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BHARAT SANCHAR NIGAM LIMITED
[A Government of India Enterprise]

No: 1001-09/2019-20/Taxation/BSNL VRS 2019/3723 Dated: 05.02.2020
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To

All concerned CGMs/IFAs/DDOs,
BSNL CO/Circle Office/BAs/SSAs/PAUs

Ref: Quantum of tax exemption available to an eligible BSNL VRS-2019 optee under Section 10(10C) of the Income Tax Act, 1961 ("the Act") read with Rule 2BA of the Income Tax Rules, 1962 ("the Rule")

Sub: Addendum to this Branch's letter of even no/. 3719 dated 29.01.2020

In continuation to this Branch's letter of even no/. 3719 dated 29.01.2019 (available on intranet portal); the Quantum of tax Exemption available to an eligible BSNL VRS-2019 optee shall be as follows:

i) Rule 2BA read with Sec 10(10C) of the Act provides a maximum limit of Rs 5 lakhs on the amount that will be exempt from tax. The CBDT has clarified that, in case the amount received exceed Rs 5 lakhs, only the excess over Rs 5 lakhs will be liable to tax.

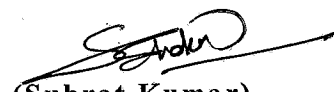
ii) TDS at applicable rates may be deducted over and above Rs 5 lakhs on ex-gratia. However, the provisions of PF, Gratuity, Pension, Leave encashment, medical re-imbursments etc. are to be governed under regular provisions and not u/s 10(10C).

iii) The VRS optee(s) can claim either exemption u/s 10(10C) or relief u/s 89, but not both, on such amounts received or receivable on or after 01.04.2009. This exemption is to be provided one time only in a single Assessment Year upon first time receipt of ex-gratia. Such exemption cannot be given proportionately.

iv) VRS optee(s) may declare that whether he/she wants to opt Exemption u/s 10(10C) or relief u/s 89. However, for claiming relief u/s 89 by the VRS optee(s) conditions mentioned under Rule 21A (copy enclosed) needs to be satisfied. Further, the relief amount calculated u/s 89 read with Rule 21A needs to be declared by the VRS optee(s) well in advance so that TDS amount may be calculated accordingly.

This issues with the approval of Sr. GM (Taxation), BSNL CO.

Encl: As above.


(Subrat Kumar)
AGM (Taxation)
BSNL CO, New Delhi



Income Tax Department

Government of India

[Relief when salary is paid in arrears or in advance, etc.]

21A. [(1) Where, by reason of any portion of an assessee's salary being paid in arrears or in advance or, by reason of any portion of family pension received by an assessee being paid in arrears or, by reason of his having received in any one financial year salary for more than twelve months or a payment which under the provisions of clause (3) of section 17 is a profit in lieu of salary, his income is assessed at a rate higher than that at which it would otherwise have been assessed, the relief to be granted under sub-section (1) of section 89 shall be—

- (a) where any portion of the assessee's salary is received in arrears or in advance or, any portion of family pension is received by an assessee in arrears, in accordance with the provisions of sub-rule (2);
- (b) where the payment is in the nature of gratuity in respect of past services of the assessee extending over a period of not less than five years, in accordance with the provisions of sub-rule (3);
- (c) where the payment is in the nature of compensation received by the assessee from his employer or former employer at or in connection with the termination of his employment after continuous service for not less than three years and where the unexpired portion of his term of employment is also not less than three years, in accordance with the provisions of sub-rule (4);
- (d) where the payment is in commutation of pension, in accordance with the provisions of sub-rule (5); and
- (e) where the payment is not in the nature of salary paid in arrears or in advance or gratuity in respect of past services or compensation received at or in connection with the termination of employment or in commutation of pension, in accordance with the provisions of sub-rule (6).

(2)(a) In a case referred to in clause (a) of sub-rule (1), the tax payable by the assessee on his total income of the previous year in which the salary is received in arrears or in advance or, in which the family pension is received in arrears (such salary or family pension being hereafter in this sub-rule referred to respectively as the additional salary or additional family pension, as the case may be, and such previous year being hereafter in this sub-rule referred to as the relevant previous year) shall be reduced by the amount, if any, by which the tax on the additional salary or additional family pension, calculated in the manner specified in clause (b), exceeds the tax or the aggregate tax on the additional salary or additional family pension, calculated in the manner specified in clause (c) or clause (d), as the case may be.

(b) Tax shall be calculated on the total income of the relevant previous year as reduced by the additional salary or additional family pension, as the case may be, as if the total income so reduced were the total income of the assessee, and the amount by which the tax so calculated falls short of the tax on the total income before such reduction shall, for the purposes of clause (a), be taken to be the tax on the additional salary or additional family pension, under this clause.

(c) Where the additional salary or additional family pension, as the case may be, relates to only one previous year, tax shall be calculated on the total income of the said previous year as increased by the additional salary or additional family pension, as if the total income so increased were the total income of the assessee, and the amount by which the tax so calculated exceeds the tax payable by the assessee in respect of the total income of the said previous year shall, for the purposes of clause (a), be taken to be the tax on the additional salary or additional family pension, under this clause.

(d) Where the additional salary or additional family pension, as the case may be, relates to more than one previous year,—

- (i) the previous years to which the additional salary or additional family pension relates and the

amount relating to each such previous year shall first be ascertained;

- (ii) tax shall, then, be calculated on the total income of each such previous year as increased by the amount relating to such previous year ascertained under sub-clause (i); as if the total income so increased were the total income of that previous year, and the amount by which the aggregate amount of tax in respect of the aforesaid previous years as calculated under sub-clause (ii) exceeds the aggregate amount of tax payable by the assessee in respect of the total income of the said previous years shall, for the purposes of clause (a), be taken to be the aggregate tax on the additional salary or additional family pension, under this clause.]

(3) (a) In a case referred to in clause (b) of sub-rule (1), the tax payable by the assessee on his total income of the previous year in which the payment by way of gratuity is received (such previous year being hereafter in this sub-rule referred to as the relevant previous year) shall be reduced by the amount, if any, by which the tax on the amount of the gratuity included in the total income of the relevant previous year, calculated at the average rate of tax applicable to such total income, exceeds the tax on the amount of such gratuity, calculated at the rate of tax determined under clause (b) or, as the case may be, clause (c).

(b) Where the payment by way of gratuity is made in respect of past services of the assessee extending over a period of not less than five years but less than fifteen years,—

- (i) the total income of the assessee in respect of each of the two previous years immediately preceding the relevant previous year shall be increased by an amount equal to one-half of the amount of the gratuity included in the total income of the relevant previous year, and the average rate of tax for each of the said two previous years shall be calculated as if the total income so increased were the total income of that previous year; and
- (ii) the average of the average rates of tax for the two previous years immediately preceding the relevant previous year, calculated in accordance with sub-clause (i), shall, for the purposes of clause (a), be the rate of tax determined under this clause.

(c) Where the payment by way of gratuity is made in respect of past services of the assessee extending over a period of not less than fifteen years,—

- (i) the total income of the assessee in respect of each of the three previous years immediately preceding the relevant previous year shall be increased by an amount equal to one-third of the amount of the gratuity included in the total income of the relevant previous year, and the average rate of tax for each of the said three previous years shall be calculated as if the total income so increased were the total income of that previous year; and
- (ii) the average of the average rates of tax for the three previous years immediately preceding the relevant previous year, calculated in accordance with sub-clause (i), shall, for the purposes of clause (a), be the rate of tax determined under this clause.

(4) (a) In a case referred to in clause (c) of sub-rule (1), the tax payable by the assessee on his total income of the previous year in which the payment by way of compensation is received (such previous year being hereafter in this sub-rule referred to as the relevant previous year) shall be reduced by the amount, if any, by which the tax on the amount of the compensation included in the total income of the relevant previous year, calculated at the average rate of tax applicable to such total income, exceeds the tax on the amount of such compensation, calculated at the rate of tax determined under clause (b).

(b) The total income of the assessee in respect of each of the three previous years immediately preceding the relevant previous year shall be increased by an amount equal to one-third of the amount of the compensation included in the total income of the relevant previous year, and the average rate of tax for each of the said three previous years shall be calculated as if the total income so increased were the total income of that previous year; and the average of the average rates of tax so calculated for the three previous years shall, for the purposes of clause (a), be the rate of tax determined under this clause.

(5) (a) In a case referred to in clause (d) of sub-rule (1), the tax payable by the assessee on his total income of the previous year in which the payment in commutation of pension is received (such previous year being hereafter in this sub-rule referred to as the relevant previous year) shall be reduced by the amount, if any, by which the tax on the payment in commutation of pension included in the total income of the relevant previous year, calculated at the average rate of tax applicable to such total income, exceeds the tax on the amount of such payment, calculated at the rate of tax determined under clause (b).

(b) The total income of the assessee in respect of each of the three previous years immediately preceding the relevant previous year shall be increased by an amount equal to one-third of the amount of payment in commutation of pension included in the total income of the relevant previous year, and the average rate of tax for each of the said three previous years shall be calculated as if the total income so increased were the total income of that previous year; and the average of the average rates of tax so calculated for the three previous years shall, for the purposes of clause (a), be the rate of tax determined under this clause.

(6) In a case referred to in clause (e) of sub-rule (1), the Board may, having regard to the circumstances of the case, allow such relief as it deems fit.]

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