

# VOICE OF CA

## **Latest Amendments and Important Issues in TDS Provisions under Income Tax Act**

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## **SECTION 192 OF THE INCOME TAX ACT, 1961**

- Tax is required to be deducted by any person responsible for paying any income chargeable under the head “**SALARIES**”
- Tax to be deducted at the time of payment
- TDS @ **average rate of income-tax** on **Estimated income** of the employee for the financial year
- No TDS u/s. 192 if tax payable (after taking rebate u/s. 87A) by the employee is **NIL**.

## **EXCESS OR SHORTFALL OF TDS DURING THE F.Y.**

- Any excess/ deficiency arising out of previous deduction or failure to deduct during the financial year can be adjusted subsequently as per **Section 192(3)**.
- Thus, where assessee did not deduct tax from salaries in each month, rather it deducted tax at end of financial year, interest u/s. 201(1A) could not be levied – **CIT v. Enron Expat Services Inc.(Uttarakhand HC)(ITA No. 78/2007)**
- If TDS u/s. 192 is not deducted in equal instalments intentionally(not bona fide) and the deficiency is made good in last months, interest u/s. 201(1A) is liable to be levied – **Madhya Gujarat Vij Co. Ltd. v. ITO (Ahmedabad Trib.)(ITA No. 420/Ahd/2011)**

## RELIEF WHEN SALARY IS PAID IN ARREARS OR ADVANCE – SECTION 89(I)

- Advance Salary and Arrears of salary - Taxable in the year of receipt.
- However, eligible to claim relief u/s. 89(I).
- Relief to be computed as per Rule 21A.
- As per Sec. 192(2A), Form No. 10E is required to be submitted to the employer. Form No. 10E is also required to be submitted electronically on the e-filing portal.
- **Section 89(I) and Section 10(10C):** If any amount received on voluntary retirement or termination of service as per **VRS** or in case of public sector company, a scheme of voluntary separation is claimed as exempt u/s. 10(10C), **relief u/s. 89(I) cannot be claimed.**

## **SALARY FROM MORE THAN ONE EMPLOYER**

- Where the assessee is employed simultaneously under **more than one employer**, or
- Where he has held **successively, employment under more than one employer**
- The employee may furnish to the employer the details of salary received from the other employer along with TDS deducted therefrom.
- Such details to be submitted in Form No. 12B

## OTHER INCOMES MAY BE INFORMED TO EMPLOYER

- The employee MAY provide to the employer, particulars of :
  - **Other Income**, including tax deducted thereon
  - **Loss**, only if it is under the head 'Income from house property'
- **Income from House Property –**
  - **Any other rental income** may be informed to the employer.
  - **Deemed let out property** - From AY 2020-21, if assessee owns more than **2** Self occupied houses, such other house or houses shall be **deemed to have been let** and its annual value shall be computed in accordance with Section 23(1). [Prior to AY 2020-21, if the assessee owned 2 houses, the other house had to be deemed to have been let]
  - Assessee can claim deduction of interest paid on borrowed capital u/s. 24(b) of the Act.

## **OTHER INCOMES MAY BE INFORMED TO EMPLOYER**

- **Income from House Property (continued.)**
  - Loss only under the head 'Income from house property' can be informed to the employer. House property loss can be set-off maximum upto **Rs. 2 Lakhs. [Section 71(3A)]**
- Particulars of '**Other Income**' to be informed to the employer in simple statement duly verified by the employee – **Rule 26B**
- **Form of verification under Rule 26B**
  - *“I, .....(name of the assessee), do declare that what is stated above is true to the best of my information and belief.”*

## **TAX TO BE DEDUCTED ON 'ESTIMATED INCOME'**

- Estimated Income to be calculated after taking into consideration the Taxable Salary (incl. Perquisites, Taxable Allowances)
- Deductions u/s. 16 – Standard deduction of Rs. 50,000 , Professional Tax, Entertainment allowance to Govt. Employee
- Other Income intimated by the employee
- Chapter VI-A deductions (**Section 80C to Section 80U**)

## **EVIDENCE/PROOF OF CLAIMS TO BE SUBMITTED BY THE EMPLOYEE – SECTION 192(2D)**

- The person responsible for making any payment of income chargeable under the head ‘Salaries’ shall obtain from the assessee the evidence or proof of particulars of prescribed claims made by him in **Form No. 12BB** :-
  - Exemption of House Rent Allowance (**HRA**) u/s. 10(13A)
  - **Leave Travel Concession** or assistance u/s. 10(5)
  - **Interest** under the head ‘Income from house property’ u/s. 24(b)
  - Deduction under Chapter VI-A (**Section 80C to Section 80U**)

## **FORM 12BB – HOUSE RENT ALLOWANCE**

- **Amount of rent paid** to the landlord
- **Name and address** of the landlord
- **PAN of the landlord** if aggregate rent paid during the previous year **exceeds Rs. 1 Lakh**
- **Rent receipts / rent agreement** from the landlord

## FORM 12BB – LEAVE TRAVEL CONCESSION

- **Evidence of expenditure** is required to be furnished to the employer as per Rule 26C.
- Leave Travel Concession cannot be claimed for foreign travel – Syndicate Bank vs. ACIT(TDS) 164 ITD 319 (Bengaluru Trib.)
- However, if the assessee has, under bona fide belief that foreign travel costs can be claimed as exempt u/s. 10(5), not deducted TDS, penalty u/s. 271C could not be levied and the same was treated as reasonable cause for the purpose of Section 273B. – **State Bank of India vs. ACIT(TDS)** [2019]063 ITD 440 'Jaipur - Trib-(

## **FORM 12BB – DEDUCTION OF INTEREST u/s. 24(b)**

- Interest on borrowing can be set-off against Salary Income.  
**(House Property loss to the extent of Rs. 2 Lakhs)**
- Details to be submitted:
  - Interest payable/paid to the lender
  - Name, address and PAN/Aadhaar number of the lender
- **Interest Certificate** from the lender

## **FORM 12BB – CHAPTER VI-A DEDUCTIONS**

- Evidence of investment or expenditure for -
  - **Section 80C/CCC/CCD(1)** – upto Rs. 1,50,000
    - **Section 80CCD(1B)** – Additional Rs. 50,000 for NPS
    - **Section 80D** –Medical expense for senior citizen and Health insurance premium (payment to be made by any mode, other than cash)
      - Rs. 25,000 for family (self, spouse and dependant children; 50,000 if senior citizen)
      - Rs.25,000 for parents (dependant or not; Rs. 50,000 if senior citizen)
      - Above limit includes Rs. 5,000 – for preventive health checkup (can be paid in cash)

## **FORM 12BB – CHAPTER VI-A DEDUCTIONS**

- **Section 80DD** – Maintenance including medical treatment of a dependant who is a person with disability
  - Any expenditure incurred for the medical treatment (including nursing), training and rehabilitation
  - Any amount paid/deposited in an approved scheme of LIC
  - **Amount of deduction:** Rs. 75,000 for person with disability and Rs. 1,25,000 for person with severe disability

## FORM 12BB – CHAPTER VI-A DEDUCTIONS

- **Section 80E** – Deduction in respect of payment of interest on loan taken for higher education
  - No upper limit for deduction
  - Loan to be taken from a banking company or notified financial institution or a charitable institution approved u/s. 10(23C) or 80G(2)(a).
  - Loan can be taken for higher education of the assessee **himself** or **his relative** (relative means spouse, children or a student for whom the assessee is a legal guardian)
  - **Higher Education** – Any course of study pursued after passing Senior Secondary examination or equivalent from any recognised school / board / university.

## FORM 12BB – CHAPTER VI-A DEDUCTIONS

- **Section 80EEA** (w.e.f. A.Y. 2020-21) – Deduction upto **Rs. 1,50,000** in respect of **INTEREST ON LOAN FOR THE PURPOSE OF ACQUISITION OF HOUSE PROPERTY** subject to following conditions:
  - Loan should be sanctioned b/w. 1.4.2019 to **31.03.2021**
  - Stamp duty value of house property – **upto Rs. 45 Lakhs.**
  - Owns no residential house property on the date of sanction of loan.
  - **Double deduction of such interest should not be allowed under any other section.** (i.e. interest cannot be claimed u/s. 24(b) of the Act)

## **FORM 12BB – CHAPTER VI-A DEDUCTIONS**

- **Section 80EEB** – Deduction in respect of **INTEREST ON LOAN** taken for purchase of **ELECTRIC VEHICLE**
  - **Amount of deduction:** upto Rs. 1,50,000
  - Loan should be sanctioned by the financial institution during the period FY 2019-20 to FY 2022-23
  - No limit for amount of loan or price of the electric vehicle.

## FORM 12BB – CHAPTER VI-A DEDUCTIONS

- **Section 80G** - Deductions in respect of donations to certain funds, charitable institutions, etc.
  - For donations to PM National Relief Fund, **PM CARES Fund**, CM Relief Fund, the employee should submit the donation receipt to the employer. If the donation is made through the employer, deduction u/s. 80G can be claimed on the basis of certificate from the employer.
  - In view of The Taxation and Other Laws (Relaxation of certain provisions) Ordinance, 2020, donation made upto 30.06.2020 or any other date as may be notified, can be claimed u/s. 80G for computing the income of A.Y. 2020-21.

# WITHDRAWAL OF ACCUMULATED BALANCE DUE TO AN EMPLOYEE – SECTION 192A

- Trustees of recognised provident fund (RPF) are required to deduct TDS u/s. 192A on payment of accumulated balance due to employees, where the same is includible in his total income.
- Withdrawal of accumulated balance from RPF is exempt u/s. 10(12), subject to the following conditions provided in **Rule 8 of Part A of Fourth Schedule**:
  - Employee has rendered **continuous service for 5 years or more**, or
  - Service has been terminated due to his ill-health, contraction or discontinuance of employer's business or **reason beyond control of the employee**, or
  - If on cessation of employment, the accumulated balance of his RPF is **transferred to his new employer**, or
  - If the accumulated balance is transferred to his **National Pension Scheme** account.

## WITHDRAWAL OF ACCUMULATED BALANCE DUE TO AN EMPLOYEE – SECTION 192A

- If the withdrawal of accumulated balance is exempt in the hands of employee, TDS u/s. 192A is not required to be deducted.
- However, if the withdrawal is taxable in the hands of the employee – **TDS @10%** is required to be deducted at the time of payment.
- **Threshold limit:** No TDS if payment is less than **Rs. 50,000**
- Employee can submit Form No. 15G/15H, as the case may be for claiming the amount without deduction of tax. **[Sec. 197A]**
- Further, if post-retirement, if any interest is paid on the accumulated balance not withdrawn, tax is required to be deducted as per Section 194A, since there is no employer-employee relationship.

## TDS ON PENSION

- **Uncommuted pension (i.e. monthly pension) is taxable** in the hands of employee.
- **Manner of exemption of Commuted pension** is provided u/s. 10(10A)
- In case of pensioners of Govt. or other departments, receiving pension through nationalized banks, TDS has to be deducted by the bank u/s. 192.
- Further, the **Banks are bound to issue Form No. 16 to such pensioners** as per Section 203.
- Form No. 16 cannot be denied merely because there is **no Employer-employee relationship** between the bank and such pensioner. [**CBDT Circular No. 761 dated 13.01.1998**]

## **SALARY RECEIVED BY MP, MLA, MINISTERS**

- Remuneration received by a Member of Parliament, Member of Legislative Assembly is not chargeable as Income under the head 'Salaries'. As there is no employer-employee relationship. It is chargeable under the head '**Income from other sources**' – **CIT vs. Shiv Charan Mathur (Raj. HC)** (ITA No. 96 of 2006) (Also refer CBDT Letter F. No. 40/29/67-IT(A-I) dated 22.5.1967)
- Salary received by Chief Minister or a minister is taxable under the head 'Salaries' - **Lalu Prasad vs. CIT (Patna)** (2009) 316 ITR 186.
- Daily allowance, constituency allowance, etc. received by MP/MLA is exempt u/s. 10(17).

# TDS u/s. 192 IN LIGHT OF SECTION 115BAC

- Tax Rates u/s. 115BAC inserted vide Finance Act, 2020

Total Income	Rate of tax
Upto Rs. 2,50,000	NIL
From Rs 2,50,001 to Rs 5,00,000	5%
From Rs 5,00,001 to Rs 7,50,000	10%
From Rs 7,50,001 to Rs 10,00,000	15%
From Rs 10,00,001 to Rs 12,50,000	20%
From Rs 12,50,001 to Rs 15,00,000	25%
Above Rs 15,00,000	30%

## WHEN TO EXERCISE OPTION u/s. 115BAC?

- A person can opt under Section 115BAC
  - **If having income from business or PROFESSION**
    - Option to be exercised on or before due date u/s. 139(1)
    - Option once exercised shall apply to subsequent years.
    - Can only be withdrawn once and thereafter, the assessee shall not be eligible to opt u/s. 115BAC.
  - **If NOT having income from business or PROFESSION**
    - Option to be exercised at the time of furnishing return of income
    - Assessee will have option **EACH ASSESSMENT YEAR** to choose from either the normal provisions or Section 115BAC

## **NORMAL PROVISIONS vs. SECTION 115BAC ?**

- If the assessee opts under the special provisions of tax u/s. 115BAC, then in respect of a salaried employee, **some** of the exemption/deductions/claims which will **NOT BE AVAILABLE** are as under:
  - **Leave travel concession** - Section 10(5)
  - **House rent allowance** - Section 10(13A)
  - **Standard deduction of Rs. 50,000** – Section 16(ia)
  - **Entertainment allowance** – Section 16(ii)
  - **Professional tax** – Section 16(iii)
  - **Standard deduction (lower of 1/3<sup>rd</sup> or Rs. 15,000) against family pension** – Section 57(ia)

## **NORMAL PROVISIONS vs. SECTION 115BAC ?**

- If the assessee opts under the special provisions of tax u/s. 115BAC, then in respect of a salaried employee, **some** of the exemption/deductions/claims which will **NOT BE AVAILABLE** are as under:
  - **Interest on loan for self occupied house property** – Section 24(b)
  - Life insurance premium, principal repayment of housing loan, PPF deposit, etc. upto **Rs. 1,50,000 - Section 80C**
  - Interest on savings bank account upto **Rs. 10,000 – Section 80TTA- other than senior citizen**
  - Interest on S. B. A/c, R. D. and time deposits upto **Rs. 50,000 – Section 80TTB – Senior Citizen**
  - Health insurance premium/medical expenditure – **Section 80D**

## **NORMAL PROVISIONS vs. SECTION 115BAC ?**

- If the assessee opts under the special provisions of tax u/s. 115BAC, then in respect of a salaried employee, **some** of the exemption/deductions/claims which will **NOT BE AVAILABLE** are as under:
  - Specified deductions u/s. 80DD, 80DDB, 80U
  - Interest on loan for higher education – **Section 80E**
  - Interest on loan for certain house property upto Rs. 1,50,000 – **Section 80EEA**
  - Interest on loan taken for purchase of electric vehicle upto Rs. 1,50,000 – **Section 80EEB**
  - **Donations u/s. 80G, and other Chapter VI-A deductions**
  - No set-off of loss under the head **'Income from house property'**. However, it can be carried forward to subsequent AY's.

## **TDS U/S. 192 IN LIGHT OF THE SECTION 115BAC ?**

- **Intimation to Employer** - The employee, whether having any income under head 'profits and gains from business or profession' or not, has to intimate the employer about the intention to opt for concessional rate of taxation u/s. 115BAC of the Act. The employer will deduct TDS accordingly.
- **If no such intimation** is made, TDS will be deducted without considering Section 115BAC.
- Intimation so made to the employer **cannot be modified during the year**.
- However, this intimation given to employer is not binding and the employee can choose different option while filing return of income.
- In respect of employee having income under PGBP head – intimation for subsequent years should not deviate from previous intimation, except when the employee opts out from Section 115BAC.
- **CBDT Circular No. C1 of 2020 dated April 13, 2020.**

## TDS ON DIVIDENDS – SECTION 194

- **Nature of Payment:** Dividend (including dividends on preference shares)
- **Deductor:** Any Domestic company
- **Deductee:** Resident shareholder
- **Threshold limit:** No deduction upto Rs. 5,000, if dividend is paid by any mode, other than cash.
- **Rate of tax:** 10% (7.5% w.e.f 14.05.2020 to 31.03.2021)
- No deduction on dividend paid to LIC, GIC or any other connected insurer.
- **Only Individual Shareholder** can furnish **Form No. 15G** or **15H**, as the case may be.

# **TDS ON INTEREST** (other than interest on securities) – **SECTION 194A**

- **Nature of Payment:** Interest (other than interest on securities)
- **Threshold:** **Rs. 40,000** in case of payment by **Banks/co-operative bank/Post office** (Rs. 50,000 in case of senior citizen), and Rs. 5,000 in any other case.
- For banks with CBS, limit to be calculated per bank (and not per branch)
- **Rate of tax:** 10% (7.5% w.e.f.14.05.2020 to 31.03.2021)
- Interest paid by a **co-operative society (if its total sales, gross receipts or turnover of the preceding FY does not exceeds Rs. 50 Crores<sup>#</sup>)** to its member or to any other co-operative society not liable for TDS as per 194A(3)(v).
- Recipient other than company or firm can furnish **Form No. 15G** or **15H**, as the case may be.

## Whether payment of Interest by a co-operative bank to a co-operative society is liable for TDS under section 194A ?

- As per literal interpretation of Clause (v) of Section 194A(3), **payment of interest by a co-operative society to any other co-operative society is not liable for TDS u/s. 194A.** Co-operative society includes a co-operative bank. Thus, **payment of interest by a co-operative bank to a co-operative society is not liable for TDS u/s. 194A.** On the above issue, **Hon'ble Kerala High Court** has held that in terms of Section 194A(3)(v) there will be no requirement of deducting tax at source in the case of payment of interest by a co-operative bank to a co-operative society. - **Vembayam Service Co-operative Bank Ltd. vs. ACIT** [WP(C).No. 9578/2019 dated 18.10.2019] **(Kerala High Court)**

## **TDS ON INTEREST** (other than interest on securities) – **SECTION 194A**

- TDS u/s. 194A not applicable on **factoring charges** (debtor discounting) as it is not interest covered u/s. 2(28A) – **CIT v. MKJ Enterprises Ltd** [2014] 50 taxmann.com 441 (**Calcutta**)
- **Interest paid for delayed payments of trade liability** is out of ambit of section 2(28A). Accordingly, not liable for TDS u/s. 194A – **ITO vs. Parag Mahasukhlal Shah** [2011] 46 SOT 302 (**Ahmedabad Trib.**)
- If a Bank/Co-operative bank/Hsg. Fin. Co. has **paid interest without deduction of tax u/s. 194A** due to threshold limit of Rs. 40,000 (or Rs. 5,000 for deposits in public company), then statement of such particulars to be submitted in **Quarterly return in Form No. 26QAA**.

# TDS ON PAYMENT TO CONTRACTORS – SECTION 194C

- **Nature of Payment:** Works Contract. It includes :
  - Advertising
  - Broadcasting and telecasting including production of programmes for such broadcasting or telecasting
  - Carriage of goods or passengers by any mode of transport other than by railways
  - Catering
  - Manufacturing or supplying a product according to the requirement or specification of a customer by using material purchased from such customer or its associate covered u/s. 40A(2)(b), 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 or associate of such customer.**

# TDS ON PAYMENT TO CONTRACTORS – SECTION 194C

- **Threshold:** upto **Rs. 30,000** for single payment and upto **Rs. 1 Lakh** for aggregate payments
- **Rate of tax:** 1% if recipient is Individual/HUF (2% in any other case)<sup>#</sup>
- **Contract of Sale vs. Works contract** – Purchase of **printed packing material** is a 'Contract of Sale' and not 'Works contract'. Thus, not liable for TDS u/s. 194C - **CIT v. Dabur India Ltd.** [2006] 283 ITR 197 (**Delhi**)
- **Payments to transporters:** If any person owns **10 or less goods carriage** at any time during the year and he furnishes a declaration to this effect, TDS u/s. 194C is not required to be deducted. [Such details of non deduction of tax are to be furnished in **Form No. 26Q**] This exemption is not available if payment is made to a person merely acting as a transport agent and not a goods carriage owner.

<sup>#</sup> 0.75% or 1.5%, as the case may be, w.e.f 14.05.2020 to 31.03.2021

# TDS ON COMMISSION OR BROKERAGE – SECTION 194H

- **Nature of payment:** Commission or Brokerage
- **Threshold:** upto Rs. 15,000
- **Rate of tax:** 5% (3.75% w.e.f 14.05.2020 to 31.03.2021)
- **Principal to agent relationship** should exist.
- **Discount offered to distributors for promotion of sales** cannot be treated as commission liable to TDS u/s. 194H - **Nokia India (P.) Ltd. v. DCIT (Delhi Trib.)**[ITA No. 5791/Del/2015]
- Discount on pre-paid SIM Cards not liable to TDS u/s. 194H – **Bharti Airtel Ltd. vs. DCIT** [2015] 372 ITR 33 (**Karnataka HC**)
- No TDS on specified payments to Bank or authorized payment systems company – **CBDT Circular 47/2016** dated **17.06.2016** and **PCIT v. Make My Trip (Del. HC)**(ITA No. 136/2019)

## TDS ON RENT – SECTION 194-I

- **Nature of payment:** Rent
- **Threshold:** Rs. 2,40,000
- **Rate of tax:** For use of plant or machinery or equipment - 2%<sup>#</sup> ; For use of Land and building or furniture and fixture – 10%<sup>#</sup>
- For invoking the provisions of Section 194-I, **element of control and possession is necessary – Chhattisgarh State Electricity Board vs. ITO (Mumbai ITAT) [2012] 50 SOT 33 (Mumbai)**
- In case of **co-owners** of property, having definite and ascertainable share in the property, the limit of Rs. 2,40,000 will apply for each payee/co-owner separately – **CBDT Circular No. 715 dtd. 08.08.1995**

<sup>#</sup> 1.5% and 7.5%, as the case may be, w.e.f 14.05.2020 to 31.03.2021

## **TDS ON RENT – SECTION 194-I**

- **Non refundable Security deposit** – It is nothing but advance rent and liable for TDS u/s. 194-I.
- Payment of **cooling charges to cold storage owners** liable for TDS u/s. 194C and not u/s. 194-I. – **CBDT Circular No. 1/2008.**
- Payments for **hotel accommodation** on regular basis is liable for TDS u/s. 194-I – **CBDT Circular No. 5/2002**
- Payment for **warehousing charges** is liable for TDS u/s. 194-I - **CBDT Circular No. 718 dated 22.08.1995.**

## **TDS ON PAYMENT FOR ACQUISITION OF IMMOVABLE PROPERTY – SECTION 194-IA**

- **Nature of payment:** Consideration for transfer of **immovable property** (not being a rural agricultural land) to a **resident transferor**.
- **Threshold:** No deduction where the consideration is less than **Rs. 50 Lakhs**
- **Rate of tax:** 1% **(0.75% w.e.f 14.05.2020 to 31.03.2021)**
- **Consideration** (w.e.f. 1.9.2019) – includes club membership fee, car parking fee, electricity or water facility fee, maintenance fee, advance fee or any other charges of similar nature, which are incidental to transfer of the immovable property

# TDS ON PAYMENT FOR ACQUISITION OF IMMOVABLE PROPERTY – SECTION 194-IA

- TDS u/s. 194-IA is not required to be deducted in case of joint buyers if individual **buyer's share** is less than 50 Lakhs. - **Vinod Soni vs. ITO (Delhi ITAT)** - ITA No. 2736/Del/2015.
- TDS u/s. 194-IA is not required to be deducted in case of **joint sellers (co-owners)** if share of each co-owner is less than 50 Lakhs - **Oxcia Enterprises Pvt. Ltd. vs. DCIT (Jodhpur ITAT)** - ITA No. 291/Jodh/2018.
- TAN not required.
- Challan-*cum*-statement in **Form No. 26QB** to be filed within 30 days from the end of the month in which TDS is deducted and TDS Certificate in **Form No. 16B** to be given to deductee within 15 days.
- If the immovable property is **purchased as a stock in trade** and TDS u/s. 194-IA is not deducted, then 30% of the purchase price will be disallowed u/s. **40(a)(ia)**.

# TDS ON PAYMENT OF RENT BY INDIVIDUAL OR HUF – SECTION 194-IB

- **Nature of payment:** Rent payable by an individual or HUF (not liable u/s. 194-I)
- **Threshold:** No TDS for Rent upto **Rs. 50,000 per month** or part of the month
- **Rate of tax:** 5% (3.75% w.e.f 14.05.2020 to 31.03.2021)
- TDS to be deducted at the time of credit of rent for the month of **March or the last month of tenancy**, whichever is earlier.
- TAN not required.
- Challan-*cum*-statement in **Form No. 26QC** to be filed within 30 days from the end of the month in which TDS is deducted and TDS Certificate in **Form No. 16C** to be given to deductee within 15 days.
- TDS u/s. 194-IB is also required to be done by persons covered u/s. 44AD and 44AE whose turnover does not exceeds Rs. 1 Crore or Rs. 50 Lakhs, as the case may be.

## TDS ON FEE FOR PROFESSIONAL OR TECHNICAL SERVICES (FTS), ROYALTY, ETC.– SECTION 194J

Nature of payment	Threshold limit	Rate of tax (upto 13.05.2020)	Rate of tax (w.e.f 14.05.2020 to 31.03.2021)
Fees for professional services	Rs. 30,000	10%	<b>7.5%</b>
Fees for technical services and payment to call centers	Rs. 30,000	<b>2%</b> (for FTS -10% upto FY 19-20)	<b>1.5%</b>
Remuneration or fees to Director (other than 192)	NIL	10%	<b>7.5%</b>
Royalty	Rs. 30,000	10%	<b>7.5%</b>
Non-compete fees	Rs. 30,000	10%	<b>7.5%</b>

## TDS ON FEE FOR PROFESSIONAL OR TECHNICAL SERVICES (FTS), ROYALTY, ETC.– SECTION 194J

- Reimbursement of expense – TDS not liable to be deducted on pure reimbursements when separate bill is raised.
- **Fees for professional services** means services rendered by person carrying on legal, medical, engineering or architectural profession or the profession of accountancy or **technical consultancy** or interior decoration or advertising or film artist.
- TDS u/s. 194J not to be deducted on **subsequent sale of software** without modification – **Notification No. 21/2012** dtd. 13.06.2012.
- As per Finance Act, 2020, In respect of fees for technical services (not being professional services) TDS is required to be deducted @2%. (1.75% w.e.f 14.05.2020 to 31.03.2021)

## TDS ON COMPENSATION ON ACQUISITION OF IMMOVABLE PROPERTY – SECTION 194LA

- **Nature of payment:** Payment for compensation on **compulsory** acquisition of immovable property (other than any agricultural land)
- **Threshold:** No TDS upto Rs. 2,50,000/-
- **Rate of tax:** 10% (7.5% w.e.f 14.05.2020 to 31.03.2021)
- TDS u/s. 194LA is not required to be deducted in case the payment is exempt under Section 96 of the **RFCTLARR Act, 2013** (Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013)

# TDS ON PAYMENT OF CERTAIN SUMS BY INDIVIDUAL OR HUF – SECTION 194M (w.e.f. 1.9.2019)

- **Deductor:** An Individual or HUF (other than those who are required to deduct TDS u/s. 194C or 194H or 194J)
- **Nature of Payment:**
  - Works Contract (including supply of labour for carrying out any work)
  - Commission or brokerage
  - Fees for professional services
- **Threshold:** No TDS upto Rs. 50 Lakhs in a FY.
- **Rate of TDS:** 5% (3.75% w.e.f 14.05.2020 to 31.03.2021), recipient can apply for lower rate.
- TAN not required.
- Challan-*cum*-statement in **Form No. 26QD** to be filed within 30 days from the end of the month in which TDS is deducted and TDS Certificate in **Form No. 16D** to be given to deductee within 15 days.

## TDS ON PAYMENT OF CERTAIN SUMS BY INDIVIDUAL OR HUF – SECTION 194M (w.e.f. 1.9.2019)

- **Example:** If an individual or HUF who is not liable to TDS u/s. 194C because his business turnover is not exceeding 1 crore or professional fees not exceeding Rs. 50 Lakh or for **building construction or residential house** to a **works contractor** (with material or without material) and makes payment of **Rs. 50 Lakh or more in a year** then he will be **liable to deduct TDS u/s. 194M @5%** (3.75% w.e.f 14.05.2020 to 31.03.2021) TDS on whole payment as per Sec. 194M.
- Thus, if payment to Works Contractor for construction of any building or residential house is Rs. 60 Lakhs, then TDS of Rs. 2,25,000/- (@3.75% of entire Rs. 60 Lakhs) shall be deducted.

# TDS ON PAYMENT TO NON RESIDENTS – SECTION 195

- **Nature of payment:** Any sum chargeable under Income tax Act, not being Salary
- **Threshold:** Nil
- **Rate of tax:** As per rates in force (Part-II of the First Schedule of the Finance Act)
- Application can be made of **lower withholding** u/s. 195(2) by the payer or u/s. 197 by the recipient.
- **Purchase of immovable property from non-resident:** TDS is required to be deducted u/s. 195 and **not** u/s. 194-IA.
- 15CB not required to be furnished if remittance does not exceed Rs. 5,00,000 in a year. However, TDS is required to be deducted and 15CA - Part A is required to be uploaded.
- **Section 206AA** not to apply if basic details, Tax residency certificate and its TIN in the foreign country is given – **[Rule 37BC]**

## TDS u/s. 195 - OTHER SUMS

- **Applicability:** TDS to be deducted on **any sum chargeable under the provisions of Income Tax Act, 1961** not being income chargeable under the head 'Salaries'. (E.g. Payments such as interest, royalty, fees for technical services are liable for tax deduction u/s. 195 of the Act)
- **Payer:** Any person (both Resident and Non-resident)
- **Payee:** Non-residents / Foreign Company
- **Threshold limit: NIL i.e. No Threshold limit.**
- No TDS u/s. 195 on payment of Income chargeable under the head 'Salaries' or payments covered u/s. 194LB or 194LC or 194LD.
- TDS to be deducted at the time of **payment or credit, whichever is earlier.**

## SECTION 9 – DEEMED TO ACCRUE OR ARISE IN INDIA

- As per the provisions of Section 5(2)(b) of the Act, the total income of a non-resident also includes all income which **accrues or arises** or is **deemed to accrue or arise in India** to the non-resident.
- **To check whether the income of the non-resident is deemed to accrue or arise in India – We have to refer Section 9.**
- If the income is deemed to accrue or arise in India, then the payer is liable to withhold taxes in India.

## **SECTION 9(1) – CLAUSE (ii), (iii) & (iv)**

**Following shall be deemed to accrue or arise in India:**

- **Section 9(1)(ii)** – Income which falls under the head "Salaries", if it is earned in India, i.e. when the services are rendered in India [**Tax deductible u/s. 192**]
- **Section 9(1)(iii)** – Salary payable by the Central Govt. to a **citizen of India** for services rendered outside India [**Tax deductible u/s. 192**]
- **Section 9(1)(iv)** – Dividend paid by an Indian company outside India

## **SECTION 9(1)(v) – INTEREST**

**Section 9(1)(v)** – Income by way of **interest** payable by a **Resident** shall be deemed to accrue or arise in India except if amount used for business or profession carried on by such person outside India or for the purposes of making or earning any income from any source outside India

## **SECTION 9(1)(vi) – ROYALTY**

**Section 9(1)(vi)** – Income by way of **royalty** payable by a **Resident** shall be deemed to accrue or arise in India except where the royalty is payable in respect of any right, property or information used or services utilised for the purposes of a business or profession carried on by such person outside India or for the purposes of making or earning any income from any source outside India.

## **SECTION 9(1)(vii) – FEES FOR TECHNICAL SERVICES**

**Section 9(1)(vii)** – Income by way of **fees for technical services** payable by a **Resident**, except where the fees are payable in respect of services utilised in a business or profession carried on by such person outside India or for the purposes of making or earning any income from any source outside India.

## **SECTION 9(1)(viii) –SUM OF MONEY**

**Section 9(1)(viii)** – Income arising outside India, being **any sum of money** referred to in Section 2(24)(xviiia), paid on or after 5<sup>th</sup> July, 2019 by a resident to a non-resident / foreign company shall be deemed to accrue or arise in India.

**Section 2(24)(xviiia)** includes in Income - any sum of money covered u/s. **56(2)(x)** of the Act.

However, Gift of any sum of money **from relative** shall not be liable for withholding tax obligation u/s. 195.

## **SECTION 9(1)(i) – Income other than Interest / Royalty FTS / Salaries/ Dividend**

**Section 9(1)(i)** – All income accruing or arising, whether directly or indirectly, through or from

- **Business connection in India**
- **Property in India**
- **Asset or source of income in India**
- **Transfer of a Capital asset situate in India**

## EXPLANATION TO SECTION 9

Explanation.— For the removal of doubts, it is hereby declared that for the purposes of this section, income of a **non-resident** shall be deemed to accrue or arise in India under **clause (v) [Interest]** or clause (vi) **[Royalty]** or clause (vii) **[Fees for technical services]** of sub-section (1) and shall be included in the total income of the non-resident, **whether or not:**

- **The non-resident has a residence or place of business or business connection in India; or**
- **The non-resident has rendered services in India.**

## WITHHOLDING TAX OBLIGATION u/s. 195

If the payment to non-resident or a foreign company is covered u/s. 9 of the Act and chargeable to tax, the provisions of Section 195 of the Act shall come into play.

As per **Section 195(1)** – Tax is required to be deducted at the time of payment or credit, whichever is earlier at the **rates in force**.

Further, **TDS u/s. 195** is also required to be withheld at the time of making provision on accrual basis the payee is identified and amount is ascertainable.

## **RATES IN FORCE – Section 2(37A)(iii)**

**Rate or Rates in force means** - The rates of income tax specified in the

- **Finance Act of the relevant previous year, or**
- **DTAA** (Double Taxation Avoidance Agreement)

**Section 90(2)** - The provisions of the Act or the DTAA, whichever is **more beneficial to the assessee** shall be applied.

**Surcharge and Education Cess** – Not required to be added separately if the rates mentioned in DTAA are applied.

## RATES IN FORCE – Finance Act, 2020

Some Important rates mentioned in the Finance Act, 2020 for the purpose of withholding tax u/s. 195 are as under:

- **Dividend** – 20%#
- **Royalty** – 10%#
- **Fees for technical services** – 10%#
- **Interest** (other than 194LB/194LC/194LD) – 20%#

# The above rates shall be increased by education cess @4% and applicable surcharge to corporate/non-corporate assessee.

Rates mentioned in DTAA should be applied if they are more beneficial.

## PERMANENT ESTABLISHMENT

Any person who is responsible for paying any sum being royalty or fees for technical services to a non-resident / foreign company carrying on business through a **Permanent Establishment (PE)** in India shall deduct tax u/s. 195 of the Act at the rate of tax at applicable rates.

**Thus, for payments to Foreign Companies having a PE in India:**

If amount exceeds Rs. 1 Crore: 40% + 4% Cess + 2% Surcharge (42.432%)

If amount exceeds Rs. 10 Crores: 40% + 4% Cess + 5% Surcharge (43.68%)

## LOWER / NIL DEDUCTION CERTIFICATE – Application By Payer u/s. 195(2)

- Application to be made by the the **Payer**.
- **When?** – When the payer considers that the whole of such sum would not be income chargeable in the case of the recipient
- The Assessing Officer shall determine the appropriate proportion of such sum, on which tax is required to be deducted u/s. 195 of the Act.
- **Nil Deduction Certificate** can also be obtained u/s. 195(2) by the payer.

## **NIL DEDUCTION CERTIFICATE**

### **– Application By Payee u/s. 195(3)**

- The recipient of income (Payee) can apply to the Assessing Officer for receiving payment without deduction of tax at source.
- For. E.g. In case of transfer of Capital Asset, if the payee wants to claim exemption u/s. 54 or 54F, he can apply to the Assessing Officer for receiving payment without deduction at source.

## **NIL/LOWER DEDUCTION CERTIFICATE u/s. 197 - FORM 13**

- The recipient of income can apply to the Assessing Officer for Lower Deduction Certificate u/s. 197 of the Act.
- Application to be made in prescribed **Form No. 13** electronically.
- Lower Rate to be determined keeping in view the estimated total income, total income of previous 3 years, taxes paid for the current year.
- Tax to be deducted by the payer at the rate mentioned in Lower Deduction Certificate issued by the AO.

## 15CA - 15CB CERTIFICATION REQUIREMENTS u/s. 195(6)

- As per Section 195(6) - The person responsible for paying to a non-resident / foreign company, any sum, **whether or not chargeable under the provisions of this Act**, shall **furnish the information** relating to payment of such sum, in such form and manner, as may be prescribed.
- **Rule 37BB and Form No. 15CA - Part A to Part D, Form No. 15CB and Form No. 37CC** have been prescribed.

# 15CA - 15CB CERTIFICATION REQUIREMENTS u/s. 195(6)

Sr. No.	Chargeable / Not chargeable to Tax in India	Conditions	Applicable Form/(s)
1.	Chargeable to tax	Aggregate payment during the financial year does not exceeds Rs. 5 Lakhs	Form 15CA – Part A
2.	Chargeable to tax	Assessee has obtained a Lower Deduction Certificate u/s. 197 or Certificate u/s. 195(2) or 195(3) from the AO	Form 15CA – Part B
3.	Chargeable to tax	Aggregate Payment exceeds Rs. 5 Lakhs and Certificate by AO u/s. 197 or 195(2) or 195(3)	Form 15CB along with Form 15CA – Part C
4.	Not Chargeable to tax	-	Form 15CA – Part D

## **RULE 37BB – Exemption**

- As per Rule 37BB, particulars in Form No. 15CA and/or Form No. 15CB (if applicable) is required to be made, whether or not any sum is chargeable to tax in India or not.
- As per rule 37BB No information is required to be furnished (**not even Form 15CA - Part D**) by an **individual** if it does not require prior approval of RBI or by any other person if it does not require prior approval of RBI as 33 items mentioned in the RBI LRS list . However, practically the banks may insist for the same.

## PRIOR RBI APPROVAL NOT REQUIRED IN FOLLOWING

- **Prior RBI Approval is not required** for transactions within limit of **\$2,50,000** for private visits to any country (except Nepal and Bhutan)
- Gift or donation
- Going abroad for employment
- Emigration
- Maintenance of close relatives abroad
- Travel for business/ conference/ specialized training/ medical treatment/ studies abroad
- Any other current account transaction

# 15CA – PART D NOT REQUIRED FOR BELOW 33 ITEMS

Sl. No.	Purpose code as per RBI	Nature of payment
1	S0001	Indian investment abroad - in equity capital (shares)
2	S0002	Indian investment abroad - in debt securities
3	S0003	Indian investment abroad - in branches and wholly owned subsidiaries
4	S0004	Indian investment abroad - in subsidiaries and associates
5	S0005	Indian investment abroad - in real estate
6	S0011	Loans extended to Non-Residents
7	S0101	Advance payment against imports
8	S0102	Payment towards imports - settlement of invoice
9	S0103	Imports by diplomatic missions
10	S0104	Intermediary trade
11	S0190	Imports below Rs.5,00,000 - (For use by ECD offices)

## 15CA – PART D NOT REQUIRED FOR BELOW 33 ITEMS

Sl. No.	Purpose code as per RBI	Nature of payment
12	SO202	Payment for operating expenses of Indian shipping companies operating abroad
13	SO208	Operating expenses of Indian Airlines companies operating abroad
14	S0212	Booking of passages abroad - Airlines companies
15	S0301	Remittance towards business travel
16	S0302	Travel under basic travel quota (BTQ)
17	S0303	Travel for pilgrimage
18	S0304	Travel for medical treatment
19	S0305	Travel for education (including fees, hostel expenses etc.)
20	S0401	Postal services
21	S0501	Construction of projects abroad by Indian companies including import of goods at project site

## 15CA – PART D NOT REQUIRED FOR BELOW 33 ITEMS

Sl. No.	Purpose code as per RBI	Nature of payment
22	S0602	Freight insurance - relating to import and export of goods
23	S1011	Payments for maintenance of offices abroad
24	S1201	Maintenance of Indian embassies abroad
25	S1202	Remittances by foreign embassies in India
26	S1301	Remittance by non-residents towards family maintenance and savings
27	S1302	Remittance towards personal gifts and donations
28	S1303	Remittance towards donations to religious and charitable institutions abroad
29	S1304	Remittance towards grants and donations to other Governments and charitable institutions established by the Governments
30	S1305	Contributions or donations by the Government to international institutions

## 15CA – PART D NOT REQUIRED FOR BELOW 33 ITEMS

Sl. No.	Purpose code as per RBI	Nature of payment
31	S1306	Remittance towards payment or refund of taxes
32	S1501	Refunds or rebates or reduction in invoice value on account of exports
33	S1503	Payments by residents for international bidding.

## FORM 15CB – PRACTICAL ASPECTS

- **Determine applicability of Section 195** - Ascertain the identity of payee – Whether resident/non-resident?
- **Determine nature of payment** - Whether Royalty/ fees for technical services / Interest / etc.
- Ascertain the chargeability and rate of tax as per the provisions of Income Tax Act.
- To claim beneficial rate as per DTAA as per Section 90(2), obtain **Tax Residency Certificate** from the payee. Tax Residency Certificate is provided u/s. 90(4).
- Obtain **Form No. 10F** duly certified from the payee.

# Tax Residency Certificate



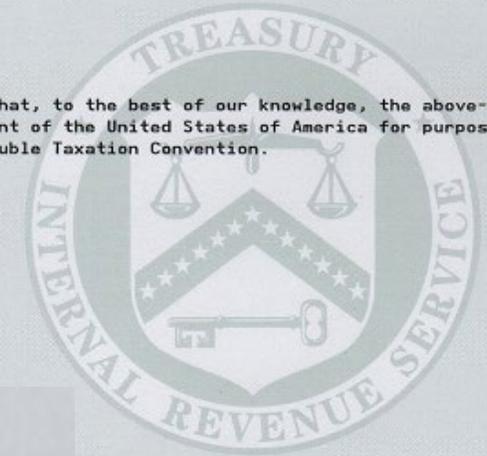
CERTIFICATION  
PROGRAM

DEPARTMENT OF THE TREASURY  
INTERNAL REVENUE SERVICE  
PHILADELPHIA, PA 19255

Date: June 4, 2018

Taxpayer: [REDACTED]  
TIN: [REDACTED]  
Tax Year: 2017

I certify that, to the best of our knowledge, the above-named taxpayer is a resident of the United States of America for purposes of the Greece - U.S.A. Double Taxation Convention.



I certify that, to the best of our knowledge, the above-named taxpayer is a resident of the United States of America for purposes of the Greece - U.S.A. Double Taxation Convention.

Joseph Dianto  
Field Director, Accounts Management

## Details required in Form No. 10F

<i>Sl.No</i>	<i>Nature of information</i>	<i>:</i>	<i>Details #</i>
(i)	Status (individual, company, firm etc.) of the assessee	:	
(ii)	Permanent Account Number or Aadhaar Number of the assessee if allotted	:	
(iii)	Nationality (in the case of an individual) or Country or specified territory of incorporation or registration (in the case of others)	:	
(iv)	Assessee's tax identification number in the country or specified territory of residence and if there is no such number, then, a unique number on the basis of which the person is identified by the Government of the country or the specified territory of which the assessee claims to be a resident	:	
(v)	Period for which the residential status as mentioned in the certificate referred to in sub-section (4) of section 90 or sub-section (4) of section 90A is applicable	:	
(vi)	Address of the assessee in the country or territory outside India during the period for which the certificate, mentioned in (v) above, is applicable	:	

## PENALTY FOR NOT FURNISHING 15CA AND 15CB

- **Section 271-I** : Penalty of **Rs. 1 Lakh** for not furnishing information in **Form 15CA** and **Form 15CB** u/s. 195(6) of the Act or for furnishing **inaccurate information** in **Form No. 15CA**.
- **Section 271J** : Penalty of **Rs. 10,000** upon Chartered Accountant for furnishing **incorrect information** in Form 15CB.

## **SECTION 206AA read with RULE 37BC**

The provisions of Sec. 206AA shall not apply on payment in the nature of interest, royalty, fees for technical services, payment on transfer of capital asset if the payee furnishes the following:

- **Name, e-mail id, contact number**
- **Address** in the country of residence
- **Tax Residency Certificate (TRC)**
- **Tax Identification Number** in such country. If not available, then a **unique number** on the basis of which the deductee is identified by the Government of that country or the specified territory of which he claims to be a resident.

## Declaration Regarding Permanent Establishment or Place of Effective Management from the PAYEE

- In most of the cases, Payer might not be aware about the existence of Permanent Establishment of payee in India. Thus, it is advisable to obtain a declaration from payee regarding existence/non-existence of its **permanent establishment /place of effective management** in India to determine the correct rate of withholding tax.

## RULE 26 – EXCHANGE RATE

- **Applicability** – For the purpose of deduction of tax at source on any income payable in **foreign currency**.
- For **Conversion of amount in foreign currency into INR**.
- **Rate of Exchange** – **SBI TT Buying Rate** (Telegraphic transfer) as on the date on which the tax is required to be deducted at source.
- Rate of Tax shall be applied on the resultant amount in INR.
- If TDS is deducted at the time of credit and payment is made at a subsequent date, then TDS is not applicable on foreign exchange difference.

## SECTION 195A – INCOME PAYABLE ‘NET OF TAX’

- In cases, where the burden of tax is being borne by the **Payer**, then tax shall be deducted as if the amount payable under the agreement is the amount ‘net of tax’ after deducting tax at source.
- Eg. **Invoice in respect of Fees for Technical Services: \$1,000**  
(Exchange Rate: Rs.80 per \$)(**Rs. 80,000**)
- **TDS deductible @ 10.40%** [as per Section 115A(1)(b)(B)]
- Thus, amount of **Rs. 80,000** shall be equivalent to **89.6%** [100 -10.40%]
- Thus, **Grossed up Amount = Rs. 89,286** [Rs. 80,000 ÷ 89.6%]
- **TDS = Rs. 9,286** [Rs. 89,286 – Rs. 80,000] as per **Section 195A**.

## TDS ON PURCHASE OF IMMOVABLE PROPERTY FROM NON RESIDENT – Section 194-IA or Section 195 ?

- As per the provisions of Section 194-IA, TDS is required to be deducted @1% if the value of immovable property is Rs. 50 Lakhs or more.
- However, the provisions of Section 194-IA do not apply when the seller is a non-resident. Provisions of Section 195 will be applicable.
- No threshold for TDS if property purchased from non-resident. TDS is required to be deducted even if consideration is less than 50 Lakhs.
- **Rate of tax: 20% on Sales Consideration** (as increased by 4% Health and Education Cess and applicable surcharge)
- Certificate u/s. **195(2) by buyer** or **195(3) by seller** can also be obtained.

## TDS ON PAYMENT OF RENT TO NON-RESIDENT OWNER OF PROPERTY – Section 194-I or Section 195 ?

- If Rent (whether for commercial premises or for property used for residential purposes) is payable to a non-resident, then the payer is required to withhold tax u/s. 195 of the Act.
- **Threshold limit: NIL**
- The payer shall **not be eligible to obtain benefit of threshold** of Rs. 2,40,000 in case of rent of business premises u/s. **194-I** or threshold of rent of Rs. 50,000 per month u/s. **194-IB** of the Act.
- Even if property is used for **residential purpose**, **payer will have to obtain TAN and file Form No. 27Q quarterly.**

## CONSEQUENCES OF NOT DEDUCTING TAX u/s. 195

- **Section 40(a)(i):** If any person responsible for paying any sum (such as interest/royalty/FTS/etc.) outside India or to a non-resident is liable to deduct tax at source, fails to do so, or after deducting, fails to deposit the same on or before the due date u/s. 139(1), then **100% of such sum shall be disallowed u/s. 40(a)(i).**
- It shall be allowed subsequently in the year of deduction/deposit.
- **w.e.f. 1.9.2019:** No Disallowance if the recipient of income (payee) has
  - Furnished return u/s. 139
  - Has taken into account such sum for computing his income
  - Has paid the tax due on such income.

# TDS ON CASH WITHDRAWALS – SECTION 194N

(As amended by Finance Act, 2020 w.e.f 1<sup>st</sup> July 2020)

## Nature of payment: Cash withdrawal

Aggregate amount of cash withdrawal	If the recipient has FILED return of income for <b>ANY</b> of the 3 previous years (i.e. AY 2019-20, <b>or</b> AY 2018-19, <b>or</b> AY 2017-18)#	If the recipient has <b>NOT FILED</b> return of income for <b>ALL</b> of the 3 previous years (i.e. AY 2019-20, <b>and</b> AY 2018-19, <b>and</b> AY 2017-18)#
Upto Rs. 20 Lakhs	NIL	Nil
More than Rs. 20 Lakhs but upto Rs. 1 Crore	NIL	2%
More than Rs. 1 Crore	2%	5%

**Applicable rate for TDS u/s. 194N can be verified from the e-filing portal.**

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### News & Updates

**30/09/2020 New!**

CBDT issues Notification on Extension of time limit for filing of AY 2019-20 under the Income Tax Act, 1961. [Click here for the notification](#) (330 KB)

**30/09/2020 New!**

Form 35 is re-enabled to file appeal in accordance with the Faceless Appeal Scheme, 'Save draft' will be enabled shortly.

**25/09/2020**

CBDT Notifies Faceless Appeal Scheme ([Click here to see the Notification](#)) The Filing of Appeal in Form 35 is being disabled temporarily to enable changes in accordance with the Scheme and will be made available shortly.

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### Statistics

Individual Registered Users : **88994214**

Authenticate

*This Portal is really useful even though i am not an accounting person. Its really user friendly and neatly organised. Hats of to the Indian*



### Verification of applicability u/s 194N

**PAN \***

**Mobile Number \***

I hereby declare that I will be using above information only for the purpose of deducting TDS u/s 194N on behalf of banking company/Co-operative Society/Post office. I agree that I will be liable for misuse of the information.

[Continue](#)

[Cancel](#)

### Verification of applicability u/s 194N

**TDS is deductible @ 2% if cash withdrawal exceeds Rs.1 Crore.**

## **TDS ON CASH WITHDRAWALS – SECTION 194N**

**(As amended by Finance Act, 2020 w.e.f 1<sup>st</sup> July 2020)**

- **Deductor:**
  - Banking Company
  - Co-operative Bank
  - Post Office
- Limit of Cash withdrawal is to be calculated per bank and **not per branch**.
- If the recipient has filed his return of income of ANY of the 3 previous years, then, no TDS upto cash withdrawal of Rs. 1 Crore.

## **TDS ON CASH WITHDRAWALS – SECTION 194N** **(As amended by Finance Act, 2020 w.e.f 1<sup>st</sup> July 2020)**

- The recipient **CANNOT** apply for lower deduction certificate u/s. 197 and **CANNOT** furnish Form No. 15G/15H.
- TDS not required on payments to registered commission agent or trader, operating under **Agriculture Produce Market Committee (APMC)** who has certified that the cash withdrawal is for the purpose of making payments to the farmers on account of purchase of agriculture produce. – Notification 70/2019 and CBDT Circular No. 14 of 2020 dated 20<sup>th</sup> July, 2020.
- **As per Section 197B introduced vide Taxation & Other Laws (Relaxation & Amendment of certain provisions) Act, 2020 – No reduction in rate of TDS u/s. 194N**

## **TDS ON PAYMENT OF CERTAIN SUMS BY E-COMMERCE OPERATOR TO E-COMMERCE PARTICIPANT**

**(Introduced by Finance Act, 2020 w.e.f 1<sup>st</sup> October 2020)**

- Section 194-O has been introduced vide Finance Act, 2020.
- **Nature of payment:** On Payment by E-commerce operator to E-commerce participant **for sale of goods or provision of service over electronic platform**
- **Threshold:** No TDS u/s. 194-O where **gross amount of sales/service** through the e-commerce platform does not exceeds **Rs. 5 Lakhs**.
- **Rate of tax:** 1% **(0.75% w.e.f 01.10.2020 to 31.03.2021)**
- **Rate of TDS if No PAN :** **5% as per First proviso to Section 206AA.**
- For the purpose of determining applicability of Section 194-O for the FY 2020-21, the Sales/Gross receipts prior upto 30th September, 2020 shall also be included.

# PAYMENT OF TAX, QUARTERLY STATEMENT AND FURNISHING TDS/TCS CERTIFICATE

Quarter ending on	Due Date for Quarterly TDS Statement in Form No. 24Q/26Q/27Q	Due Date to issue TDS Certificate in Form No. 16A	Due Date for Quarterly TCS Statement in Form No. 27EQ	Due Date to issue TCS Certificate in Form No. 27D
30 <sup>th</sup> June	31 <sup>st</sup> March, 2021	15 <sup>th</sup> August	<b>31<sup>st</sup> March, 2021</b>	15 <sup>th</sup> April, 2021
30 <sup>th</sup> September	31 <sup>st</sup> March, 2021	15 <sup>th</sup> November	<b>31<sup>st</sup> March, 2021</b>	15 <sup>th</sup> April, 2021
31 <sup>st</sup> December	31 <sup>st</sup> January, 2021	15 <sup>th</sup> February	<b>15<sup>th</sup> January, 2021</b>	30 <sup>th</sup> January, 2021
31 <sup>st</sup> March	<b>31<sup>st</sup> May, 2021</b>	15 <sup>th</sup> June (Due date for issuing <b>Form 16</b> FY 20-21 is also 15 <sup>th</sup> June)	<b>15<sup>th</sup> May, 2021</b>	<b>30<sup>th</sup> May, 2021</b>

## Due date to deposit:

**TDS : 7<sup>th</sup> day of next month (30<sup>th</sup> April for TDS deducted in the month of March)**

**TCS : 7<sup>th</sup> day of next month (for TCS collected in the month of March – 7<sup>th</sup> April)**

**Due dates for TDS/TCS returns for Q1 and Q2 of FY 2020-21 extended till 31<sup>st</sup> March, 21.**

# CONSEQUENCES OF NOT DEDUCTING TAX AT SOURCE

- If TDS not deducted, or after deduction, not deposited upto due date of filing of return on any amount, then **30%** of such sum will be disallowed u/s. **40(a)(ia)**. In case the payee is **NR / Foreign Co.**, 100% of such sum will be disallowed u/s. **40(a)(i)**.
- Such sum will be allowed in the year in which tax has been deducted subsequently.
- However, no disallowance u/s. 40(a)(ia) and **Section 40(a)(i)** shall be made if the recipient of such income has filed his return of income within the time prescribed u/s. **139(1)** after including the said income and has paid the tax due thereon and recipient has to furnish CA Certificate in **Form No. 26A** electronically. However, **Payer shall be liable for interest u/s. 201(1A) @ 1% p.m. or part thereof.**

## **CONSEQUENCES OF NON-COMPLIANCE OF TDS PROVISIONS**

- **Short deduction** - Disallowance u/s. 40(a)(ia) can only be made for non-deduction and **not for short deduction of tax**. However, assessee will be liable to pay interest u/s. 201(1A).
- **Penalty u/s. 271C** – Equal to the whole or part amount of TDS not deducted.
- **Prosecution u/s. 276B** – If TDS deducted but not paid – rigorous imprisonment : 3 months to 7 years and fine.
- **Late fee u/s. 234E @ Rs. 200/day** – For delay in furnishing TDS statements
- **Penalty u/s. 271H** – Incorrect TDS or TCS statements– **Rs. 10,000 to Rs. 1 Lakh**.

**THANK YOU !**

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