Taxation: TDS realty

From June this year, any individual who purchases an immovable property, other than agricultural land, will have to deduct 1% tax at source of the amount paid to the seller, provided the amount is more than Rs 50 lakh.

The government inserted a new Section, 194-IA, in the Finance Act, 2013, to introduce the tax deduction at source (TDS) on real estate transactions. The onus of deducting the tax is on the buyer of the property at the time of crediting the amount to the seller. Also, Form 26QB has been introduced for compliance of this Section where the buyer has to give details like full name, address and his and the owner's Permanent Account Number (PAN), mention the address of the property purchased, the value of the property, date of agreement or booking and the amount paid either in installments or in lump sum.

However, the buyer of the property is not required to obtain the Tax Deduction Account Number (TAN).

As per the norms, the buyer can make the payment of the TDS online or through cheque or demand draft within seven days from the end of the month in which the deduction is made. The buyer will issue the TDS certificate, which is Form 16B, to the seller within 15 days from the due date of payment of taxes. The buyer can generate the the certificate from the income tax portal, www. tdscpc.gov.in

"In order to have a reporting mechanism of transactions in the real estate sector and also to collect tax at the earliest point of time, it is proposed to insert a new Section 194-IA to provide that every transferee, at the time of making payment or crediting of any sum as consideration for transfer of immovable property (other than agricultural land) to a residential transferor, shall deduct tax, at the rate of 1% of such sum," the Finance Act says.

Immovable property includes assets such as a house, commercial property and land purchased for commercial or residential purposes. While the rate of TDS on transactions of immovable property is 1%, in case the seller has not disclosed his PAN number, it would be 20%. Analysts say the move will bring in some transparency in real estate transactions and give tax authorities details of high-value transactions in a more systematic manner.

Also, TAN is not mandatory at present. As per provisions of Section 203A of the Income Tax Act, any person deducting TDS shall also apply for a TAN. In fact, the TAN is mandatorily required to be quoted at the time of deducting any TDS and at the time of filling returns and depositing the TDS amount with the government. However, there is some relief as Section 194IA (3) states that a person deducting TDS on property is not mandatory required to quote the TAN. But analysts say if one is deducting the TDS, it is advisable that the individual also gets a TAN.

If there is more than one buyer or seller for the property and the aggregate value of the property transaction is more than R50 lakh, then Section 194 IA would be applicable and TDS on the sale of the property will have to be deducted and deposited with the income-tax department. Moreover, if the property is financed through a bank loan, the TDS provision will also apply and the buyer will have to ensure that the bank deducts the tax before disbursing the loan to the seller.

There is a penal provision in case of non-compliance as well. According to Section 201, in case an assessee fails to comply with the procedural guidelines of TDS provisions, which means deduction or payment of TDS, the assessee will be treated as default. And according to Section 201(1A), in case of failure to deduct the tax or short deduction of TDS, an interest of 1% will be levied for every month on the amount of tax that will be applicable from the date on which tax was deductible to the date on which the same is deducted.

In case the buyer fails to deposit wholly or partly the tax deducted, then an interest rate of 1.5% every month will be levied or part of the month from the date of deduction till the date of actual payment.

(Financial Express)