

Tax Benefits for Differently Able

Tax benefits to individual who are differently able, Parents who have dependents who are differently able including minor and certain benefits to private sector for providing employment opportunities to differently able

As per recent estimate there are more than 70 million people in India who are differently able. The challenges and hardship which they face are enormous from getting basic education, rehabilitation, continuous cost of medical requirements and getting job or practising a profession or vocation. The government of India has provided various concessions and reservations to empower differently able person and their families.

There are many differently able people and families who are tax payers and there are many individuals who have dependents who are differently able but are not aware of the provision of the various Acts which provides various benefits and concession in tax. Further government has also provided concession to private sector to encourage them to appoint differently able person.

The article highlights the benefits government provides in Income Tax Act, Professional Tax and a scheme to encourage private sector to provide employment opportunities to differently able.

The deduction under section 80U, 80DD, 80DDB and 10(14) under Income Tax Act and Professional Tax Act are direct deduction were as through proper tax planning one can claim benefit under section 64(1) of Income Tax Act. There is also one scheme introduce by Government to encourage private sector to employee person who are differently able. Lets us go through in details all 7 different benefits.

1) Income Tax Act, Section 80U – Deduction in case of person with disability

Who can claim the benefit: Individual who is resident during previous year and is certified by Medical Authority to be a person with Disability.

Deduction allowed: In case of Person with Disability (at least 40%) Rs 50,000 /- is allowed. In case of Person with Severe Disability (80% of one or more disabilities) Rs. 1,00,000/- is allowed.

Important Definitions:

- A) “disability” shall have the meaning assigned to it in clause (i) of section 2 of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 (1 of 1996), and includes “autism”, “cerebral palsy” and “multiple disabilities” referred to in clauses (a), (c) and (h) of section 2 of the National Trust for Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities Act, 1999 (44 of 1999)
- B) “medical authority” means the medical authority as referred to in clause (p) of section 2 of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 (1 of 1996), or such other medical authority as may, by notification, be specified by the Central Government for certifying “autism”, “cerebral palsy”, “multiple disabilities”, “person with disability” and “severe disability” referred to in clauses (a), (c), (h), (j) and (o) of section 2 of the National Trust for Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities Act, 1999 (44 of 1999)
- C) “person with disability” means a person referred to in clause (t) of section 2 of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 (1 of 1996), or clause (j) of section 2 of the National Trust for Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities Act, 1999 (44 of 1999)

Tax Benefits for Differently Able

- D) “person with severe disability” means—(i) a person with eighty per cent or more of one or more disabilities, as referred to in sub-section (4) of section 56 of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 (1 of 1996); or
(ii) a person with severe disability referred to in clause (o) of section 2 of the National Trust for Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities Act, 1999 (44 of 1999).

Important Points to be noted:

- A) In few cases medical certificate will be valid up to a limited period, say five years and requires individual to reassess himself with the medical authority for fresh certificate. The deduction can only be claimed where the medical certificate is live, in case it is expired new certificate is required to claim the deduction.
- B) Individual whose income is from salary, Tax is Deducted from Source (TDS) by employer from monthly salary. The tax is computed after considering estimated gross total income of the individual for the entire year and divided by 12 months. Individuals can inform the employer regarding the benefit under this section, which can be reduced from gross total income and hence TDS is deducted on the lesser amount.
- C) For prescribed Forms, see Form No. 10-IA and Forms prescribed under Persons with Disabilities (Equal Opportunities, Protection of Rights & Full Participation) Act, 1995. Medical certificate can be issued by Neurologist having a degree of Doctor of Medicine (MD) in Neurology (or, in case of children, a Pediatric Neurologist having an equivalent degree) or A Civil Surgeon or Chief Medical Officer (CMO) of a government hospital.

2) Income Tax Act, Section 80DD – Deduction in respect of maintenance including medical treatment of a dependant who is a person with disability

Who can claim the benefit: Individual or Hindu Undivided Family (HUF) who is resident during previous year, and has incurred expenditure in relation to maintenance or treatment of dependent disabled or has invested in a particular scheme of LIC for benefit of the dependent disabled.

Deduction allowed:

- A) Rs 50,000/- for the medical treatment (including nursing), training and rehabilitation of a dependant, being a person with disability. Or Rs 1,00,000/- for the medical treatment (including nursing), training and rehabilitation of a dependant, being a person with Severe disability having medical certificate granted by prescribed Medical Authority.
- B) Any amount paid or deposited under a scheme framed by the Life Insurance Corporation or any other insurer or the Administrator or the specified company for the maintenance of a dependant, being a person with disability or person with Severe disability (subject to overall limit of Rs 50,000/- or 1,00,000/- as applicable).

Important Definitions:

- A) “dependant” means—(i) in the case of an individual, the spouse, children, parents, brothers and sisters of the individual or any of them; (ii) in the case of a Hindu undivided family, a member of the Hindu undivided family dependant wholly or mainly on such individual or Hindu undivided family for his support and maintenance, and who has not claimed any deduction under section 80U in computing his total income for the assessment year relating to the previous year.
- B) Other definitions of “disability”, “medical authority”, “person with disability” & “person with severe disability” will be same as mentioned in section 80U.

Tax Benefits for Differently Able

Important Points to be noted:

- A) In the case of an individual the deduction is available to spouse, children, parents, brothers or sisters of the individual. In the case of HUF the deduction is available to any member of the HUF
- B) Currently LIC is offering Jeevan Aadhar Plan for claiming benefit under this section.
- C) The nomination in case of insurance taken should be in favour of dependent for receiving the benefit in lump sum or annuity in event of death of individual or Members of the HUF in whose name subscription of the scheme is taken. Alternatively nomination can be in favour of trust for the benefit of dependent
- D) In case the dependent predeceases the individual or the member of the Hindu undivided an amount equal to the amount paid or deposited under the insurance scheme shall be deemed to be the income of the Individual or HUF in the year in which such amount is received and shall accordingly be chargeable to tax as the income of that year.
- E) In few cases medical certificate will be valid up to a limited period, say five years and requires individual to reassess himself with the medical authority for fresh certificate. The deduction can only be claimed where the medical certificate is live, in case it is expired new certificate is required to claim the deduction.
- F) Individual whose income is from salary, Tax is Deducted from Source (TDS) by employer from monthly salary. The tax is computed after considering estimated gross total income of the individual for the entire year and divided by 12 months. Individuals can inform the employer regarding the benefit, which can be reduced from gross total income computation and hence TDS is deducted on the lesser amount
- G) For prescribed Forms, see Form No. 10-IA and Forms prescribed under Persons with Disabilities (Equal Opportunities, Protection of Rights & Full Participation) Act, 1995. Medical certificate can be issued by Neurologist having a degree of Doctor of Medicine (MD) in Neurology (or, in case of children, a Pediatric Neurologist having an equivalent degree) or A Civil Surgeon or Chief Medical Officer (CMO) of a government hospital.
- H) The benefit under this section will not be available in cases where dependent has availed benefit up to 80 U.

3) Income Tax Act Section 80DDB Deduction in respect of medical treatment, etc

Who can claim the benefit: Individual or Hindu Undivided Family (HUF) who is resident during previous year, and has paid any amount for the medical treatment of such disease or ailment, for himself or dependent in case of individual or any member of HUF in case of HUF

Deduction allowed: Rs 40,000/- deduction shall be allowed or amount actually paid, whichever is less. In case any of the above is a senior citizen (Above 65 years), an additional deduction of Rs. 20,000 shall be allowed towards payment of the senior citizen. i.e. in case of senior citizens the above limit of 40,000 shall be upgraded to Rs.60,000.

Important Definitions:

- A) “dependant” means—(i) in the case of an individual, the spouse, children, parents, brothers and sisters of the individual or any of them; (ii) in the case of a Hindu undivided family, a member of the Hindu undivided family dependant wholly or mainly on such individual or Hindu undivided family for his support and maintenance.

Tax Benefits for Differently Able

- B) "Government hospital" includes a departmental dispensary whether full-time or part-time established and run by a Department of the Government for the medical attendance and treatment of a class or classes of Government servants and members of their families, a hospital maintained by a local authority and any other hospital with which arrangements have been made by the Government for the treatment of Government servants
- C) "senior citizen" means an individual resident in India who is of the age of sixty-five years or more at any time during the relevant previous year.

Important Points to be noted:

- A) The deduction shall be reduced by the amount received, if any, under the insurance from the insurer or reimbursed by the employer
- B) For availing the deduction a certificate in the prescribed form from a neurologist, an oncologist, a urologist, a haematologist, an immunologist or such other prescribed specialists, working in a Government hospital, has to be submitted.
- C) For the purposes of section the following shall be the eligible diseases or ailments :
 - (i) Neurological Diseases where the disability level has been certified to be of 40% and above,—
 - (a) Dementia ;
 - (b) Dystonia Musculorum Deformans ;
 - (c) Motor Neuron Disease ;
 - (d) Ataxia ;
 - (e) Chorea ;
 - (f) Hemiballismus ;
 - (g) Aphasia ;
 - (h) Parkinsons Disease ;
 - (ii) Malignant Cancers ;
 - (iii) Full Blown Acquired Immuno-Deficiency Syndrome (AIDS) ;
 - (iv) Chronic Renal failure ;
 - (v) Hematological disorders :
 - (a) Hemophilia ;
 - (b) Thalassaemia.

4) Income Tax Act Section 10(14) Rule 2BB Transport Allowance

Who can claim the benefit: Salaried Individual

Deduction allowed: Rs 1600 Per Month

Important Points to be noted:

- A) Transport allowance is granted to an employee, to meet his expenditure for the purpose of commuting between the place of his residence and the place of his duty. Most of employers pay Rs 800/- Per Month as the same is exempted. However for employee, who is blind or orthopaedically handicapped with disability of lower extremities, the exempted amount is Rs 1600/- Per Month
- B) Employee can request employer to structure their pay in such a manner that they receive Rs 1600/- as monthly transport allowance to claim the benefit
- C) Tax Exempt is irrespective of actual expense. (No bills/receipts needed)

Tax Benefits for Differently Able

5) Income Tax Act Section 64 Income of individual to include income of spouse, minor child, etc.

Who can claim the benefit: Individual who has a minor child suffering from any disability of the nature specified in section 80 U.

Deduction allowed: There is no direct deduction, but the income generated by minor child who is disable will not be clubbed with individual

Important Points to be noted:

- A) As the income of the child is not clubbed the child is treated as a separate entity and can file an independent return with all its benefits. For example, Individual can transfer their revenue generating asset like fix deposits in the name of disable child and the interest earned will not be clubbed with the income of individual but will be assessed separately, which provides significant scope for tax savings.
- B) Further the disable child while filing its own return can claim benefit under section 80U

6) Profession Tax Act, State Maharashtra Section 27A Exemptions

Who can claim the benefit: Any person suffering from a permanent physical disability (including blindness), being a permanent physical disability specified in the rules made in this behalf by the State Government, which is certified by a physician, a surgeon or an oculist, as the case may be, working in a Government Hospital

Deduction allowed: Complete amount of professional tax payable

Important Definitions:

"Government Hospital" includes a departmental dispensary whether full time or part time established and run by a Department of the Government for the medical attendance and treatment of a class or classes of Government servants and members of their families, a hospital maintained by a local authority and any other hospital with which arrangements have been made by the Government for the treatment of Government servants

Important Points to be noted:

- A) The individual shall forward the certificate to employer who will produces the aforesaid certificate before the prescribed authority in respect of the first assessment year for which he claims deduction
- B) As the professional tax is subject matter of state, which is responsible for collection, making rules and provide exemption, individual need to check with respective states for rules if any for exemption.(the above exemption is in relation to Maharashtra State). In most states the Professional tax is exempted for disable person.

7) Scheme For Providing Employment To Persons With Disabilities In The Private Sector

Who can claim the benefit: Private Sector Employers who are employing person with disability on or after 01-April-2008

Deduction / Benefits: Payment of the employer's contribution to the Employees Provident Fund and Employees State Insurance for the first three years by Government.

Tax Benefits for Differently Able

Important Points to be noted:

- A) Employees with disabilities, with monthly wage up to Rs.25000/- per month, working in the private sector would be covered. Those earning above 25000/- per month will not be eligible
- B) The scheme will be applicable to the employees with disabilities employed covered under the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 and the National Trust for Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple disabilities Act, 1999.
- C) The employers would submit a copy of the disability certificate including statement, issued to the disabled employee by the Competent Authority, first time when such benefit under EPF and ESI is claimed.
- D) The Government will directly provide employer's contribution for the schemes covered under the Employees Provident Fund & Miscellaneous Provisions Act, 1952 and the employment State Insurance Act 1948. This will be done in respect of employees for a maximum period of 3 years.

Though the government has provide some relief in tax, however much can be done to further empower the differently able people. The exemption under 80U and deduction for expenditure incurred for medical treatment under 80DD should be increased to Rs. 2,00,000/- , considering rising cost of living and increasing cost of medicine supplies and rehabilitation. One of the major problem person with disability faces is in travelling, most of them spend huge amount on commuting to work places as public mode of transport is not accessible for wheelchair users and for most other users, considering this government should increase the limit of transport allowance exemption for salaried class upto Rs. 4000/- Pm. The introduction of scheme to encourage private sector to employee differently able person is good step by government. As per annual report 2009-10 by ministry of social justice and empowerment, under the scheme, 144 and 261 persons have been registered by Employees Provident Fund Organization (EPFO) and Employees State Insurance Corporation (ESIC) respectively till 30.09.2009.though the initially target was to create 1 Lakh job every year. Though the response has been dreadful, government needs to increase the incentive for further participation by private sector. For example, government should link incentive for private sector to create work places accessible, increase the limit from 3 years contribution to life long, etc. with budget and election coming we can hope some more promises from government.

To support the differently able community not only the efforts from the government are required but there should be willingness from the corporate world, to provide them equal opportunity and level playing field. Most of the corporate offices are not accessible to the person who is on wheelchair. However slowly the environment is changing and corporate have realised that providing employment is not just part of CSR but the differentlyential able people are itself great resource which can contribute equally for the objectives and goals of the organisation and society at a large.

Disclaimer: The information is as per laws applicable in country India. The information provided above is in good faith and with bonafide intention to benefit individuals, parents and person with disability including children. Kindly consult your insurance agent/ legal adviser/ tax consultant prior to any tax or finance decision. The convoluted legal language has been simplified for easy understanding. No liability lies with author for misinterpretation or decision or the outcome of the information presented above.

About the author: The author CA. Chirag Chauhan is member (Membership Number 131194) of the Institute of Chartered Accountant of India. He himself is paraplegic, wheelchair bound. For any queries he can be contacted at chirag_cha@yahoo.com