FAQ: Gratuity

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Q1. What is gratuity?

Gratuity is a form of gratitude provided in monetary terms by the employer to the employee for the services rendered by the employee for a period of 5 or more years.

Q2. What are the organisations for which payment of gratuity act is applicable?

Payment of gratuity act, 1972 applies to all shops or establishments having 10 or more employees on any day during the preceding 12 months.

Q3. When are the employees eligible for gratuity?

Employees who have rendered at least 5 years of continuous servicein an organisation are eligible to receive gratuity from the employer.

Q4. When is gratuity payable?

An Organization is liable to pay gratuity to an employee

- On the termination of his employment after he has rendered continuous service for not less than five years or

- On his superannuation, or
- On his retirement or resignation, or
- On his death or disablement due to accident or disease (the completion of continuous service of five years shall not be considered for the case of death or disablement).

Q5. I have completed 4 years and 245 days of service, am I eligible for gratuity payment?

Yes, in respect of the 5th year, 1 year of completed service = 240 days, therefore you are deemed to have completed 5 years of continuous service if you have completed 250 days of service in the 5th.

Q6. How is gratuity calculated?

Gratuity payable = Last drawn salary *15/26 *No of completed years of service.

Salary for the purpose of the above computation = Basic salary + Dearness allowance

Q7. What is the maximum amount of gratuity that can be paid to an employee?

The amount of gratuity payable to an employee shall not exceed Rs. 20 lakhs.

Q8. Is the gratuity received taxable in the hands of the employee?

In respect of gratuity received by government employees: Entire amount of gratuity is exempt from Income Tax.

In respect of gratuity received by employees other than government employees Amount exempted from tax is

1. 20 lakhs (or)
2. Actual gratuity received (or)

3. Last drawn salary *15/26 *No of completed years of service (or)
4. (Whichever is less)

Q9. What is the due date for payment of gratuity?

Gratuity has to be paid within 30 days from the date it becomes payable. (refer FAQ no 4 to know when gratuity becomes payable)

Q10. What is the penalty for default under the Payment of Gratuity Act, 1972?

Any person, for the purpose of avoiding payment of gratuity by making any false statement or false representation:

- Imprisonment for 6 months or fine up to Rs.10,000 or with both.

An employer, who contravenes or makes default in complying with the provisions of the act:

- Imprisonment for not less than 3 months and up to 1 year or fine not less than Rs.10,000 but up to Rs.20,000 or with both.

Q11. Is there any interest for delayed payment of gratuity?

In case of employer default:

- Employer shall pay interest at the simple interest rate (rate notified by the Central Government), from the date on which the gratuity becomes payable to the date till it is paid.

In case of Employee default:

- No interest shall be payable if the delay in the payment is due to the fault of the employee and the employer has obtained permission in writing from the Controlling Authority for the delayed payment on this ground.

Q12. Whether Gratuity can be allowed as a deduction while calculating taxable income of the employer?

Deduction is allowed only if gratuity is actually paid.

No deduction shall be allowed in respect of any provision made by the assessee for the payment of as per section 40A (7) of the Income tax act, 1961.

Q13. Should the employees under training or apprenticeship be included for the purpose of gratuity?

Yes, irrespective of whether the person is in training or apprenticeship, he is eligible for gratuity, provided he completes a continuous period of 5 years of service

Q14. Does the term continuous service include leaves taken by the employees?

Yes, continuous service includes any leaves, breaks, absence due to any reason, etc.

Q15. Whether the gratuity is to be calculated till the retirement in case of death of an employee?

No, In the case of death of an employee, gratuity is to be calculated only on the completed years of services, not till the retirement.

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