

## What is Work- Refer- Income Tax Act

**THE** explanation to Section 194C of the Income Tax states,

- (iv) "work" shall include
- a) Advertising;
  - b) Broadcasting and telecasting including production of programmes, for such broadcasting or telecasting;
  - c) Carriage of goods or passengers by any mode of transport other than by railways;
  - d) Catering;
  - e) Manufacturing or supplying a product according to the requirement or specification of a customer by using material purchased from such customer, but does not include manufacturing or supplying a product according to the requirement or specification of a customer by using material purchased from a person, other than such customer.'

As per Section 194C, TDS has to be deducted on any sum paid to a contractor for carrying out any **work**.

And so work had to be defined. The new look 194C came into existence from 1.10.2009, vide Finance Act, 2009 (No.2)

**The CBDT has a clarification for this.**

*There is on-going litigation as to whether TDS is deductible under section 194C on outsourcing contracts and whether outsourcing constitutes work or not. To bring clarity on this issue, it is provided that "work" shall not include manufacturing or supplying a product according to the requirement or specification of a customer by using raw material purchased from a person other than such customer as such a contract is a contract for **sale**. This will however not apply to a contract which does not entail manufacture or supply of an article or thing (e.g. a construction contract). Manufacturing or supplying a product according to the requirement or specification of a customer by using material purchased from such customer is also included, within the definition of 'work'. It is further provided that in such a case TDS shall be deducted on the invoice value excluding the value of material purchased from such customer if such value is mentioned separately in the invoice. Where the material*

*component has not been separately mentioned in the invoice, TDS shall be deducted on the whole of the invoice value.*

This amendment has been made applicable with effect from 1st October, 2009 and will accordingly apply in relation to assessment year 2010-2011 and subsequent assessment years.

**But why this clarification now?** The CBDT has last week issued a circular explaining the substance of the provisions of the Finance Act, 2009. The Finance Act 2010 is also in place - maybe the explanatory notes to that will come in 2011. The abovementioned clarification is from the Circular.

**Income Tax Circular No. 5/2010-Already sent to the subscribers**