieu of salary or family pension or gratuity, which is received in arrears or in advance.

Relevant Conditions: Due to receipt of such arrears or advance, total income of assessee gets assessed at a rate higher than it would have otherwise been assessed. The assessee being a government servant or an employee in a company, co-operative society, local authority, university, institution, association who is entitled to claim relief u/s. 89, may furnish to his employer, the particulars specified in Form 10E. The employer in such case shall compute the relief u/s. 89 on the basis of such particulars and take it into account while deducting TDS [vide section 192(2A)]. Form 10E is available on the Income Tax India e-filing web portal. As per Circular No. 431 dated 12-9-1985, the relief u/s. 89 shall be admissible in respect of encashment of leave salary by an employee when in service. The relief is to be given in the assessment in which the extra payment by way of arrears, advance, etc., is taxed. In order to claim relief, the assessee should send an application to concerned assessing officer on plain paper.

Computation of relief u/s. 89 (Rule 21A):

(A) In respect of salary/family pension paid in arrears/advance:

(i) Calculate tax on total income, including the additional salary of the previous year in which the same is received; (ii) Calculate the tax on total income as reduced by the additional salary of the previous year in which the same is received; (iii) Calculate the difference between tax at (i) and (ii) and the resultant figure is tax on additional salary in the year of receipt; (iv) Ascertain the previous years to which the additional salary relates; (v) Calculate the tax on the total income as increased by the relevant additional salary in respect of each such previous years and total up such taxes for all such previous years; (vi) Calculate the tax on total income without including such additional salary in respect of each such previous years and total up the taxes for all such previous years; (vii) Calculate the difference between tax at (v) and (vi) and the resultant figure is tax on additional salary for the year to which it pertains; (viii) The excess of tax computed at (iii) over the tax computed at (vii) is the amount of relief admissible.

(B) In respect of compensation on termination of employment:

Where compensation is received by assessee from his employer or former employer at or in connection with the termination of his employment after continuous service of not less than three years and the unexpired portion of his service is also not less than three years then, the relief is calculated in the same manner as if gratuity was paid to employee in respect of service rendered for a period of 15 years or more [same as (B)(a) above]. Relief u/s. 89(1) is admissible even/also in respect of compensation received under Voluntary Retirement Scheme/Voluntary Separation Scheme, to the extent the same is taxable. An employee of public sector company receiving any amount on his voluntary retirement or termination of service or voluntary separation in accordance with the specified scheme, will either be entitled to exemption up to Rs. 5,00,000 under Section 10(10C) or relief under Section 89 of spreading the taxability of such income over several years, but not both. These two sections being distinct in their scope, the assessee can claim the benefit u/s. 89 in

respect of the amount in excess of the amount exempt under Section 10(10C).