

EMPLOYEE STOCK OPTIONS (ESOPs)

RULE 3(8): VALUATION OF PERQUISITES IN RESPECT OF EQUITY SHARES ALLOTTED OR TRANSFERRED UNDER EMPLOYEES STOCK OPTION PLAN

ESOPs are taxable as perquisites in the hands of employees.

KEY NOTES:

- (1) **Perquisite to be taxable in the hands of employee only when shares are ALLOTTED TO HIM under ESOPs.** Perquisite is not taxable when employee exercises his option to ESOPs.
- (2) However, **perquisite shall be worked out on the basis of FMV of ESOPs on the date when employee exercises his option to ESOPs.**

The value of perquisite shall be determined as under:

	FMV of the shares on the date on which option is exercised by the employee	A
Less:	Amount paid by or recovered from the employee in respect of the share	B
	Value of perquisite taxable when shares are allotted	(A - B)

Situations	FMV of ESOPs on the date of exercise of option	Remarks
Where shares in the company are listed on a single recognised stock exchange	Average of opening and closing price of shares on the date of exercise of option	If on the date of exercise of option there is no trading in shares, the FMV shall be - the closing price of the share on any recognised stock exchange on a date closest to the date of exercise of option and immediately preceding such date of exercise of option.
Where shares in the company are listed on more than one recognised stock exchange	Average of opening and closing price of shares on the date of exercise of option on a recognised stock exchange which records the highest volume of trading in the shares	If on the date of exercise of option there is no trading in shares, the FMV shall be - the closing price of the share on a recognised stock exchange which records the highest volume of trading on the date closest to the date of exercise of option and immediately preceding such date of exercise of option.

Where shares in the company are not listed on a recognised stock exchange	Value on a "specified date" as determined by a Category I merchant banker registered with SEBI	Specified date means: <ul style="list-style-type: none"> ➤ the date of exercise of option; or ➤ any date earlier than the date of exercise of option, not being a date which is more than 180 days earlier than the date of exercise of option.
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Notes:

1. **SECTION 2(42A): PERIOD OF HOLDING**

In the case of a capital asset, being any specified security or sweat equity shares allotted or transferred, directly or indirectly, by the employer free of cost or at concessional rate to his employees (including former employee or employees), **THE PERIOD SHALL BE RECKONED FROM THE DATE OF ALLOTMENT OR TRANSFER** of such specified security or sweat equity shares.

2. **SECTION 49(2AA): COST OF ACQUISITION**

Where the capital gain arises from the transfer of specified security or sweat equity shares referred to in section 17(2)(vi), the **COST OF ACQUISITION OF SUCH SECURITY OR SHARES SHALL BE THE FMV which has been taken into account for the purposes of the said section.**

3. Where the employer purchases the shares and then subsequently transfers such shares to its employees, expenditure so incurred is allowable as deduction in computing taxable income of the employer company. However, if the shares are allotted to the employees from the share capital of the company, no deduction is allowable in computing the taxable income of the company since no expenditure has been incurred by it.

A	FMV of the shares on the date on which option is exercised by the employee
B	Amount paid by or recovered from the employee in respect of the shares
(A - B)	Value of perquisite taxable when shares are allotted

Where shares in the company are listed on a recognised stock exchange	Average of opening and closing price of shares on the date of exercise of option	If on the date of exercise of option there is no trading in shares, the FMV shall be - the closing price of the share on any recognised stock exchange on a date closest to the date of exercise of option and immediately preceding such date of exercise of option
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