

CORPORATE OFFICE, TAXATION SECTION 5 th FLOOR, BHARAT SANCHAR BHAWAN, JANPATH, NEW DELHI-110001 Ph.No.011-23037306/23734087, Fax : 011-23718886 Email:bsnltdsco@gmail.com		BHARAT SANCHAR NIGAM LIMITED [A Government of India Enterprise]
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BSNLCO-TAXN/13(18)/3/2020-Taxation/4971

18.07.2023

To

Mr. Sandeep Goyal,
Commissioner of Income Tax,
6th Floor, Aayakar Bhawan, Distt. Centre,
Laxmi Nagar, Delhi – 110092.

Respected Sir,

Sub: Request for comments on taxability of one-time CGHS payment/ contribution paid to BSNL absorbed pensioners by BSNL

The undersigned is directed to forward herewith the letter no. SNPWA/CHQ/Deputy Commissioner/1/23 dated 26.06.2023 received from Sanchar Nigam Pensioners' Welfare Association i.e. BSNL Retired Pensioner Association, addressed to your kind office with a copy to this office on the above cited subject.

i). Brief of the Issue i.e. reimbursement of one-time CGHS payment made to BSNL absorbed pensioner by BSNL:- In BSNL, absorbed pensioner of BSNL who are in receipt of Central Civil Pension are eligible to choose either Central Government Health Scheme (CGHS) or BSNLMRS post-retirement as per their convenience. Those retired employees opting for the Central Government Health Scheme (CGHS) are required to fill the prescribed form, deposit the onetime payment of Rs.1,20,000/- and then claim reimbursement of the onetime from BSNL by submitting the index card and proof of surrendering the BSNL MRS. In respect of those retired employees who opt for CGHS Scheme, BSNL will be redeemed from the expense towards medical claims of the pensioner and his family. Presently, BSNL is treating such reimbursement of one-time CGHS payment to BSNL absorbed pensioner as a perquisite under section 17(2) of the Income-tax Act, 1961 ('the Act') and is deducting TDS from the reimbursed amount.

ii). BSNL Unions/Associations have objected the tax position adopted by BSNL as per their letter attached (Annexure attached):-

BSNL Unions/Association has cited reasons in their letter (**copy enclosed**) for non-deduction of TDS on refund of Central Government Health Scheme subscription fees to retired BSNL employees. Some of the reasons cited for non-deduction are as follows:-

- a) Proviso to Section 17 states that, provided that nothing in this clause shall apply to :-
 - Any portion of the premium paid by an employer in relation to an employee to effect or to keep in force an insurance on the health of such employee under any scheme approved by the Central Government or the Insurance Regulatory and Development Authority established under sub-section (1) of Section 3 of the Insurance Regulatory and Development Authority Act, 1999 for the purpose of clause (ib) of sub-section (1) of Section 36.

- Any sum paid by the employer in respect of any premium paid by the employer to effect or to keep in force an insurance on his health or the health of any member of his family wider any scheme approved by the Central Government or the Insurance Regulatory and Development Authority established under sub-section (1) of Section 3 of the Insurance Regulatory and Development Authority Act, 1999 (41 of 1999), for the purpose of Section 80D.
- b) Furthermore, Section 80D, referred to in Section 17(2)(viii)(iv) of the Income Tax Act, 1961 explicitly states as follows:-

Deduction in respect of health insurance premia

(2) Where the assessee is an individual, the sum referred to in sub-section (1) shall be the aggregate of the following, namely:-

- The whole of the amount paid to effect or to keep in force an insurance on the health of the assessee or his family or any contribution made to the Central Government Health Scheme or such other scheme as may be notified by the Central Government such other scheme as may be notified by the Central Government in this behalf or any payment made on account of preventive health check-up of the assessee or his family as does not exceed in the aggregate twenty-five thousand rupees, and
 - Moreover, Section 80D(4A) allows proportionate deduction (appropriate fraction) in case of lump sum payment.
- c) In comparable circumstances, the Hon'ble High Court of Delhi in Yushio Kubo and Ors. Vs. Commissioner of Income Tax [2013:DHC: 3744-DB], held as follows:

“37. In CIT vs. Lala Shri Dhar (1972) 84 NR 192 (Del) this court was concerned with contributions made by the employers under policies of personal accident taken out by them for protecting themselves against the liability for payment of compensation to their employees. It was held by the Court that the decision to take the policy was of the company, which paid the premium, that the assessee himself did not want to take out the insurance. If the company had stopped paying the premium, the assessee would not have continued the same from year-to-year and therefore, the contribution paid by the company to keep the policy alive could not be considered as a perquisite in the hands of the employee.”

iii). In view of the above, it is requested to kindly arrange to clarify the following:-

a) Is the CGHS subscription fee refunded by BSNL to its retired employees to be treated as a taxable income?

b) Is BSNL liable to deduct TDS on refund of the onetime CGHS subscription fees to its retired employee?

Thanking you,


(Subrat Kumar Mohakud)
AGM (Taxation)

Yours faithfully,
For **Bharat Sanchar Nigam Limited**

Authorised Signatory