

P.N.D.C.L. 201

**INCOME TAX (DELIVERY OF RETURNS) ACT, 1988**

ARRANGEMENT OF SECTIONS

SECTION

1. Delivery of returns.
2. Indemnity for non-delivery.
3. Existing obligations and liabilities.
4. Tax refund.
5. Application.

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P.N.D.C.L. 201

**INCOME TAX (DELIVERY OF RETURNS) ACT, 1988<sup>1</sup>**

**AN ACT to provide for the delivery of income tax returns and for related matters.**

**1. Delivery of returns**

An individual chargeable with tax under the Income Tax Decree, 1975 (S.M.C.D. 5) who before the commencement of this Act has not delivered returns in accordance with section 30 of that Decree in respect of a year of assessment preceding 1st January, 1985 shall within two months after the commencement of this Act deliver to the Commissioner of Internal Revenue Service returns in respect of the years of assessment covering the period commencing with 1st January, 1985 and ending 31st December 1987 and thereafter on a regular basis in accordance with section 30 of that Decree.

**2. Indemnity for non-delivery**

(1) An action or proceeding shall not be taken or instituted in a Court or tribunal under section 58 of that Decree against an individual taxpayer for failure to deliver a return under section 30 of that Decree in respect of a period preceding 1st January, 1985.

(2) For the purposes of subsection (1), an individual is not liable to pay a penalty which that individual would otherwise have been liable to pay under section 59 or section 62 (A) of that Decree.

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1. This Act was issued as the Income Tax (Delivery or Returns) Law, 1988 (P.N.D.C.L. 201) made on the 23rd day of May, 1988 and notified in the *Gazette* on 9th September, 1988. The Memorandum to the Law is reproduced after the text of this Act.

**3. Existing obligations and liabilities**

A provision of this Act shall not affect any other obligation or liability including liability to tax existing or incurred under that Decree on or before the commencement of this Act.

**4. Tax refund**

Despite section 1 of this Act where an individual taxpayer claims a tax refund in respect of a year of assessment the Commissioner may require that individual taxpayer to deliver appropriate returns covering the year of assessment in order to enable him determine the tax liability of the individual taxpayer for purposes of the claim.

**5. Application**

This Act does not apply to companies and partners in partnerships.

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**MEMORANDUM**

*Delivery of Returns*

**SECTION 1:**

In order to facilitate the delivery of returns to the Commissioner of Internal Revenue on regular basis in the future it was realised that since majority of individual taxpayers had not in the past delivered their tax returns as required under the law the resources of the Service would be stretched beyond tolerable limits if the law were to be enforced to require defaulting taxpayers to deliver their returns which in some cases would date back to antiquity.

Indeed, almost all taxpayers have been guilty of the offence of non-delivery of returns but prosecution on such a mass scale cannot possibly be undertaken by the Commissioner, and the court or tribunal will not have the time to cope with such actions.

A cut-off date, i.e. 1st January, 1985 has therefore been fixed to enable individual defaulting taxpayers to deliver their returns in respect of the period covering 1st January, 1985 to 31st December, 1987 and thereafter on a regular basis.

*Indemnity for Non-delivery*

**SECTION 2:**

Consequently, no prosecution will be instituted against any person for non-delivery of returns in accordance with section 30 of S.M.C.D. 5 in respect of the years preceding 1st January, 1985 nor will such a person be liable to pay any penalty under section 59 or section 62 (A) of the Decree.

It is however to be noted that the indemnity applies only to non-delivery of returns. In other words action can be instituted against an individual defaulting taxpayer for non-payment of tax if at the time the Commissioner finds that he was liable to pay tax in respect of any period preceding the cut-off date which he failed or refused to pay after such tax has been assessed and a demand made on him by the Commissioner to pay within a prescribed period.

*Existing Obligation, etc.*

**SECTION 3:**

The Law, it must be emphasised, does not cancel any other existing obligation or liability to pay the tax due. Thus, any individual who owed tax in respect of any period preceding the cut-off date could be called upon to pay such tax if the necessary information became available to the Commissioner.

*Tax Refund**SECTION 4:*

Any individual may claim a tax refund in respect of any period preceding the cut-off date and in this case the Commissioner will require that individual to deliver a return covering such period to enable him to determine his true tax obligation for purposes of his claim.

*Application of the Law**SECTION 5:*

For the avoidance of doubt is expressly provided that the Law does not apply to companies and partners of partnerships. It applies only to individuals and sole proprietors.

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