
TAX IMPLICATIONS ON CIVIL DEATH IN INDIA: AN ANALYSIS OF LEGAL AND FINANCIAL CONSEQUENCES

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ABSTRACT

The concept of "civil death" in India, though not explicitly defined in legislation, carries historical and religious significance. It pertains to individuals who, upon taking certain vows or entering specific religious orders, are deemed civilly dead, forfeiting certain civil rights and social interactions. This research paper delves into the unexplored territory of the tax implications arising from this unique status.

Civil death alters a taxpayer's legal status, impacting their tax filing obligations and eligibility for credits and deductions, potentially leading to a shift in tax filing categories. Additionally, civil death can result in significant estate and inheritance tax implications, with assets becoming immediately taxable or subject to valuation adjustments, affecting the estate and prospective beneficiaries. Furthermore, ongoing financial transactions may be affected, changing tax credits, deductions, and exemptions, ultimately altering the total amount of taxes owed. Adjustments to tax planning and compliance processes may be necessary due to accelerated estate planning requirements.

The idea of civil death has an impact on the tax system and calls for careful consideration and specialized knowledge. Ensuring equitable and efficient tax administration while protecting the interests of taxpayers and the state requires tax professionals, legal advisors, and policymakers to navigate the complexities of civil death. This research paper emphasizes how crucial it is to discuss tax implications in the context of the complicated legal system governing civil death.

Keywords: TDS, civil death, tax liability.

1. INTRODUCTION

For centuries, the legal system has been afflicted by inconsistent and frequently inexplicable outcomes caused by the implementation of the civil death doctrine. It has endured for a very long time to become a statutory incident of a life sentence. The paradoxical doctrine of civil death imbues legal fiction with an element of the supernatural, as living men are deemed dead, dead men come back to life, and the same man is considered alive for one purpose but dead for another.¹

“Render unto Caesar the things that are Caesar's Render unto God the things that are God's.”

The synoptic gospels of the Bible serve as a reminder of the aforementioned teachings of Jesus Christ, and they also raise an intriguing question regarding the tax deduction at the source that teachers who are nuns or priests of religious congregations are required to make from their salaries.²

Priests and nuns are members of the community. Like any other person, they can move around freely, speak freely, and even participate in most daily activities without any restrictions. They are entitled to every benefit that the law bestows upon others, including the fundamental rights outlined in Part III of the Indian Constitution. They are able to vote according to the constitution. They are free to pursue careers in teaching, law, medicine, or any other field of their choosing. In hospitals, schools, and other establishments, they manage staff. They sign agreements for a variety of reasons.

They behave in every one of these domains just like any other living person. A small percentage of priests and nuns pursue pedagogy outside of their religious vocations. The teachers receive pay for their work. the religious covenant, priests, nuns, and other religious leaders swear not to own property. At the time of initiation into their religious calling, they claim to have taken that vow - known as the vow of poverty. Therefore, the income received by them is handed over to their religious congregation. The primary focus of this paper is whether or not nuns and priests who have taken a vow and are deprived of their civil rights would be subject to taxes that are withheld at the source from the pay that is given to these teachers.

¹ Note, Civil Death Statutes-Medieval Fiction in a Modern World, 50 HARV. L. REV. 968 (1937).

² Sr. Mary Lucita V Joint commissioner of Income Tax, W.A. No.410/15 (India)

RESEARCH METHODOLOGY

This research employs a secondary data methodology, drawing from a comprehensive review of articles, journals, and online sources related to tax implications on civil death in India. Utilizing established databases such as Hein Online, and legal repositories, relevant literature is systematically analysed to identify key themes, legal precedents, and financial implications. The methodology involves synthesizing insights from diverse sources to provide a comprehensive understanding of the topic, while ensuring rigor and reliability in data selection and analysis.

2. LITERATURE REVIEW

Civil death, though not explicitly defined in Indian legislation, holds profound historical and religious significance, particularly concerning individuals undertaking specific vows or entering religious orders. This review examines the legal and financial implications of civil death in India, drawing insights from recent judicial proceedings and scholarly discourse.³

The legal ramifications of civil death in India have garnered attention, particularly in cases involving nuns and priests who have taken vows of poverty. Recent court proceedings, such as those in the Kerala High Court⁴ and the Supreme Court⁵, have grappled with the question of whether individuals undergoing civil death are liable to pay income tax on their earnings. These cases have raised fundamental questions about the intersection of religious law, particularly canon law, and civil law within the Indian legal framework.

One key aspect explored in the literature is the concept of civil death as it pertains to taxation. The contention that individuals in a state of civil death are exempt from income tax obligations due to their vows of poverty has been a focal point of legal debate. Scholars have analysed the arguments presented by religious congregations and the Income Tax Department, shedding light on the interpretation of tax laws visà-vis religious principles.

Financial implications arising from civil death have also been examined. The loss of personal ownership and the transfer of assets to religious congregations upon taking vows have raised

³ Harry David Saunders, Civil Death - A New Look at an Ancient Doctrine, 11 Wm. & Mary L. Rev. 988 (1970), <https://scholarship.law.wm.edu/wmlr/vol11/iss4/8>

⁴ Msgr. Xavier Chullickal ... vs Plaintiffs, AS.No. 460 of 2000, Kerala High Court

⁵ Oriental Insurance Co. Ltd. vs Mother Superior, S.H. Convent, 1994 ACJ 673

questions about the taxation of such assets and income. Researchers have delved into the complexities of estate planning, inheritance tax, and the treatment of income derived from religious activities. Additionally, the potential impact of civil death on tax planning strategies and compliance processes has been highlighted, emphasizing the need for specialized knowledge in navigating these complexities.

Furthermore, scholars have addressed the broader societal and legal implications of civil death in India. Analysis has focused on issues such as the scope of civil death under canon law, whether it is consistent with civil statutes, and how it affects personal liberties.

The Kerala High Court's interpretation of civil death in the context of fundamental rights and societal participation has sparked discussions about the scope and applicability of religious principles within the legal framework.⁶

In conclusion, the analysis of civil death in India underscores the intricate interplay between religious doctrine, civil law, and financial regulations. Recent legal proceedings and scholarly discourse have shed light on the complexities surrounding this concept, calling for nuanced interpretations and considerations in both legal and financial domains. As India continues to evolve socio-legally, the exploration of civil death remains an important area of study with far-reaching implications for individuals, communities, and the legal system as a whole.

3. ANALYSIS OF LEGAL AND FINANCIAL IMPLICATIONS

3.1. LEGAL FRAMEWORK IN INDIA

The Madras High Court's examination of the legal framework in India concerning the tax implications on civil death, particularly in the context of salaries paid to nuns and priests employed by educational institutions, sheds light on the intricate intersection of taxation laws and religious practices. The court grappled with the question of whether these salaries are subject to tax deduction at source (TDS), considering the unique circumstances surrounding the religious vows of poverty and renunciation.

In its deliberation, the court underscored the compulsory nature of income tax as a levy imposed once income accrues, emphasizing the absence of equitable considerations in tax

⁶ Mother Superior, Adoration Convent vs D.E.O. And Ors., (1977) IILLJ 450 KER

matters. Important sections of the Income Tax Act, 1961, which outline the Indian tax system, were at the centre of the investigation. Section 4 of the Act establishes the incidence of income tax on the total income of every person, while Section 4(2)⁷ empowers the deduction of tax at source where applicable. Furthermore, Section 15(a)⁸ stipulates that any salary due from an employer to an assessee is chargeable to income tax. Complementing this, Section 192(1)⁹ mandates that any person responsible for paying income under the head "Salaries" must deduct income tax at the time of payment.

The Act's Section 192 does not provide for any exemption from the requirement to deduct taxes at source based on the salary recipient's calling, profession, or vocation. According to the statute, the person paying the salary is required to deduct taxes at the time of payment. Following the statutory scheme, the only consideration for the individual making the salary under section 192 of the Act is whether the income falls under the head of 'Salaries'. The statute requires the person paying the salary to deduct TDS if the income payable falls under the "Salaries" heading.

The person deducting TDS under section 192 of the Act is not required to inquire about the assessee's calling or vocation, or about how the assessee uses or applies the income.¹⁰

Despite acknowledging the religious obligations of nuns and priests to surrender their income to their respective religious orders, such obligations do not serve as grounds for exemption from taxation. Regardless of their religious vows, nuns and priests are entitled to a tax deduction at the source on their salaries as employees of educational institutions.

This interpretation underscores the principle that taxation laws are applicable uniformly, regardless of religious affiliations or voluntary vows of poverty. While recognizing the significance of religious commitments, the court upheld the primacy of tax obligations within the legal framework, ensuring consistency and equity in the application of tax laws across diverse societal contexts.

⁷ Income Tax Act, 1961, No. 43, Acts of Parliament, 1961(India)

⁸ Income Tax Act, 1961, No. 43, Acts of Parliament, 1961(India)

⁹ *Income Tax Act, 1961, No. 43, Acts of Parliament, 1961(India)*

¹⁰ *Sr. Mary Lucita V Joint commissioner of Income Tax, W.A. No.410/15 (India)*

3.2. TAX IMPLICATIONS OF CIVIL DEATH

In a recent Case of Union of India v. Society of Mary Immaculate¹¹, the assessee argued that Nuns or Missionaries who adopted a particular Religious Order and had taken a vow of poverty in their complete surrender to the Religious Order could not be said to have entered into any service to earn any income for themselves and, therefore, the "Salary" was nothing but a receipt which was a conduit to be passed on to Religious Order, for which they were bound by Canon Law, which was a codified law of Christianity. Therefore, no character of taxable income could be attributed to such receipts in the hands of Nuns and Missionaries and TDS provisions could not be applied to them.¹²

In another recent case¹³, It was decided that, in light of section 192 of the Act's explicit mandate that TDS be withheld from nuns' or priests' salaries, the continuation of a practice that defies the law cannot be allowed.

There cannot be any estoppel against the law, as held in the rulings in Joshi Technologies International Inc. v. Union of India and Others and numerous other cases.

There have been several battles fought with the Internal Revenue Service¹⁴ of the United States federal government on the taxability of the individual religion. More than 100 decisions regarding the taxability of clergy earnings and religious vows of poverty have been rendered by the courts since 1979. Prior to 1977, the Internal Revenue Service assigned credit to a religious institute for any earnings received from a member who had taken a vow of poverty, provided that the institute had given the member instructions to complete the task or maintained control over the amount paid to the member.

The type of work the member did or who they did it for didn't matter. Regarding the work completed, the IRS determined that the religious was an agent of the order; as a result, the order owned the compensation, and the members were exempt from taxation.¹⁵

¹¹ „Union of India v. Society of Mary Immaculate”,(2019) 412 ITR 545 (India)

¹² Meenakshi Subramanym, Opinion:The “Nun’ Tax, Taxmann, (28 April, 2024, 6:05pm)
<https://www.taxmann.com/research/income-tax/top-story/105010000000016428/opinion-%E2%80%98thenun%E2%80%99-tax-experts-opinion>

¹³ Sr. Mary Lucita V Joint commissioner of Income Tax, W.A. No.410/15 (India)

¹⁴ *Herein after referred as IRS*

¹⁵ Nancy H. Wilberding, Income Tax Aspects of the Vow of Poverty, 4 U. DAYTON L. REV. 383 (1979)

In the case of *Fogarty v. United States*¹⁶, which concerned a University of Virginia Jesuit professor. Father Fogarty claimed that since he was an agent of his religious order, his salary was exempt from taxes. Nonetheless, the Court of Appeals for the Federal Circuit determined that he was taxable and disregarded the idea that a contract between the order and the thirdparty employer was necessary in order for the religious employer to avoid taxes. The Court's general guidelines stated that the existence of a contract between the order and the third-party employer was only one circumstance and that all facts and circumstances needed to be looked into to determine whether a religious is the agent of his order and therefore non-taxable.

In another case, *Schuster v. Commissioner*¹⁷, The court ruled that because there was no agreement between the order and the government regarding payment for her services, a religious nurse-midwife employed at a family health service center supported by the federal government was likewise subject to taxes. Whether a contract between the order and the third-party employer would enable the religious employee's salary to be held non-taxable is still up for debate. Generally, such a contract means that the hiring religious order will ensure that a different religious will occupy that post, regardless of who gets the job first. A religious worker employed by another party will not be regarded as an agent of the religious organization unless the organization has entered into a contract committing it to provide the relevant services. If the services provided had no meaningful connection to the religious order's exempt purposes, the institute would be subject to income taxation.¹⁸

3.3. FINANCIAL CONSEQUENCES

In contemplating the financial consequences of recognizing civil death, it becomes apparent that acknowledging this concept could have significant implications for the taxation landscape in India. Firstly, if civil death were formally recognized, it would entail that a considerable portion of the income earned by individuals, particularly nuns and priests who have taken vows of poverty, would be deemed exempt from taxation. This exemption would extend to various forms of earnings, including salaries, pensions, and other remunerations, which are promptly transferred to their respective religious congregations as part of their solemn religious vows. Proponents of this perspective often lean on the legal doctrine of diversion of income by

¹⁶ *Fogarty v. United States*, 340 U.S. 8 (1950)

¹⁷ Bridget R. O'Neill, *Schuster v. Commissioner: An Appropriate Agency Test for Members of Religious Orders Working under Vows of Poverty*, 1988 WIS. L. REV. 111 (1988).

¹⁸ "Cecilia Meighan, *Religious Institutes - Property and Tax Issues*, 33 CATH. LAW. 25 (1990)."

overriding title, arguing that such income doesn't constitute personal earnings but rather falls under the ownership of the religious congregation, thus warranting exemption from taxation.

Conversely, in the absence of recognition of civil death, the income received by nuns and priests could potentially become subject to taxation under prevailing income tax laws. This could lead to a cascade of legal implications, including the imposition of tax deductions at source (TDS) on their salaries and other earnings. Failure to adhere to these tax regulations could expose both the individuals and their respective religious congregations to financial penalties and legal repercussions. Furthermore, the absence of civil death recognition might significantly impact inheritance and estate planning, potentially altering the taxation dynamics of assets transferred to religious organizations.

In addition to the direct financial consequences, the legal implications of recognizing civil death or its absence are equally profound. Recognizing civil death could afford individuals dedicated to religious vocations significant relief from taxation burdens, ensuring the financial sustainability of religious congregations and institutions. This recognition would affirm the principle that income earned by nuns and priests is not for personal gain but rather for the collective benefit of their religious orders. Conversely, the failure to acknowledge civil death could lead to increased tax liabilities for both individuals and religious institutions, necessitating meticulous compliance with tax laws and potential legal challenges.

Navigating these intricacies requires a delicate balance between religious practices and statutory law. The juxtaposition of the principle of civil death with contemporary tax regulations underscores the complexity of the issue. Any decision in this regard requires a comprehensive understanding of religious doctrines, legal precedents, and socio-economic considerations. Balancing the rights of individuals to practice their religious beliefs with the obligations of tax compliance is paramount in ensuring equity and justice within the legal framework. Furthermore, it necessitates a nuanced approach that respects both religious freedoms and the integrity of the tax system.

Moreover, the financial implications of recognizing civil death extend beyond individual tax liabilities to encompass broader socio-economic considerations. Religious institutions play multifaceted roles in society, often serving as pillars of community support, providing educational, healthcare, and social welfare services. Any imposition of taxation on their revenue streams, including income derived from the salaries of nuns and priests, could

potentially disrupt these vital services. Recognizing civil death would therefore not only safeguard the financial stability of religious orders but also ensure the continuity of their charitable endeavours, benefiting society as a whole.

On the other hand, the absence of recognition of civil death may necessitate a revaluation of existing tax policies to mitigate any adverse impacts on religious organizations. Tax authorities may need to consider implementing targeted exemptions or deductions to accommodate the unique circumstances of individuals committed to religious vocations. Failure to address these concerns could undermine the ability of religious institutions to fulfil their societal obligations, potentially straining social welfare systems and community support networks.

Furthermore, the legal implications of recognizing civil death extend beyond taxation to encompass broader questions of religious freedom and constitutional rights. India's secular legal framework guarantees individuals the right to practice and propagate their religion freely. Recognizing civil death would reaffirm this fundamental right by providing religious practitioners with the necessary protections to fulfil their spiritual duties without undue interference from the state. Conversely, the failure to recognize civil death could raise concerns about the infringement of religious liberties, potentially setting a precedent for government intervention in religious affairs.

In conclusion, the financial and legal consequences of recognizing civil death in India are multifaceted and far-reaching. While acknowledging civil death may provide relief from taxation burdens for individuals dedicated to religious vocations, it also carries implications for the financial stability of religious institutions and broader societal welfare. Conversely, the failure to recognize civil death could lead to increased tax liabilities and potential infringements on religious freedoms. Any decision in this regard must strike a delicate balance between upholding religious rights and ensuring the integrity of the tax system, ultimately serving the interests of both individuals and society as a whole.

3.4. FOREIGN AND NATIONAL POLICY ANALYSIS

The doctrine of civil death, with its historical roots dating back centuries, presents a complex legal conundrum with profound implications for individuals sentenced to life imprisonment. Originating from early English common law, civil death resulted from circumstances such as abjuration, profession, and banishment, leading to the loss of civil rights akin to natural death.

In the United States, civil death statutes, though not part of common law, have been revived by legislation in fourteen states. However, the interpretation and application of these statutes have been inconsistent, leading to legal ambiguity and confusion.¹⁹

The effects of civil death on property rights, inheritance, and contractual obligations further complicate its application. While some states afford life convicts the right to convey property, others restrict or forbid certain rights such as inheritance and devise. The lack of uniformity among states regarding property rights underscores the need for comprehensive policy interventions to address these disparities and ensure equitable treatment for individuals affected by civil death rulings.

Case laws such as *Davis v. Superior Court* highlight the complexities surrounding property rights in civil death cases. The court's ruling, allowing a life convict to execute a sales contract for a manuscript while serving a life sentence, exemplifies the tension between individual rights and state authority. Similarly, debates over the right to inherit and transmit property underscore the need for clarity and consistency in legal frameworks governing civil death.

Case laws such as *Anurag Kumar Gupta, S/o. Late Jai Prakash Narain Gupta Vs. U. P., Sahkari Gramya Vikas Bank Ltd.*²⁰ and *Podin Devi Vs. Central Coalfields Ltd.*²¹ underscore the significance of legal clarity in civil death cases. These cases highlight the importance of judicial oversight and adherence to procedural fairness in determining civil death declarations. Policy initiatives may focus on promoting consistency, transparency, and accountability in civil death proceedings to uphold the rule of law and protect individual liberties.

Moreover, civil death's financial implications, particularly concerning property rights, inheritance, and contractual obligations, necessitate policy interventions to mitigate potential hardships. Initiatives aimed at providing financial assistance, legal aid, and alternative dispute resolution mechanisms could alleviate the economic burden on individuals affected by civil death rulings.

¹⁹ “Harry David Saunders, Civil Death - A New Look at an Ancient Doctrine, 11 Wm. & Mary L. Rev. 988 (1970), <https://scholarship.law.wm.edu/wmlr/vol11/iss4/8>”

²⁰ “Anurag Kumar Gupta S/O Late Jai Prakash vs U.P. Sahkari Gramya Vikas Bank Ltd., W.A. 1994 of 2009”, Allahabad High Court

²¹ *Podin Devi VS Central Coalfields Ltd*, 2014 (2) AJR 653 (India)

Public awareness and education campaigns are vital components of any policy strategy concerning civil death. Educating the public about their legal rights, recourse options, and the procedural aspects of civil death declarations can empower individuals to navigate legal complexities effectively. Additionally, raising awareness among legal professionals, including judges, lawyers, and legal aid providers, can enhance the quality of legal representation and judicial decision-making in civil death cases.

Furthermore, India's approach to civil death may benefit from comparative analysis and benchmarking against international best practices. Engaging with global counterparts, participating in international forums, and leveraging international legal standards can inform policy formulation and implementation processes. Insights from foreign jurisdictions, combined with domestic expertise, can contribute to the development of a robust legal framework for addressing civil death issues in India.

4. RECOMMENDATIONS

The complexities surrounding tax implications on nuns under the vow of poverty requires a multi-faceted approach, including policy reform and legal clarity. Here's an elaboration on recommendations in these areas:

a) **Formulation of Clear Guidelines and Exemptions:**

Policymakers should collaborate with legal experts and religious institutions to develop clear guidelines outlining the tax treatment of individuals under vows of poverty, including nuns.

Specific exemptions and deductions should be introduced within the tax framework to accommodate the unique financial circumstances of nuns living a communal life without personal ownership of assets.

b) **Recognition of Communal Living Arrangements:**

Tax authorities need to recognize the communal nature of living arrangements within religious institutions where nuns reside. This recognition should extend to shared resources and communal property, acknowledging that individual income and expenses may be intertwined.

c) **Enhanced Communication and Collaboration:**

Establishing channels of communication and collaboration between tax authorities and religious institutions is essential. This collaboration can facilitate mutual understanding of the financial practices within religious communities and enable tax authorities to provide tailored guidance and support.

d) Education and Training Initiatives:

Educational programs and training initiatives should be organized for tax officials to enhance their understanding of the religious and cultural contexts within which nuns operate. This will help mitigate misunderstandings and ensure fair and equitable treatment under the tax system.

e) Review and Amendment of Existing Tax Statutes:

Legislative bodies should review existing tax statutes, such as the Income Tax Act, to identify areas where amendments or clarifications are needed to accommodate the tax concerns of individuals under vows of poverty.

Provisions should be introduced to explicitly recognize and provide tax relief for income derived from religious activities and communal living arrangements.

f) Public Consultation and Stakeholder Engagement:

Engaging in public consultation with religious communities, tax professionals, legal experts, and civil society organizations is crucial for developing inclusive and effective tax policies. This participatory approach can foster trust, transparency, and consensus-building around tax reform initiatives.

g) Ethical Considerations and Social Responsibility:

Policymakers and legal authorities should consider the ethical dimensions of taxing individuals who have voluntarily renounced material wealth as part of their religious commitment. Tax policies should reflect a balance between revenue generation and social responsibility, ensuring that those living in poverty are not unduly burdened by tax obligations.

By implementing these recommendations, policymakers can foster a more supportive and equitable tax environment for nuns and other individuals who have embraced lives of spiritual

austerity, aligning tax policies with principles of religious freedom and social justice.

5. CONCLUSION

In conclusion, the examination of the tax consequences surrounding civil death in India, specifically with regard to those who have vowed to live in poverty, reveals a nuanced interaction between ethical, financial, and legal factors. With its historical and legal roots, the idea of civil death poses special difficulties for modern tax systems. For people like nuns, who willingly give up financial independence and personal property in order to further religious or charitable goals, the tax consequences are not just compliance issues; they also touch on basic justice and equity principles. The taxation of people facing civil death, such as nuns who choose to live in poverty, calls for a comprehensive review of current conventions and procedures. We can endeavour to create a tax system that keeps the values of justice, equity, and respect for different religious and philosophical beliefs by working together and making well-informed policy decisions. We cannot guarantee that taxes will aid rather than impede efforts to create a society that is more compassionate and just unless we adopt this all-encompassing strategy.

Additionally, there is an urgent need for the tax laws relating to civil death to be more coherent and clear, especially with regard to the qualifying requirements for exemptions or deductions. Through the establishment of unambiguous protocols and protective measures, legislators can augment openness and reduce the possibility of capricious or prejudiced handling.