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**No. BSNLCO-TAXN/13(18)/3/2020-TAXATION/4362**

**Dated:-22-09-2021**

To

- 1) The Chief General Managers and IFAs, All BSNL Circles/Units.
- 2) Sr.GM (CA/ERP-FICO/HCM), Corporate Office
- 3) GM (EF/ R&P), Corporate Office

**Sub.-: Clarification on taxability of payments made to retired employees and nominees of deceased employees-reg.**

The undersigned is directed to intimate that, this office is receiving queries from the various circle on the subject mentioned above. In this connection the para wise replies to the queries raised by circles are as follows:-

**Query:** Whether reimbursement of CGHS subscription to BSNL absorbed retired employees is to be treated as income of the retired employee? And, if the answer is in affirmative, the head under which it is chargeable.

**Reply:** As per the proviso to section 17(2) of the Income Tax Act,1961 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 Central Govt. or IRDA is a tax free perquisite. However, in the absence of clarity on whether reimbursement to BSNL absorbed retired employees on account of CGHS subscription is an insurance premium or not, on a conservative basis, tax may be deducted at source under the head of salary.

**Query:** Gratuity/Leave encashment payable to Nominee/Legal Heirs of BSNL employee on death while in employment is to be shown as Income of the employee or legal heirs? And the head under which it is chargeable.

**Reply:**

- (i) Gratuity is a payment made by Employer to an Employee in appreciation of the past services rendered by the employee. Gratuity can either be received by:-
- a) The employee himself at the time of retirement.
  - b) The legal heir on the event of the death of the employee.

Gratuity received by an employee on his retirement is taxable under the head "Salary" Whereas gratuity received by the legal heir of the deceased employee shall be taxable under the head "Income From Other sources".

**As per circular No. 573 dated 21.08.1990, Gratuity payment to a widow or other legal heirs of any employee who dies in active service shall be exempt from income tax.**

**(ii) Leave salary paid to the legal heir of deceased employee is not taxable as salary. [Letter No. F.35/1/65-IT(B), dated 5/11/1965]. Further, leave salary by a legal heir of the Government employee who died in harness is not taxable in the hands of the recipient [Circulars No.309, dated 3/7/1981].**

**Query:** Medical Reimbursement to the spouse/dependents of the deceased employee is taxable under which head of Income tax.

**Reply:** As per section 56(1) of the Income tax act, Income of every kind which is not to be excluded from the total income under this Act shall be chargeable to income-tax under the head "Income from other sources", if it is not chargeable to income-tax under any of the heads specified in section 14,

in other words, the following conditions must be satisfied before an income can be taxed under the head of "Income from other source" :-

(i) there must be an income.

(ii) such income is not exempt under the provision of the income tax act.

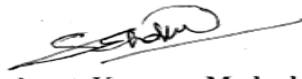
(iii) such income is not chargeable to tax under any first four heads viz., "Income from Salary", "Income from House Property", "Profit and Gains of Business and Profession", and "Income from Capital Gains".

Income from other source is, therefore, a residuary head of income.

In view of the above medical reimbursement to the spouse/dependents of the deceased employee is taxable under the head of "Income from other source" of Income tax.

It is requested to kindly go through the above instructions and contents of the same may be brought to the notice of all concerned for their information and further necessary action.

**This issues with the approval of Sr. GM (Taxation).**

  
(Subrat Kumar Mohakud)  
AGM (Taxation)