

Government clarifies the applicability of GST on gifts and perquisites given to employees

The Government has issued a press release clarifying the applicability of GST on gifts and perquisites given to the employees. The clarification is summarised below:

- **GST on gifts supplied by companies to its employees:**

- Gifts of value more than INR 50,000 per year to an employee would be subject to GST when made without consideration, in the course or furtherance of business.
- As per common parlance, a gift is made without consideration, is voluntary in nature and is made occasionally. A gift cannot be demanded as a matter of right by employees, and for obtaining a gift, an employee cannot move a court of law.

- **GST on perquisites provided by companies to its employees:**

- Services by an employee to an employer in the course of employment are outside the scope of GST.
- Any supply by the employer to the employee in terms of a contractual agreement between the employer and the employee will not be subject to GST.
- If membership of a club or health and fitness centre is provided free of charge to all the employees by the employer, the same will not be subject to GST, if GST is paid when procured by the employer.
- Similarly, when free housing is provided to the employees in terms of the contract between the employer and the employee and is part and parcel of the cost-to-company, it would not be subject to GST.

PwC comments

The Government's clarification on these important aspects is a significant relief to the industry. Companies did not have clarity on the taxability of the employee related supplies, which have an impact on the employment arrangements and employee costs (including applicable GST). Based on this clarification, as a principle, any perquisite provided free of cost to employees in terms of a contractual agreement should not be liable to GST. Companies have to consider the impact of this clarification on employment contracts and maintain adequate documentation with regard to the various perquisites provided to employees.

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