



## ALL INDIA BHARAT SANCHAR NIGAM LIMITED RETIRED EXECUTIVES' ASSOCIATION

Central Headquarters

111, New Ashiana Apartments, Plot-10, Sector-6, Dwarka  
New Delhi-110 075

E-mail : gensecaibsnlrea@yahoo.com

President : V. Chinnappaiah  
Ph.: 044-22603300  
(M) : 09444003300

General Secretary : S. Basu  
Ph.: 011-25073969  
(M) 09868092995

Financial Secretary : Hari Ram  
Ph.: 011-25075541  
(M) 09868538189

No. AIBSNLREA/CHQ/2021/61

Date: 27<sup>th</sup> September 2021

To  
Smt. Yojana Das,  
Director (Finance),  
Bharat Sanchar Nigam Limited,  
New Delhi

**Sub: Incorrectness of the clarification issued by BSNL on taxability of payments made to retired employees and nominees of deceased employees – Request for withdrawal of the clarification.**

Ref: BSNL letter No. BSNLCO-TAXN/13(18)/3/2020-TAXATION/4362 dated 22.09.2021

Madam,

We are constrained to draw your attention to the BSNL letter cited under reference, issuing clarification to the Circles that on a conservative basis tax may be deducted at source under the head salary for the amount reimbursed to BSNL absorbed retired employees on account of subscription. The said clarification is quite unwarranted and impulsive as the letter itself states that *"as per the proviso to section 17(2) of the Income Tax Act, 1962, any reimbursement by the employer in respect of any insurance premium paid by the employee to effect an insurance on his health or the health of his family under any approved scheme by Centra Govt. or IRDA is a tax free perquisite"* and because BSNL cannot on its own assign a hitherto unheard of meaning to the term "income".

2. The IT Act seeks to levy Income-tax in respect of the "income" of every person. The term 'income' has been exhaustively defined to include various types of gains, profits, accretion, value addition, etc. In the absence of any profit-related element, a receipt cannot be generally classified as income. In this scenario, any reimbursement cannot be treated as income, and therefore, should not be subject to Income-tax, unless specified otherwise.

3. A reimbursement can be considered repayment of what has already been spent or incurred. Therefore, it should not be considered a reward or compensation for a service rendered. The determinative factor to be considered is the obligation of a party to bear expenses. The Bangalore Tribunal, in the case of Bovis Lend Lease (I) P Ltd vs ITO, noted that

for a payment to be regarded as reimbursement, "The payment should first be made by somebody whose liability it never was, and the repayment should then be made to that person to square off the account."

4. It may now be recalled that the BSNL Management committee approved reimbursement of onetime payment of CGHS subscription paid by the retired employees, in lieu of surrendering the BSNLMRS facility, thereby accepting the obligation of reimbursement of the onetime payment in exchange of its obligation under BSNLMRS. *Thus, initial payment by the retired employee and later reimbursement by BSNL is only a working arrangement instead of BSNL paying the onetime subscription directly to CGHS in respect of those opting for CGHS.*

5. In view of the above, it may be seen that there is no rationale and justification in BSNL deducting tax at source for the reimbursement of onetime payment of subscription to CGHS in respect of BSNL absorbed IDA pensioner and therefore it is requested that the said clarification be withdrawn immediately.

With kind regards,

Yours sincerely,

  
(R.R. Balasubramanian) 27/9/21

Asst. General Secretary  
For General Secretary

Copy to: 1. Shri Indevan Pandey,  
Secretary (Pension), DoP&PW  
2. Shri Y.N. Singh,  
General Manager, Taxation, BSNL CO