CHAPTER 13

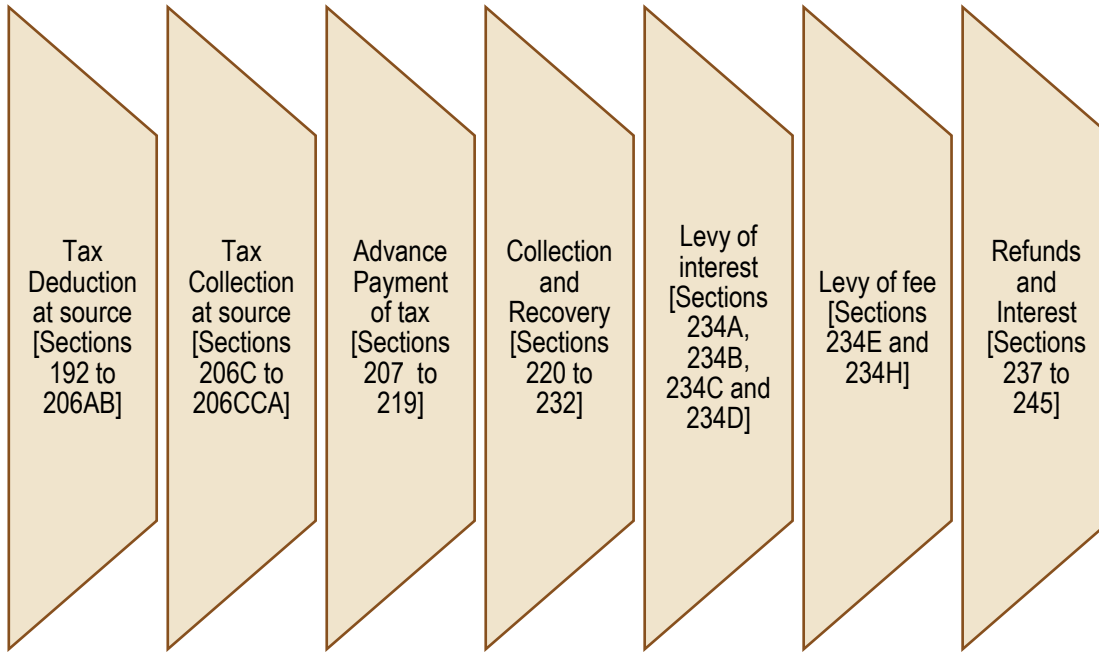
DEDUCTION, COLLECTION AND RECOVERY OF TAX

LEARNING OUTCOMES

After studying this chapter, you would be able to -

- **examine** the provisions relating to deduction and collection of tax at source to determine whether tax needs to be deducted/collected at source;
- **compute** the amount of tax to be deducted/collected at source;
- **analyse and apply** the provisions relating to deduction and collection of tax at source to address related issues;
- **examine** the provisions relating to advance tax obligations, the instalments and due dates, and interest and penal consequences of non-payment or delayed payment of advance tax; **analyse and apply** such provisions to determine the quantum of advance tax payment and interest liability, if any, and address related issues;
- **examine** the provisions relating to chargeability of interest for defaults in furnishing return of income, for non-payment of advance tax and deferral of advance tax; **analyse and apply** such provisions to compute interest and address related issues;
- **analyse and apply** the provisions relating to refunds to compute the refund due and address related issues.

CHAPTER OVERVIEW



Note – *Provisions which are specifically related to non-residents and REITs and Invits are discussed in Chapter 21: Non-resident taxation and Chapter 10: Assessment of Trusts and Institutions, Political Parties and other special entities, respectively.*

13.1 DEDUCTION AT SOURCE AND ADVANCE PAYMENT [SECTION 190]

The total income of an assessee for the previous year is taxable in the relevant assessment year. For example, the total income for the P.Y. 2024-25 is taxable in the A.Y. 2025-26. However, income-tax is recovered from the assessee in the previous year itself through –

(1) Tax deduction at source (TDS)

(2) Tax collection at source (TCS)

(3) Payment of advance tax

TDS, TCS and Advance Tax

Another mode of recovery of tax is from the employer through tax paid by him under section 192(1A) on the non-monetary perquisites provided to the employee.

These taxes are deductible from the total tax due from the assessee. The assessee, while filing his return of income, has to pay self-assessment tax under section 140A, if tax is due on the total income as per his return of income after adjusting, TDS, TCS, relief of tax claimed under section 89, relief of tax claimed under section 90, 90A or 91 on account of tax paid in a country outside India or specified territory outside India, tax credit claimed to be set off in accordance with the provisions of section 115JAA or section 115JD, any tax or interest payable according to the provisions of section 191(2) and advance tax.

13.2 DIRECT PAYMENT [SECTION 191]

(1) Direct payment of tax [Section 191(1)]- Section 191 provides that in the following cases, tax is payable by the assessee directly –

(i) in the case of income in respect of which tax is not required to be deducted at source; and

(ii) income in respect of which tax is liable to be deducted but is not actually deducted.

In view of this provision, the proceedings for recovery of tax necessarily had to be taken against the assessee whose tax was liable to be deducted, but not deducted.

Direct payment of Tax

In order to overcome this difficulty, *Explanation* to this section provides that if any person, including the principal officer of a company

(i) who is required to deduct tax at source; or

(ii) an employer paying tax on non-monetary perquisites under section 192(1A),

does not deduct or after deducting fails to pay such tax, or does not pay, the whole or part of the tax, then, such person shall be deemed to be an assessee-in-default.

However, if the assessee himself has paid the tax, this provision will not apply.

(2) Direct payment of tax, where income of the assessee includes value of specified security or sweat equity shares allotted or transferred free of cost or at a concessional rate to the assessee by an employer being an eligible start-up [Section 191(2)] – In a case where the income of the assessee includes the value of any specified security or sweat equity shares allotted or transferred, directly or indirectly, by the current employer, being an

eligible start-up referred to in section 80-IAC, free of cost or at concessional rate to the assessee, the income-tax on such income has to be paid by the assessee within 14 days from the earliest of the following dates -

- after the expiry of 48 months from the end of the relevant assessment year; or
- from the date of the sale of such specified security or sweat equity share by the assessee; or
- from the date of the assessee ceasing to be the employee of the employer who allotted or transferred him such specified security or sweat equity shares.

13.3 DEDUCTION OF TAX AT SOURCE

13.3.1 Salary [Section 192]

(1) Applicability of TDS under section 192

This section casts an obligation on every person responsible for paying any income chargeable to tax under the head 'Salaries' to deduct income-tax at the time of payment on the amount payable.

(2) Manner of deduction of tax

(i) Such income-tax has to be calculated at the average rate of income-tax computed on the basis of the rates in force for the relevant financial year in which the payment is made, on the estimated total income of the assessee where the employee intimates to the employer his intent to exercise the option of shifting out of the default tax regime under section 115BAC.

Note - *The liability to deduct tax at source in the case of salaries arises only at the time of payment.*

(ii) Average rate of income-tax means the rate arrived at by dividing the amount of income-tax calculated on the total income, by such total income.

(iii) With effect from A.Y. 2024-25, the income-tax in respect of the total income of an employee would be computed at the rates provided in section 115BAC(1A), subject to

certain conditions, including the condition that the employee does not avail of specified exemptions and deductions. The tax regime provided in section 115BAC is the default tax regime applicable, *inter alia*, to an individual.

However, under section 115BAC(6), an employee may exercise an option to opt out of this tax regime.

(iv) A deductor, being an employer, has to seek information from each of its employees having income under section 192 regarding their intended tax regime and each such employee shall intimate the same to the deductor, being his employer, regarding his intended tax regime for each year and upon intimation, the deductor shall compute his total income, and deduct tax at source thereon according to the option exercised.

If intimation is not made by the employee, it shall be presumed that the employee continues to be in the default tax regime and has not exercised the option to opt out of the new tax regime. Accordingly, in such a case, the employer shall deduct tax at source, on income under section 192, in accordance with the rates provided under section 115BAC(1A).

It is also clarified that the intimation would not amount to exercising option under section 115BAC(6) and the person shall be required to do so separately in accordance with the provisions of that section [Circular No. 4/2023 dated 5.4.2023].

(v) The concept of payment of tax on non-monetary perquisites has been provided in sections 192(1A) and (1B). These sections provide that the employer may pay this tax, at his option, in lieu of deduction of tax at source from salary payable to the employee. Such tax will have to be worked out at the average rate applicable to aggregate salary income of the employee and payment of tax will have to be made every month along with tax deducted at source on monetary payment of salary, allowances, etc.

(vi) An employer, being an eligible start-up referred to in section 80-IAC, responsible for paying any income to the assessee by way of perquisite being any specified security or sweat equity shares allotted or transferred, directly or indirectly, free of cost or at concessional rate to the assessee, has to deduct or pay, as the case may be, tax on the value of such perquisite provided to its employee within 14 days from the earliest of the following dates -

- after the expiry of 48 months from the end of the relevant assessment year; or
- from the date of the sale of such specified security or sweat equity share by the assessee; or

- from the date of the assessee ceasing to be the employee of the employer who allotted such shares

Such tax has to deducted or paid on the basis of rates in force for the financial year in which the said specified security or sweat equity share is allotted or transferred.

(vii) In cases where an assessee is simultaneously employed under more than one employer or the assessee takes up a job with another employer during the financial year after his resignation or retirement from the services of the former employer, he may furnish the details of the income under the head "Salaries" due or received by him from the other employer, the tax deducted therefrom and such other particulars to his current employer. Thereupon, the subsequent employer should take such information into consideration and then deduct the tax remaining payable in respect of the employee's remuneration from both the employers put together for the relevant financial year.

(viii) For purposes of deduction of tax out of salaries payable in a foreign currency, the value of salaries in terms of rupees should be calculated at the prescribed rate of exchange as specified in Rule 26 of the Income-tax Rules, 1962.

(ix) In respect of salary payments to employees of Government or to employees of companies, co-operative societies, local authorities, universities, institutions, associations or bodies, deduction of tax at source should be made after allowing relief under section 89, where eligible.

(x) A tax payer having salary income in addition to other income chargeable to tax for that financial year, may send to the employer, the following particulars of:

(a) such other income and particulars of any tax deducted under any other provision;

(b) loss, if any, under the head 'Income from house property', if the assessee intimated to the employer his intent to exercise the option of shifting out of the default tax regime provided under section 115BAC(1A).

The employer shall take the above particulars into account while calculating tax deductible at source.

(xi) To avoid the cash flow issues for employees, the scope of section 192(1B) has been extended to include ***any tax deducted or collected at source, allowing it to be taken into account*** *for the purposes of making the deduction under section 192.*

Accordingly, w.e.f. 1.10.2024, an employee can inform his employer for a financial year, the details of the following:

(a) such other income chargeable to tax (not being a loss under any such head);

(b) any tax deducted or collected under any other provision of the Act; and

(c) loss, if any, under the head "Income from house property" if the assessee intimated to the employer his intent to exercise the option of shifting out of the default tax regime provided under section 115BAC(1A),

in prescribed form and manner and thereupon the person responsible to deduct tax shall take into account the above particulars while calculating tax deductible at source.

However, it has to be noted that on account of submission of the above details, the tax deducted at source on salaries should not be reduced except with respect to loss from house property (allowable to the extent of ₹2,00,000) and tax deducted at source and tax collected at source.

(3) Furnishing of statement of particulars of perquisites or profits in lieu of salary by employer to employee

Section 192(2C) provides that the employer shall furnish to the employee, a statement in Form No. 12BA giving correct and complete particulars of perquisites or profits in lieu of salary provided to him and the value thereof. The statement shall be in the prescribed form and manner. This requirement is applicable only where the salary paid/payable to an employee exceeds ₹ 1,50,000. For other employees, the particulars of perquisites/profits in lieu of salary shall be given in Form 16 itself.

(4) Circular issued by CBDT

Every year, the CBDT issues a circular giving details and direction to all employers for the purpose of deduction of tax from salaries payable to the employees during the relevant financial year. These instructions should be followed.

(5) Requirement to obtain evidence/ proof/ particulars of claims from the employee by the employer

Section 192(2D) casts responsibility on the person responsible for paying any income chargeable under the head "Salaries" to obtain from the assessee, the evidence or proof or particulars of prescribed claims (including claim for set-off of loss) under the provisions of the Act in the prescribed form and manner, for the purposes of –

(1) estimating income of the assessee; or

(2) computing tax deductible under section 192(1).

In case an employee has intimated his employer of his intent to exercise the option of shifting out of the default tax regime provided under section 115BAC(1A), Rule 26C requires furnishing of evidence of the following claims by him to the person responsible for making payment under section 192(1) in Form No.12BB for the purpose of estimating his income or computing the amount of tax to be deducted at source:

S. No.	Nature of Claim	Evidence or particulars
1.	House Rent Allowance	Name, address and PAN of the landlord(s) where the aggregate rent paid during the previous year exceeds ₹ 1 lakh.
2.	Leave Travel Concession or Assistance	Evidence of expenditure
3.	Deduction of interest under the head "Income from house property"	Name, address and PAN of the lender
4.	Deduction under Chapter VI-A	Evidence of investment or expenditure.

ILLUSTRATION 1

LL Limited paid leave travel facility to its employees and considered exemption under section 10(5), based on the self-declaration furnished by the employees, who have exercised option to opt out of new tax regime under section 115BAC. The Assessing Officer held that the company as an employer ought to have verified the genuineness of the claim of exemption by obtaining from them, the proof of actual expenditure incurred by availing leave travel facility. Accordingly, the Assessing Officer treated the assessee company as assessee in default. Decide the correctness of action.

SOLUTION

Section 192 casts liability on the employer to deduct tax at source from the salary paid to its employees.

In this case, the employer has paid leave travel concession/facility to its employees and the said concession/ facility would be eligible for exemption subject to the conditions laid down in section 10(5) read with Rule 2B of the Income-tax Rules, 1962.

Section 192(2D) casts responsibility on the person responsible for paying any income chargeable under the head 'Salaries' to obtain from the assessee, the evidence or proof or particulars of prescribed claims under the provisions of the Act in the prescribed form and manner for the purposes of –

(1) estimating income of the assesses; or

(2) computing tax deductible under section 192(1).

Rule 26C of the Income-tax Rules, 1962 mandates a salaried assessee claiming, *inter alia*, leave travel concession or assistance to furnish evidence of expenditure incurred in relation thereto to the person responsible for making such for payment under section 192(1), for the purpose of estimating his income for computing the tax deductible under section 192.

In the given case, LL Limited paid leave travel concession to its employees and considered for exemption on the basis of mere self-declaration, instead of verifying and obtaining the evidence/ proof of actual expenditure. Thus, the action of the Assessing Officer is correct in law.

13.3.2 Premature withdrawal from Employees Provident Fund [Section 192A]

(1) Compliance with Rule 9 of Part A of the Fourth Schedule: Certain Concerns

(i) Under the Employees' Provident Fund and Miscellaneous Provisions Act, 1952 (EPF & MP Act, 1952), certain specified employers are required to comply with the Employees' Provident Fund Scheme, 1952 (EPFS). However, these employers are also permitted to establish and manage their own private provident fund (PF) scheme subject to the fulfillment of certain conditions.

(ii) The provident funds established under a scheme framed under EPF & MP Act, 1952 or Provident Fund exempted under section 17 of the said Act and recognised under the Income-tax Act, 1961 are termed as Recognised Provident fund (RPF) under the Act.

(iii) Part A of the Fourth Schedule to the Income-tax Act, 1961 contains the provisions relating to RPFs. Under the existing provisions of Rule 8 of Part A of the Fourth Schedule, the withdrawal of accumulated balance by an employee from the RPF is exempt from taxation.

(iv) For the purpose of discouraging pre-mature withdrawal and promoting long term savings, if the employee makes withdrawal before continuous service of five years (other than the cases of termination due to ill health, contraction or discontinuance of business, cessation of employment etc.) and does not opt for transfer of accumulated balance to the new employer, the withdrawal would be subject to tax.

(v) Rule 9 of Part A of the Fourth Schedule provides the manner of computing the tax liability of the employee in respect of such pre-mature withdrawal. In order to ensure collection of tax in respect of such pre-mature withdrawals, Rule 10 of Part A of the Fourth Schedule casts responsibility on the trustees of the RPF to deduct tax as computed in Rule 9 at the time of payment.

(vi) Rule 9 provides that the tax on the withdrawn amount is required to be calculated by re-computing the tax liability of the years for which the contribution to RPF has been made by treating the same as contribution to unrecognized provident fund. The trustees of private provident fund schemes, are generally a part of the employer group and hence, have access to or can easily obtain the information regarding taxability of the employee making pre-mature withdrawal for the purposes of computation of the amount of tax liability under Rule 9. However, it may not always be possible for the trustees of EPFS to get the information regarding the taxability of the employee such as year-wise amount of taxable income and tax payable for the purposes of computation of the amount of tax liability under Rule 9.

(2) Applicability and Rate of TDS

Section 192A provides for deduction of tax @10% on premature taxable withdrawal from employees provident fund scheme. Accordingly, in a case where the accumulated balance due to an employee participating in a recognized provident fund is includible in his total income owing to the provisions of Rule 8 of Part A of the Fourth Schedule not being applicable, the trustees of the Employees Provident Fund Scheme, 1952 or any person authorised under the scheme to make payment of accumulated balance due to employees are required to deduct income-tax @10%.

TDS@ 10%

(3) Time of tax deduction at source

Tax should be deducted **at the time of payment** of accumulated balance due to the employee.

(4) Non-applicability of TDS under section 192A

No tax deduction is to be made under this section, if the amount of such payment or aggregate amount of such payment to the payee is less than **₹ 50,000**.

ILLUSTRATION 2

Mr. Sharma, an employee of M/s. ABC Ltd. since 10-04-2021, resigned on 31-03-2025 and withdrew ₹ 60,000 being the balance in his EPF account. Discuss with reasons whether the provisions of Chapter XVII-B are attracted, and if so, what is the net amount receivable by the payee, Mr. Sharma?

SOLUTION

As per section 192A, in a case where the accumulated balance due to an employee participating in a recognized provident fund is includible in his total income owing to the provisions of Rule 8 of Part A of the Fourth Schedule not being applicable, the trustees of the Employees' Provident Fund Scheme, 1952 or any person authorised under the scheme to make payment of accumulated balance due to employees are required to deduct income-tax@10% at the time of payment of accumulated balance due to the employee. Tax deduction at source has to be made only if the amount of such payment or aggregate amount of such payment of the payee is ₹ 50,000 or more.

Rule 8 of Part A of the Fourth Schedule, *inter alia*, provides that only if an employee has rendered continuous service of five years or more with the employer, then accumulated balance in a recognized provident fund payable to an employee would be excluded from the total income of that employee.

In the present case, Mr. Sharma has withdrawn an amount exceeding ₹ 50,000 on his resignation after rendering a continuous service of four years with M/s. ABC Ltd. Therefore, tax has to be deducted at source@10% under section 192A on ₹ 60,000, being the amount withdrawn on his resignation without rendering continuous service of a period of five years with M/s. ABC Ltd.

The net amount receivable by Mr. Sharma is ₹ 54,000 [i.e., ₹ 60,000 – ₹ 6,000, being tax deducted at source].

13.3.3 Interest on securities [Section 193]

(1) Person responsible for deduction of tax at source

This section casts responsibility on every person responsible for paying to a resident any income by way of interest on securities.

(2) Meaning of interest on securities [Section 2(28B)]

Interest on securities means -

(i) interest on any security of the Central Government or a State Government

(ii) interest on debentures or other securities for money issued by or on behalf of a local authority or a company or a corporation established by a Central, State or Provincial Act.

(3) Rate of TDS

Such person is vested with the responsibility to deduct income-tax at the rates in force from the amount of interest payable.

The rate at which tax is deductible under section 193 is **10%**, both in the case of domestic companies and resident non-corporate assessees.

(4) Time of tax deduction at source

Tax should be deducted at the time of credit of such income to the account of the payee or at the time of payment thereof in cash or by issue of a cheque or draft or by any other mode, whichever is earlier.

Where any income by way of interest on securities is credited to any account in the books of account of the person liable to pay such income, such crediting is deemed to be credit of such income to the account of the payee and tax has to be deducted at source. The account to which such interest is credited may be called "Interest Payable account" or "Suspense account" or by any other name.

(5) Non-applicability of TDS under section 193

No tax deduction is to be made from any interest payable:

(i) on 4¼% National Defence Bonds 1972, where the bonds are held by an individual not being a non-resident;

(ii) on 4¼% National Defence Loan, 1968 or 4¾% National Defence Loan, 1972, where the interest is payable to an individual;

(iii) on National Development Bonds;

(iv) on 7-year National Savings Certificates (IV Issue);

(v) on debentures issued by any institution or authority or any public sector company or any co-operative society (including a co-operative land mortgage bank or a co-operative land development bank), as notified by the Central Government;

Accordingly, the Central Government has, vide Notification No. 27 & 28/2018, dated 18-06-2018, notified-

(i) "Power Finance Corporation Limited 54EC Capital Gains Bond" issued by Power Finance Corporation Limited {PFCL} and

(ii) "Indian Railway Finance Corporation Limited 54EC Capital Gains Bond" issued by Indian Railway Finance Corporation Limited {IRFCL}

Thus, no tax is required to be deducted at source on interest payable on "Power Finance Corporation Limited 54EC Capital Gains Bond" and "Indian Railway Finance Corporation Limited 54EC Capital Gains Bond".

The benefit of this exemption would, however, be admissible in the case of transfer of such bonds by endorsement or delivery, only if the transferee informs PFCL/IRFCL by registered post within a period of sixty days of such transfer.

(vi) on 6½% Gold Bonds, 1977 or 7% Gold Bonds, 1980, where the bonds are held by an individual (other than a non-resident), provided that the holders of the bonds make a written declaration that the total nominal value of the bonds held by him or on his behalf did not in either case exceed ₹ 10,000 at any time during the period to which the interest relates;

(vii) on any security of the Central Government or a State Government;

Note – It may be noted that tax has to be deducted at source in respect of interest payable on 8% Savings (Taxable) Bonds, 2003, or 7.75% Savings (Taxable) Bonds, 2018, only if such interest payable exceeds ₹ 10,000 during the financial year.

With effect from 1.10.2024, tax is required to be deducted in respect of interest payable on Floating Rate Savings Bonds, 2020 (Taxable), or any other notified security of the Central Government or State Government if such interest payable exceeds ₹ 10,000 during the financial year;

(viii) on any debentures issued by the company in which the public are substantially interested to a resident individual or HUF. However,

(a) the interest should be paid by the company by an account payee cheque;

(b) the amount of such interest or the aggregate thereof paid or likely to be paid during the financial year by the company to such resident individual or HUF should not exceed ₹ 5,000.

(ix) on securities to LIC, GIC, subsidiaries of GIC or any other insurer, provided –

(a) the securities are owned by them or

(b) they have full beneficial interest in such securities.

(x) to a business trust by a special purpose vehicle on any security.

13.3.4 Dividend [Section 194]

(1) Applicability of TDS under section 194

The principal officer of a domestic company is required to deduct tax on dividend distributed or paid by it to its resident shareholders.

DIVIDEND - TDS @10%

The provisions of tax deduction at source under section 194, therefore, applies only to dividend distributed or paid to resident shareholders.

(2) Rate of TDS

The rate of deduction of tax in respect of such dividend is **10%**.

(3) Time of tax deduction at source

The deduction of tax has to be made before making any payment by any mode in respect of any dividend or before making any distribution or payment to a resident shareholder of any amount deemed as dividend under section 2(22)(a)/(b)/(c)/(d)/(e)***/(f)***.

(4) Non-applicability of TDS under section194

(i) No tax is to be deducted in case of a shareholder, being an individual, where -

(a) the dividend is paid by any mode other than cash; and

Non-applicability

(b) the amount of such dividend or aggregate of dividend distributed or paid or likely to be distributed or paid during the financial year by the company to such shareholder does not exceed ₹ 5,000.

(ii) The TDS provisions will **not** apply to such dividend credited or paid to

- LIC, GIC, subsidiaries of GIC or any other insurer provided the shares are owned by them, or they have full beneficial interest in such shares
- a business trust by a special purpose vehicle
- any other person as may be notified by the Central Government.

Notification

No deduction of tax at source under section 194 on dividend paid by any unit of an IFSC, primarily engaged in the business of leasing of an aircraft to a company, being a Unit of an IFSC primarily engaged in the business of leasing of an aircraft [Notification No. 52/2023 dated 20.07.2023]

In exercise of the power provided under section 197A(1F), the Central Government has, vide this notification, notified that, no tax is required to be deducted under section 194 from dividend paid by any unit of an IFSC, primarily engaged in the business of leasing of an aircraft (payer) to a company, being a Unit of an IFSC primarily engaged in the business of leasing of an aircraft (payee) subject to the following:

(i) The payee has to furnish and verified a statement-cum-declaration to the payer giving details of previous year relevant to the assessment year in which the dividend income eligible for exemption under section 10(34B) is payable.

(ii) The payer would not deduct tax on payment made or credited to the recipient of such dividend (payee) after the date of receipt of copy of statement-cum-declaration from payee and furnish the particulars of all the payments made to the recipient of such dividend on which tax has not been deducted in the statement of deduction of tax under section 200(3) read with the Rule 31A.

13.3.5 Interest other than interest on securities [Section 194A]

(1) Applicability of TDS under section 194A

Interest - TDS @10%

This section applies only to interest, other than "interest on securities", credited or paid by assessees other than individuals or Hindu undivided family. However, an individual or Hindu undivided family whose total sales, gross receipts or turnover from the business or profession carried on by him exceed ₹ 1 crore in case of business and ₹ 50 lakhs

in case of profession during the immediately preceding financial year is liable to deduct tax at source under this section.

These provisions apply only to interest paid or credited to residents.

(2) Time of tax deduction at source

The deduction of tax must be made at the time of crediting such interest to the payee or at the time of its payment in cash or by any other mode, whichever is earlier.

Where any such interest is credited to any account in the books of account of the person liable to pay such income, such crediting is deemed to be credit of such income to the account of the payee and the tax has to be deducted at source. The account to which such interest is credited may be called "Interest Payable account" or "Suspense account" or by any other name.

Circular

Clarification regarding deduction of tax at source on payment of interest on time deposits under section 194A by banks following Core-branch Banking Solutions (CBS) software

The CBDT has, *vide Circular No.3/2010 dated 2.3.2010* clarified that *Explanation* to section 194A is not meant to apply in cases of banks where credit is made to provisioning account on daily/monthly basis for the purpose of macro monitoring only by the use of CBS software. It has been further clarified that since no constructive credit to the depositor's/ payee's account takes place while calculating interest on time deposits on daily or monthly basis in the CBS software used by banks, tax need not be deducted at source on such provisioning of interest by banks for the purposes of macro monitoring only. In such cases, tax shall be deducted at source on accrual of interest at the end of financial year or at periodic intervals as per practice of the bank or as per the depositor's/ payee's requirement or on maturity or on encashment of time deposits, whichever event takes place earlier, whenever the aggregate of amounts of interest income credited or paid or likely to be credited or paid during the financial year by the banks exceeds the limits specified in section 194A.

Note - The time for making the payment of tax deducted at source would reckon from the date of credit of interest made constructively to the account of the payee.

(3) Rate of TDS

The rate at which the deduction is to be made is given in Part II of the First Schedule to the Annual Finance Act. The rate at which tax is to be deducted is 10% both in the case of resident non-corporate assessees and domestic companies.

(4) Non-applicability of TDS under section 194A

No deduction of tax shall be made in the following cases:

(a) If the aggregate amount of interest paid or credited during the financial year does not exceed **₹ 5,000**.

This limit is **₹ 40,000** where the payer is a –

(i) banking company;

(ii) a co-operative society engaged in banking business; and

(iii) post office and interest is credited or paid in respect of any deposit under notified schemes *("Senior Citizens Saving Scheme, 2019" and "Mahila Samman Savings Certificate, 2023" have been notified by the Central Government for this purpose)*.

"Mahila Samman Savings Certificate, 2023" is a one-time scheme available for two years i.e., from 1st April, 2023 to 31st March, 2025. It offers a maximum deposit facility of upto ₹ 2 lakh in the name of women or a girl for 2 years at a fixed interest rate of 7.5% p.a., compounded quarterly.

Consequently, no tax under section 194A would be deductible by the post office on interest paid or credited under this scheme since the amount of interest would not exceed ₹ 40,000.

In respect of (i), (ii) and (iii) above, the limit is **₹ 50,000, in case of payee, being a senior citizen**.

The limit will be calculated with respect to income credited or paid by a branch of a banking company or a co-operative society or a public company in case of:

(i) time deposits with a banking company

(ii) time deposits with a co-operative society carrying on the business of banking; and

(iii) deposits with housing finance companies, provided:

- they are public companies formed and registered in India
- their main object is to carry on the business of providing long-term finance for construction or purchase of houses in India for residential purposes
- they are eligible for deduction under section 36(1)(viii).

The threshold limit will be reckoned with reference to the total interest credited or paid by the banking company or the co-operative society or the public company, as the case may be, (and not with reference to each branch), where such banking company or co-operative society or public company has adopted core banking solutions.

(b) Interest paid or credited by a firm to any of its partners;

(c) Interest paid or credited in respect of deposits under any scheme framed by the Central Government and notified by it in this behalf;

(d) Interest income credited or paid in respect of deposits (other than time deposits made on or after 1.7.1995) with a banking company to which the Banking Regulation Act, 1949 applies; or

(e) Income paid or credited by a co-operative society (other than a co-operative bank) to a member thereof or to such income credited or paid by a co-operative society to any other co-operative society;

(f) Interest income credited or paid in respect of -

(i) deposits with primary agricultural credit society or a primary credit society or a co-operative land mortgage bank or a co-operative land development bank;

(ii) deposit (other than time deposits made on or after 1.7.1995) with a co-operative society [other than cooperative society or bank referred to in (i)] engaged in carrying on the business of banking.

From a combined reading of (e) and (f), it can be inferred that a co-operative bank other than mentioned in (i) above is required to deduct tax at source on payment of interest on time deposit. However, it is not required to deduct tax from the payment of interest on time deposit, to a depositor, being a co-operative society.

However, a cooperative society referred to in (e) or (f) is liable to deduct tax if –

(i) the total sales, gross receipts or turnover of the co-operative society exceeds ₹ 50 crore during the financial year immediately preceding the financial year in which interest is credited or paid; **and**

(ii) the amount of interest or the aggregate amount of interest credited or paid, or is likely to be credited or paid, during the financial year is more than ₹ 50,000 in case of the payee being a senior citizen and ₹ 40,000, in any other case.

Thus, such co-operative society is required to deduct tax under section 194A on interest credited or paid by it –

(a) to its member or to any other co-operative society; or

(b) in respect of deposits with a primary agricultural credit society or a primary credit society or a co-operative land mortgage bank or a co-operative land development bank or

(c) in respect of deposits with a co-operative bank other than a co-operative society or bank, engaged in carrying on the business of banking

(g) Interest income credited or paid by the Central Government under any provisions of the Income-tax Act, 1961.

(h) Interest paid or credited to the following entities:

(i) banking companies, or co-operative societies engaged in the business of banking, including co-operative land mortgage banks;

(ii) financial corporations established under any Central, State or Provincial Act.

(iii) the Life Insurance Corporation of India.

(iv) companies and co-operative societies carrying on the business of insurance.

(v) the Unit Trust of India; and

(vi) notified institution, association, body or class of institutions, associations or bodies (National Skill Development Fund and Housing and Urban Development Corporation Ltd. (HUDCO), New Delhi have been notified by the Central Government for this purpose)

(i) income credited by way of interest on the compensation amount awarded by the Motor Accidents Claims Tribunal;

(j) income paid by way of interest on the compensation amount awarded by the Motor Accidents Claims Tribunal where the amount of such income or, as the case may be, the aggregate of the amounts of such income paid during the financial year does not exceed ₹ 50,000.

(k) income paid or payable by an infrastructure capital company or infrastructure capital fund or infrastructure debt fund or public sector company or scheduled bank in relation to a zero coupon bond issued on or after 1.6.2005.

(l) income by way of interest paid by special purpose vehicle to business trust under section 10(23FC)

Notes

(1) The expression "time deposits" [for the purpose of (4)(a), (d) and (f) above] means the deposits, **including** recurring deposits, repayable on the expiry of fixed periods.

(2) Senior citizen means an individual resident in India who is of the age of 60 years or more at any time during the relevant previous year.

(5) Power to the Central Government to issue notification

The Central Government is empowered to issue notification for non-deduction of tax at source or deduction of tax at a lower rate, from such payment to such person or class of persons, specified in that notification.

S. No.	Circulars & Notifications
1.	**Applicability of provisions for deduction of tax at source under section 194A on interest on fixed deposit made in the name of the Registrar General of Court or the depositor of the Fund on directions of Courts [*Circular No.23/2015, dated 28-12-2015*]** Section 194A stipulates deduction of tax at source (TDS) on interest other than interest on securities if the aggregate of amount of such interest credited or paid to the account of the payee during the financial year exceeds the specified amount. In the case of UCO Bank in *Writ Petition No. 3563 of 2012 and CM No. 7517/2012 vide judgment dated 11/11/2014*, the Hon'ble Delhi High Court has held that the provisions of section 194A do not apply to fixed deposits made in the name of Registrar General of the Court on the directions of the Court during the pendency of proceedings before the Court. In such cases, till the Court passes the appropriate orders in the matter, it is not known who the beneficiary of the fixed deposits will be. Amount and year of receipt is also unascertainable. The Delhi High Court, thus, held that the person who is ultimately granted the funds would be determined by orders that are passed subsequently. At that stage, undisputedly, tax would be required to be deducted at source to the credit of the recipient. The High Court has also quashed Circular No.8/2011.

	The CBDT has accepted the aforesaid judgment. Accordingly, it is clarified that interest on FDRs made in the name of Registrar General of the Court or the depositor of the fund on the directions of the Court, will not be subject to TDS till the matter is decided by the Court. However, once the Court decides the ownership of the money lying in the fixed deposit, the provisions of section 194A will apply to the recipient of the income.
2.	**No deduction of tax at source 194A on payment made to a member of Schedule Tribe referred u/s 10(26) by a Scheduled Bank *[Notification No. 110/2021, dated 17.09.2021]*** In exercise of the power provided under section 197A(1F), the Central Government notified that no tax is required to be deducted on the following payment under section 194A, namely payment in the nature of interest, other than interest on securities, made by a Scheduled Bank located in a specified area to a member of Scheduled Tribe residing in any specified area as referred to in section 10(26) [Refer Chapter 3 in Module 1 for detail regarding specified area], subject to the following conditions: (i) the payer satisfies itself that the receiver is a member of Scheduled Tribe residing in any specified area, and the payment as referred above is accruing or arising to the receiver as referred to in section 10(26), during the previous year relevant for the assessment year in which the payment is made, by obtaining necessary documentary evidences in support of the same; (ii) the payer reports the above payment in the statements of deduction of tax as referred to in section 200(3) (iii) the payment made or aggregate of payments made during the previous year does not exceed ₹ 20 lakh.
3.	**Deduction of tax at source on interest income accrued to minor child, where both the parents have deceased *[Notification No. 05/2017, dated 29.05.2017]*** Under Rule 31A(5) of the Income-tax Rules, 1962, the Director General of Income-tax (Systems) is authorized to specify the procedures, formats and standards for the purposes of furnishing and verification of, *inter alia*, the statements and shall be responsible for the day-to-day administration in relation to furnishing and verification of the statements in the manner so specified. The Principal Director General of Income-tax (Systems) has, in exercise of the powers delegated by the CBDT under Rule 31A(5), specified that in case of minors where both the parents have deceased, TDS on the interest income accrued to the minor is required to be deducted and reported against PAN of the minor child unless a declaration is filed under Rule 37BA(2) that credit for tax deducted has to be given to another person.

4.	**Deduction of tax at source on interest on deposits made under Capital Gains Accounts Scheme, 1988 where depositor has deceased *[Notification No. 08/2017, dated 13.09.2017]*** The Principal Director General of Income-tax (Systems) has, in exercise of the powers delegated by the CBDT under Rule 31A(5), vide this notification, specified that in case of deposits under the Capital Gains Accounts Scheme, 1988 where the depositor has deceased: (i) TDS on the interest income accrued for and upto the period of death of the depositor is required to be deducted and reported against PAN of the depositor, and (ii) TDS on the interest income accrued for the period after the death of the depositor is required to be deducted and reported against PAN of the legal heir, unless a declaration is filed under Rule 37BA(2) that credit for tax deducted has to be given to another person.

ILLUSTRATION 3

Examine the TDS implications under section 194A in the cases mentioned hereunder –

(i) On 1.10.2024, Mr. Harish, aged 45 years, made a six-month fixed deposit of ₹ 10 lakh@9% p.a. with ABC Co-operative Bank. The fixed deposit matures on 31.3.2025.

(ii) On 1.6.2024, Mr. Ganesh, aged 35 years, made three nine months fixed deposits of ₹ 3 lakh each, carrying interest @9% p.a. with Dwarka Branch, Janakpuri Branch and Rohini Branch of XYZ Bank, a bank which has adopted CBS. The fixed deposits mature on 28.2.2025.

(iii) On 1.10.2024, Mr. Rajesh, aged 40 years, started a six months recurring deposit of ₹ 2,00,000 per month @8% p.a. with PQR Bank. The recurring deposit matures on 31.3.2025.

SOLUTION

(i) ABC Co-operative Bank has to deduct tax at source@10% on the interest of ₹ 45,000 (9% × ₹ 10 lakh × ½) under section 194A. The tax deductible at source under section 194A from such interest is, therefore, ₹ 4,500.

(ii) XYZ Bank has to deduct tax at source@10% u/s 194A, since the aggregate interest on fixed deposit with the three branches of the bank is ₹ 60,750 [3,00,000 × 3 × 9% × 9/12], which exceeds the threshold limit of ₹ 40,000. Since XYZ Bank has adopted CBS, the aggregate interest credited/paid by all branches has to be considered. Since the aggregate interest of ₹ 60,750 exceeds the threshold limit of ₹ 40,000, tax has to be deducted @10% u/s 194A.

(iii) No tax has to be deducted under section 194A by PQR Bank on the interest of ₹ 28,000 falling due on recurring deposit on 31.3.2025 to Mr. Rajesh, since such interest does not exceed the threshold limit of ₹ 40,000.

ILLUSTRATION 4

Maya Bank credited ₹ 73,50,000 towards interest on the deposits in a separate account for macro-monitoring purposes by using Core-branch Banking Solutions (CBS) software. No tax was deducted at source in respect of interest on deposits so credited even where the interest in respect of some depositors exceeded the limit of ₹ 40,000.

The Assessing Officer disallowed 30% of interest expenditure, where the interest on time deposits credited exceeded the limit of ₹ 40,000 and also levied a penalty under section 271C.

Decide the correctness of action of the Assessing Officer.

SOLUTION

The *Explanation* to section 194A provides that where any income by way of interest other than interest on securities is credited to any account, whether called 'interest payable account' or 'suspense account' or by any other name, in the books of account of the person liable to pay such income, such crediting shall be deemed to be credit of such income to the account of the payee and provisions of section 194A, shall, thus, apply.

However, the CBDT has, vide *Circular No.3/2010 dated 2.3.2010*, clarified that *Explanation* to section 194A will not apply in cases of banks where credit is made to provisioning account on daily/monthly basis for the purpose of macro monitoring only by the use of CBS software.

Since no constructive credit to the depositor's/ payee's account takes place while calculating interest on daily/monthly basis in the CBS software used by banks, tax need not be deducted at source on such provisioning of interest by banks for the purposes of macro monitoring only.

In such cases, tax shall be deducted at source on accrual of interest at the end of the financial year or at periodic intervals as per practice of the bank or as per the depositor's or payee's requirement or on maturity or on encashment of time deposit, whichever event takes place earlier and wherever the aggregate amount of interest income credited or paid or likely to be credited or paid during the financial year by the bank exceeds the limits specified in section 194A i.e., ₹ 40,000.

In view of the above, the action of the Assessing Officer in disallowing the interest expenditure credited in a separate account for macro monitoring purpose is not valid and consequent initiation of penalty proceedings under section 271C is not tenable in law.

13.3.6 Winnings from lotteries, crossword puzzles, etc. and horse races [Sections 194B and 194BB]

(1) Rate of tax

Any income by way of winnings from lotteries, crossword puzzles, card game and other game of any sort, or from gambling or betting of any form or nature whatsoever, races including horse races, etc., will be charged to income-tax at a flat rate of **30%** [Section 115BB].

Winnings from lotteries - TDS @30%

(2) TDS on winning from lotteries, crossword puzzles, etc.

According to the provisions of section 194B, every person responsible for paying to any person, whether resident or non-resident, any income by way of winnings from lottery or crossword puzzle or card game and other game of any sort, or from gambling or betting of any form or nature whatsoever, is required to deduct income-tax therefrom at the rate of **30%** if the amount or aggregate of amounts of payment exceeds **₹ 10,000** during the financial year. Winnings by way of jackpot would also fall within the scope of section 194B.

(3) Cases where winnings are partly in kind and partly in cash

In a case where the winnings are wholly in kind or partly in cash and partly in kind but the part in cash is not sufficient to meet the liability of deduction of tax in respect of whole of the winnings, the person responsible for paying shall, before releasing the winnings, ensure that tax has been paid in respect of the winnings.

The provisions of section 194B are not applicable in respect of winnings from any online game.

(4) Person responsible for deduction of tax under section 194BB

Section 194BB casts responsibility on the following persons to deduct tax at source -

(i) a bookmaker; or

(ii) a person to whom a license has been granted by the Government under any law for the time being in force -

(a) for horse racing in any race course; or

(b) for arranging for wagering or betting in any race course.

(5) Threshold limit and rate of TDS under section 194BB

The obligation to deduct tax at source under section 194BB arises when the abovementioned persons make payment to any person of any income by way of winnings from any horse race in excess of the amount or aggregate of amount of **₹ 10,000** during the financial year. The rate applicable for deduction of tax at source is **30%**.

Threshold limit > ₹10,000

Similarly, in cases where the book-maker or other person responsible for paying the winnings, credits such winnings and debits the losses to the individual account of the punter, tax has to be deducted **@30%** on winnings before set-off of losses. Thereafter, the net amount, after deduction of tax and losses, has to be paid to the winner.

(6) Meaning of the expression "horse race"

In the context of the provisions of section 194BB, the expression 'any horse race' used therein must be taken to include, wherever the circumstances so necessitate, more than one horse race.

ILLUSTRATION 5

Mr. Govind won the first prize in a lottery ticket, and the prize was a Maruti car worth ₹ 5 lakhs. What is the procedure to be adopted before handing over the Maruti Car to Mr. Govind?

SOLUTION

Section 194B provides that the person responsible for paying to any person, any income by way of winnings from any lottery or crossword puzzle, card game or any other game of any sort and the amount of winning exceeds ₹ 10,000, tax shall be deducted at source @30%.

However, in case where the winning is wholly in kind, the person responsible for paying the prize shall before releasing the winning, ensure that the tax has been paid in respect of such winning.

The Karnataka High Court, in the case of *CIT v. Hindustan Lever Ltd. (2014) 361 ITR 1,* has held that where the winnings are wholly in kind, the responsibility cast under section 194B is to ensure that the tax is paid by the winner of the prize before the prize is released in his favour. In this regard, the *CBDT Circular No.763 dated 18/2/1998* clarifies that the person responsible for paying the winnings shall, before releasing such winnings, ensure that the tax is paid by the winner. He can do so, for example, by collecting from the winner a sum equal to the tax deductible at source on the winnings in kind, before releasing the winnings. For this purpose, the value of the winnings in kind shall be taken as the cost incurred by the payer in acquiring the said winnings in kind.

Therefore, in this case, since the entire winning is in kind, it must be ensured that the sum equal to the tax deductible at source (i.e., ₹ 1,50,000, being @ 30% of ₹ 5 lakhs) is paid by Mr. Govind, before the car is released in his favour. This can be done by collecting ₹ 1,50,000 from Mr. Govind before releasing the Maruti car to him and remitting the said sum to the Government account or verifying the tax payment by the winner and thereafter releasing the prize.

13.3.7 Winnings from online games [Section 194BA]

(1) Applicability of TDS on winnings from online games

Any person responsible for paying to any person (whether resident or non-resident) any income by way of winnings from any online game during the financial year shall deduct income-tax on the net winnings in his user account, computed in the manner as may be prescribed, **at the end of the financial year at the rates in force, i.e., 30%** [Section 194BA(1)]

(2) TDS on withdrawal during the financial year

However, in a case where **there is a withdrawal from user account** during the financial year, the income-tax shall be **deducted at the time of such withdrawal** on the net winnings comprised in such withdrawal, **as well as on the remaining amount** of net winnings in the user account, computed in the manner as may be prescribed**, at the end of the financial year** [Proviso to section 194BA(1)].

(3) Net winnings wholly in kind or partly in cash or partly in kind

Where the net winnings are wholly in kind or partly in cash, and partly in kind, but the part in cash is not sufficient to meet the liability of deduction of tax in respect of whole of the net winnings, the person responsible for paying shall, before releasing the winnings, ensure that tax has been paid in respect of the net winnings.

(4) Meaning of certain terms:

Term	Meaning
Computer resource	Computer, computer system, computer network, data, computer data base or software [Section 2(1)(e) of Information Technology Act, 2000]
Internet	The combination of computer facilities and electromagnetic transmission media, and related equipment and software, comprising the interconnected worldwide network of computer networks that

	transmits information based on a protocol for controlling such transmission.
Online game	A game that is offered on the internet and is accessible by a user through a computer resource including any telecommunication device.
Online gaming intermediary	An intermediary that offers one or more online games.
User	Any person who accesses or avails any computer resource of an online gaming intermediary.
User Account	Account of a user registered with an online gaming intermediary.

(5) Manner for computation of net winnings

In exercise of powers conferred by section 115BBJ read with section 194BA, the CBDT has, vide *Notification No. 28/2023 dated 22.5.2023* inserted Rule 133 to prescribe the manner for computation of net winnings:

Section 115BBJ provides that any income by way of winnings from online games, would be chargeable to tax @30%. The tax would be calculated on net winnings from such online games computed in the prescribed manner.

Accordingly, Rule 133 prescribes the following manner for the computation of net innings:

Sub-rule	Provision
(1)	**Computation of net winnings for the previous year:** Net winnings from online games during the previous year, for the purposes of section 115BBJ, shall be calculated using the following formula, namely - **Net winnings = (A + D) - (B + C)** A = Aggregate amount withdrawn from the user account during the financial year. B = Aggregate amount of non-taxable deposit made in the user account by the assessee during the financial year. C = Opening balance of the user account at the beginning of the financial year. D = Closing balance of the user account at the end of the financial year.
(2)	**Computation of net winnings at the time of first withdrawal during the F.Y.** Net winnings comprised in the first withdrawal during the financial year, for the purposes of section 194BA, shall be calculated using the following formula -

	Net winnings = A - (B + C) A = Amount withdrawn from the user account. B = Aggregate amount of non-taxable deposit made in the user account by the owner of such account during the financial year, till the time of such withdrawal. C = Opening balance of the user account at the beginning of the financial year. ***Note -*** *If the sum of amounts B and C is equal to or greater than the amount A, net winnings would be considered as zero [Sub-rule (3)].*
(4)	**Computation of net winnings at the time of each subsequent withdrawal** Net winnings comprised in each subsequent withdrawal during the financial year, for the purposes of section 194BA, shall be calculated using the following formula - **Net winnings = A - (B + C + E)** A = Aggregate amount withdrawn from the user account during the financial year till the time of subsequent withdrawal including the amount of such subsequent withdrawal. B = Aggregate amount of non-taxable deposit made in the user account by the owner of such account during the financial year, till the time of such subsequent withdrawal. C = Opening balance of the user account at the beginning of the financial year. E = Net winnings comprised in the earlier withdrawal or withdrawals computed under sub-rule (2), or under this sub-rule, during the financial year till the time of subsequent withdrawal if tax has been deducted in accordance with the provision of section 194BA on winnings comprised in such withdrawal or withdrawals. ***Note -*** *Net winnings would be zero, if the sum of amounts B, C and E is equal to or greater than the amount A [Sub-rule (5)]*
(6)	**Computation of net winnings at the end of the financial year:** Net winnings comprised in the user account at the end of the financial year, for the purposes of section 194BA, shall be calculated using the following formula, namely - **Net winnings = (A + D) - (B + C + E)** A = Aggregate amount withdrawn from the user account during the financial year. B = Aggregate amount of non-taxable deposit made in the user account by the owner of such account during the financial year. C = Opening balance of the user account at the beginning of the financial year. D = Closing balance of the user account at the end of the financial year.

	E = Net winnings comprised in the earlier withdrawal or withdrawals computed under sub-rule (2), or sub-rule (4), during the financial year if tax has been deducted in accordance with the provision of section 194BA on winnings comprised in such withdrawal or withdrawals. ***Note -*** *Net winnings would be zero, if the sum of amounts B, C and E is equal to or greater than the sum of amount A and D [Sub-rule (7)].*

Meaning of certain terms:

Term	Meaning
Non-taxable deposit	The amount deposited by the user in his user account and which is not taxable.
Taxable deposit	Any amount deposited in the user account which is not a non-taxable deposit and includes any amount paid directly to the user not through the user account.
Withdrawal	Any amount withdrawn by the user from any user account.

Important points for consideration

User Account: User account shall include every account of user, by whatever name called, which is registered with the online gaming intermediary and where any taxable deposit, non-taxable deposit or the winnings made by the user is credited and withdrawal by the user is debited.

(a) **Multiple user accounts:** Whenever there are multiple user accounts of the same user, **each user account shall be considered** for the purposes of calculating net winnings and the deposit, withdrawal or balance in the user account shall mean aggregate of deposit, withdrawal or balance in all user accounts.

(b) **Transfer from one user account to another user account:** Whenever there are multiple user accounts of the same user, transfer from one user account to another user account, maintained with the same online gaming intermediary, of the same user shall not be considered as withdrawal or deposit, as the case may be, for the purposes of deducting tax under section 194BA.

Payment in cash or kind

Whenever there is payment to the user in kind or in cash, or partly in kind and partly in cash, which is not from the user account, the provisions of this rule shall apply to calculate net winnings by deeming that the money equivalent to such payment has been deposited

as taxable deposit in the user account and the equivalent amount has been withdrawn from the user account at the same time and shall accordingly be included in amount A;

Taxable deposit in the form of bonus

- Whenever there is a taxable deposit in the form of bonus, referral bonus, incentives, promotional money, discount by whatever name called; and such deposit can only be used for playing the online games and not for withdrawal or any other purposes, such deposit shall be ignored for the purposes of calculation of net winnings and shall not be included in amount B or amount C or amount D; and
- Whenever any bonus, referral bonus, incentives, promotional money, discount, by whatever name called, is not considered as part of amount B or amount C or amount D under clause (e) and subsequently, they are recharacterized and allowed to be withdrawn, they shall be deemed as taxable deposit at the time of such recharacterization and it shall be deemed that the equivalent amount has been deposited in the user account at that time.

(6) Power of CBDT to issue Guidelines [Section 194BA(3)]

If any difficulty arises in giving effect to the provisions of this section, the CBDT may, with the previous approval of the Central Government, issue guidelines for the purposes of removing the difficulty.

Every guideline issued by the CBDT shall, as soon as may be after it is issued, be laid before each House of Parliament, and shall be binding on the income-tax authorities and on the person liable to deduct income-tax.

Accordingly, the CBDT has, vide *Circular No. 5/2023 dated 22.5.2023*, issued the following guidelines:

Question 1: There are multiple wallets under one user. How "net winnings" is to be computed with respect to multiple wallets of one use.

Answer: It has been clarified in the Rule 133 that user account shall include every account of user, by whatever name called, which is registered with online gaming intermediary and where any taxable deposit, non-taxable deposit or the winning of the user is credited and withdrawal by the user is debited. Thus, each wallet which qualifies as a user account shall be considered as user account for the purposes of computing net winnings. It has further been clarified in the Rule 133 that whenever there are multiple user accounts of the same

user, each user account shall be considered for the purposes of calculating net winnings. The deposit, withdrawal or balance in the user account shall mean the aggregate of deposits, withdrawals or balances in all user accounts.

For illustration, a user has multiple user accounts under one deductor (one TAN). For the purposes of calculating tax required to be deducted under section 194BA, each of these user accounts is to be considered. Deposit in any of these user accounts would be considered as deposit (non-taxable or taxable as per the definition in Rule 133) and withdrawal from any user accounts would be considered as withdrawal.

Let us suppose that there is a first withdrawal from any of these user accounts. Net winnings for the purposes of calculating tax required to be deducted under section 194BA shall be calculated as under

Net winnings = A - (B + C)

A = Amount withdrawn from the user account.

B = Aggregate amount of non-taxable deposit made in the user account by the owner of such account during the financial year, till the time of such withdrawal.

C = Opening balance of the user account at the beginning of the financial year.

Here for the purposes of calculating amount B, the non-taxable deposits in all of the user accounts under that deductor (one TAN) is to be aggregated. Same would apply to calculating all other amount for calculation under Rule 133.

However, if the one deductor (one TAN) is having multiple platforms and it is not technologically feasible for him to integrate multiple user accounts across platforms, then he may, at his option, calculate tax required to be deducted for the purposes of section 194BA for each platform separately. But even in that case all the user accounts under one user in one platform need to be considered for the purposes of calculating net winnings in the formulas provided in Rule 133.

It may also be noted that Rule 133 has also clarified that transfer from one user account to another user account, maintained with the same online gaming intermediary, of the same user shall not be considered as withdrawal or deposit, as the case may be. However, if the deductor is deducting tax under section 194BA for each platform separately, as discussed in the immediately preceding paragraph, transfer from one user account to another user account under same online gaming intermediary **across platforms** shall be considered as withdrawal or deposit for the purposes of calculation of net winnings under Rule 133.

Question 2: If a user borrows some money and deposits in his user account, will it be considered taxable deposit or non-taxable deposit?

Answer: For non-taxable deposit it is necessary that the amount deposited by the user is not taxable, i.e., it is from already taxed income or it is not chargeable to tax. In a case where user borrows the money and deposit in his user account, it shall be considered as non-taxable deposit.

Question 3: How will bonus, referral bonus, incentives etc., be treated?

Answer: Bonus, referral bonus, incentives etc, are given by the online game intermediary to the user. They are to be considered as taxable deposit under Rule 133. The taxable deposit will increase the balance in user account and is not allowed to be deducted in the calculation of net winnings, as only non-taxable deposits are allowed to be deducted. Thus, any deposit in the form of bonus, referral bonus, incentives etc, would form part of net winnings and tax under section 194BA is liable to be deducted at the time of withdrawal as well as at the end of the financial year.

Some deposit could be money equivalent too like coins, coupons, vouchers, counters etc. In such a situation the equivalence in money of such deposit shall be considered as taxable deposit and would accordingly form part of balance in user account.

However, it is seen that there is some incentives/bonus which is credited in user account only for the purposes of playing and they cannot be withdrawn or used for any other purposes. Rule 133 has provided that such deposit shall be ignored for calculation of net winnings. Thus they shall not be included in non-taxable deposit and they shall also not be included in opening balance or closing balance of user account. Thus, to the extent they will not be part of net winnings. However, person liable to deduct tax under section 194BA must keep separate accounts of such deposits.

Further, if and when these incentive/bonus are recharacterized and they are allowed to be withdrawn, they would be treated as taxable deposit at the time when they are recharacterized. Thus, they will become part of net winnings in the year of recharacterization.

Question 4: At what point we consider that amount has been withdrawn?

Answer: As stated earlier, it has also been clarified in the Rule 133 that transfer from one user account to another user account, maintained with the same online gaming intermediary, of the same user shall not be considered as withdrawal or deposit, as the case may be. However, when the amount is withdrawn from the user account to any other account, it shall be considered as withdrawal. With respect to deductor, any account of user which is not

registered with the online game intermediary (for which he is a deductor) is an account which is not a user account and any transfer from user account to such account is a withdrawal. When in consideration of amount in user account, some coupons etc are issued for purchase of goods or services, or some item in kind is issued, that will also be considered as withdrawal. It is the duty of the person who is required to deduct tax at source under section 194BA to ensure that the tax, as required to be deducted, is deducted at source under section 194BA, before issuing such coupons or items in kind.

The clarification provided in answer to Question no 1 is also needed to be kept in mind. It has been clarified that if the deductor is deducting tax under section 194BA for each platform separately, transfer from one user account to another user account under same online gaming intermediary across platform shall be considered as withdrawal or deposit for the purposes of calculation of net winnings under Rule 133.

Question 5: There are a large number of gamers who play with very insignificant amount and withdraw also very small amount. Deducting tax at source under section 194BA for each insignificant withdrawal would increase compliance for tax deductor. Can there be relaxation to ease compliance?

Answer: In order to remove difficulty in deducting tax at source under section 194BA for insignificant withdrawal, it is clarified that tax may not be deducted on withdrawal on satisfaction of all of the following conditions, namely:-

(i) net winnings comprised in the amount withdrawn does not exceed Rs 100 in a month;

(ii) tax not deducted on account of this concession is deducted at a time when the net winnings comprised in withdrawal exceeds Rs 100 in the same month or subsequent month or if there is no such withdrawal, at the end of the financial year; and

(iii) the deductor undertakes responsibility of paying the difference if the balance in the user account at the time of tax deduction under section 194BA is not sufficient to discharge the tax deduction liability calculated in accordance with Rule 133.

Question 6: When the net winnings is in kind how will tax deduction under section 194BA operate?

Answer: At the outset, it may be clarified that where money in user account is used to buy an item in kind and given to user then it is net winnings in cash only and the deductor is required to deduct tax at source under section 194BA accordingly.

However, there could be a situation where the winning of the game is a prize in kind. In that situation provision of section 194BA(2) will operate.

According to this where the net winnings are wholly in kind or partly in cash, and partly in kind but the part in cash is not sufficient to meet the liability of deduction of tax in respect of whole of the net winnings. In these situations, the person responsible for paying, shall, before releasing the winnings, ensure that tax has been paid in respect of the net winnings. In the above situation, the deductor will release the net winnings in kind after the deductee provides proof of payment of such tax (e.g., Challan details, etc.).

In the alternative, as an option to remove difficulty if any, the deductor may deduct the tax under section 194BA and pay to the Government.

Question 7: How will the valuation of winnings in kind required to be carried out?

Answer: The valuation would be based on fair market value of the winnings in kind except in following cases:-

(i) The online game intermediary has purchased the winnings before providing it to the user. In that case the purchase price shall be the value for winnings.

(ii) The online game intermediary manufactures such items given as winnings. In that case, the price that it charges to its customers for such items shall be the value for such winnings.

It is further clarified that **GST will not be included for the purposes of valuation** of winnings for TDS under section 194BA.

13.3.8 Payments to contractors and sub-contractors [Section 194C]

(1) Applicability of TDS under section 194C

Section 194C provides for deduction of tax at source from the payment made to resident contractors and sub-contractors.

Tax has to be deducted at source under section 194C by any person responsible for paying any sum to a resident contractor for carrying out any work (including supply of labour for carrying out any work) in pursuance of a contract between the contractor and the –

(i) the Central Government or any State Government; or

(ii) any local authority; or

(iii) any statutory corporation; or

(iv) any company; or

(v) any co-operative society; or

(vi) any statutory authority dealing with housing accommodation; or

(vii) any society registered under the Societies Registration Act, 1860; or

(viii) any trust; or

(ix) any university established under a Central, State or Provincial Act and an institution declared to be a university under the UGC Act, 1956; or

(x) any firm; or

(xi) any Government of a foreign State or foreign enterprise or any association or body established outside India; or

(xii) any person, being an individual, HUF, AOP or BOI, who has total sales, gross receipts or turnover from the business or profession carried on by him **exceeding ₹ 1 crore in case of business** and **₹ 50 lakhs in case of profession** during the financial year immediately preceding the financial year in which such sum is credited or paid to the account of the contractor.

(2) Time of deduction

Tax has to be deducted at the time of payment of such sum or at the time of credit of such sum to the account of the contractor, whichever is earlier.

Where any such sum is credited to any account in the books of account of the person liable to pay such income, such crediting is deemed to be credit of such income to the account of the payee and the tax has to be deducted at source. The account to which such sum is credited may be called "Suspense account" or by any other name.

However, no tax has to be deducted at source in respect of payments made by individuals/ HUF to a contractor exclusively for personal purposes.

(3) Rate of TDS

The rate of TDS under section 194C on payments to contractors would be **1%**, where the payee is an individual or HUF and **2%** in respect of other payees. The same rates of TDS would apply for both contractors and sub-contractors.

The applicable rates of TDS under section 194C are as follows –

Payee	TDS rate
Individual/HUF contractor/sub-contractor	1%
Other than individual / HUF contractor/sub-contractor	2%
Contractor in transport business (if PAN is furnished)	Nil
Sub-contractor in transport business (if PAN is furnished)	Nil

(4) Threshold limit for deduction of tax at source under section 194C

No deduction will be required to be made if the consideration for the contract does not exceed **₹ 30,000**. However, to prevent the practice of composite contracts being split up into contracts valued at less than **₹ 30,000** to avoid tax deduction, it has been provided that tax will be required to be deducted at source where the amount credited or paid or likely to be credited or paid to a contractor or sub-contractor exceeds **₹ 30,000** in a single payment or **₹ 1,00,000** in the aggregate during a financial year.

Therefore, even if a single payment to a contractor does not exceed **₹ 30,000**, TDS provisions under section 194C would be attracted where the aggregate of the amounts of such sums credited or paid or likely to be credited or paid to the contractor during the financial year exceeds **₹ 1,00,000**.

ILLUSTRATION 6

ABC Ltd. makes the following payments to Mr. X, a contractor, for contract work during the P.Y.2024-25 –

₹ 20,000 on 1.5.2024

₹ 25,000 on 1.8.2024

₹ 28,000 on 1.12.2024

On 1.3.2025, a payment of ₹ 30,000 is due to Mr. X on account of a contract work.

Discuss whether ABC Ltd. is liable to deduct tax at source under section 194C from payments made to Mr. X.

SOLUTION

In this case, the individual contract payments made to Mr. X does not exceed ₹ 30,000. However, since the aggregate amount paid to Mr. X during the P.Y.2024-25 exceeds ₹ 1,00,000 (on account of the last payment of ₹ 30,000, due on 1.3.2025, taking the total from ₹ 73,000 to ₹ 1,03,000), the TDS provisions under section 194C would get attracted.

Tax has to be deducted @1% on the entire amount of ₹ 1,03,000 from the last payment of ₹ 30,000 and the balance of ₹ 28,970 (i.e., ₹ 30,000 – ₹ 1030) has to be paid to Mr. X.

(5) Definition of work

Work includes –

(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 or its associate, being a person related to the customer in such manner as defined u/s 40A(2)(b) (i.e., the customer would be in the place of assessee; and the associate would be the related person(s) mentioned in that section).

However, "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 or associate of such customer, as such a contract is a contract for 'sale'. However, this will not be applicable to a contract which does not entail manufacture or supply of an article or thing (e.g., a construction contract).

It may be noted that the term "work" would include manufacturing or supplying a product according to the requirement or specification of a customer by using material purchased from such customer or its associate. In such a case, tax shall be deducted on the invoice value excluding the value of material purchased from such customer or its associate**,** if such value is mentioned separately in the invoice. Where the material component has not been separately mentioned in the invoice, tax shall be deducted on the whole of the invoice value.

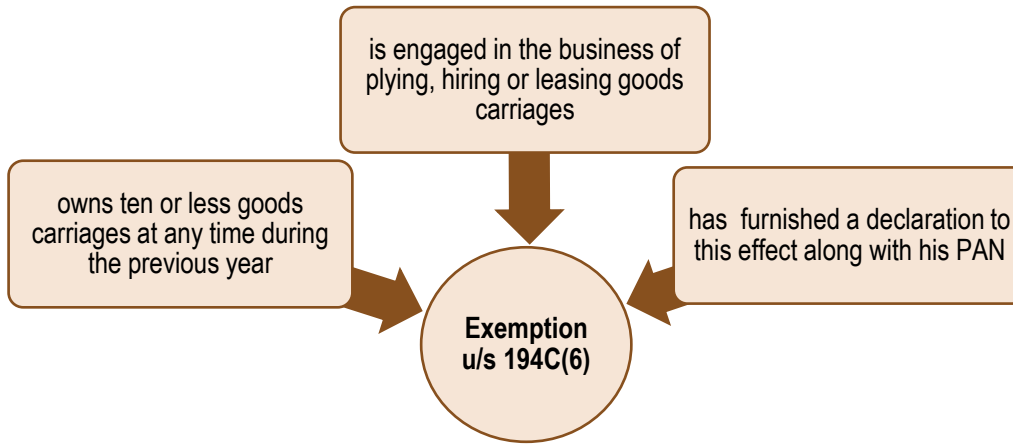
Further, w.e.f. 1.10.2024, it is clarified that work shall not include any sum referred to in section 194J(1).

(6) Non-applicability of TDS under section194C

No deduction is required to be made from the sum credited or paid or likely to be credited or paid during the previous year to the account of a contractor, during the course of the business of plying, hiring or leasing goods carriages, if he furnishes his PAN to the deductor.

Non-applicability

In order to convey the true intent of law, it has been clarified that this relaxation from the requirement to deduct tax at source shall only be applicable to the payment in the nature of transport charges (whether paid by a person engaged in the business of transport or otherwise) made to a contractor fulfils the following three conditions cumulatively -



Meaning of "Goods carriage":

"Goods carriage" means -

(i) any motor vehicle constructed or adapted for use solely for the carriage of goods; or

(ii) any motor vehicle not so constructed or adapted, when used for the carriage of goods.

The term "motor vehicle" does not include vehicles having less than four wheels and with engine capacity not exceeding 25cc as well as vehicles running on rails or vehicles adapted for use in a factory or in enclosed premises.

(7) Important points

(i) The deduction of income-tax at source from payments made to non-resident contractors will be governed by the provisions of section 195.

(ii) The deduction of income-tax will be made from sums paid for carrying out any work or for supplying labour for carrying out any work. In other words, the section will apply only in relation to 'works contracts' and 'labour contracts' and will not cover contracts for the sale of goods.

(iii) Contracts for rendering professional services by lawyers, physicians, surgeons, engineers, accountants, architects, consultants, etc., cannot be regarded as contracts for carrying out any "work" and, accordingly, no deduction of income-tax is to be made from payments relating to such contracts under this section. Separate provisions for fees for professional services have been made under section 194J.

S. No.	Circulars & Notifications
1.	**Deduction of tax at source on payment of gas transportation charges by the purchaser of natural gas to the seller of gas *[Circular No. 9/2012 dated 17.10.2012]*** In case the Owner/Seller of the natural gas sells as well as transports the gas to the purchaser till the point of delivery, where the ownership of gas to the purchaser is simultaneously transferred, the manner of raising the sale bill (whether the transportation charges are embedded in the cost of gas or shown separately) does not alter the basic nature of such contract which remains essentially a 'contract for sale' and not a 'works contract' as envisaged in section 194C. Therefore, in such circumstances, the provisions of Chapter XVII-B are not applicable to the component of Gas Transportation Charges paid by the purchaser to the Owner/Seller of the gas. Further, the use of different modes of transportation of gas by Owner/Seller will not alter the position. However, transportation charges paid to a third-party transporter of gas, either by the Owner/Seller of the gas or purchaser of the gas or any other person, shall continue to be governed by the appropriate provisions of the Act and tax shall be deductible at source on such payment to the third party at the applicable rates.
2.	**Applicability of TDS provisions on payments by broadcasters or Television Channels to production houses for production of content or programme for telecasting *[Circular No. 04/2016, dated 29-2-2016]*** The issue under consideration is whether payments made by the broadcaster/telecaster to production houses for production of content/programme are payments under a 'work contract' liable for tax deduction at source under section 194C or a contract for 'professional or technical services' liable for tax deduction at source under section 194J. In this regard, the CBDT has clarified that while applying the relevant provisions of TDS on a contract for content production, a distinction is required to be made between: (i) a payment for production of content/programme as per the specifications of the broadcaster/telecaster; and

	(ii) a payment for acquisition of broadcasting/ telecasting rights of the content already produced by the production house. In the first situation where the content is produced as per the specifications provided by the broadcaster/ telecaster and the copyright of the content/programme also gets transferred to the telecaster/ broadcaster, such contract is covered by the definition of the term 'work' in section 194C and, therefore, subject to TDS under that section. However, in a case where the telecaster/broadcaster acquires only the telecasting/ broadcasting rights of the content already produced by the production house, there is no contract for ''carrying out any work", as required in section 194C(1). Therefore, such payments are not liable for TDS under section 194C. However, payments of this nature may be liable for TDS under other sections of Chapter XVII-B of the Act.
3.	**TDS on Goods and Services Tax (GST) component comprised in payments made to residents *[Circular No. 23/2017 dated 19.07.2017]*** The CBDT had, vide Circular No. 1/2014 dated 13.01.2014, clarified that wherever in terms of the agreement or contract between the payer and the payee, the service tax component comprised in the amount payable to a resident is indicated separately, tax shall be deducted at source on the amount paid or payable without including such service tax component. In order to harmonize the same treatment with the new system for taxation of services under the GST regime w.e.f. 01.07.2017, the CBDT has, vide this circular, clarified that wherever in terms of the agreement or contract between the payer and the payee, the component of 'GST on services' comprised in the amount payable to a resident is indicated separately, tax shall be deducted at source on the amount paid or payable without including such 'GST on services' component. GST shall include Integrated Goods and Services Tax, Central Goods and Services Tax, State Goods and Services Tax and Union Territory Goods and Services Tax. Further, for the purposes of this Circular, any reference to "service tax" in an existing agreement or contract which was entered into prior to 01.07.2017 shall be treated as "GST on services" with respect to the period from 01.07.2017 onward till the expiry of such agreement or contract. ***Note –*** *The clarification given in the above circular applies to any amount paid or payable to a resident on which tax is deductible at source as per the provisions of Chapter XVII-B.*
4.	***Applicability of TDS provisions on payments by the transporter to truck operators or owners for hiring the vehicles [Shree Choudhary Transport Co. v ITO [2020] 426 ITR 0289(SC)]*** The assessee-firm entered into contract with a cement company for transporting cement to various places in India. As the assessee did not have transport vehicles of its own, it engaged the services of other

	transporters for the said purpose. The cement company effected payments to the assessee towards transportation charges after due deduction of tax at source. In its return of income, the assessee showed the income arising out of the business of transport contracts. While making payment to the truck operators or owners, the assessee had not deducted tax at source. The Supreme Court observed that the nature of the contract entered into by the assessee with the consignor company (cement company) makes it clear that it was the responsibility of the assessee to transport the goods (cement) of the company; and how to accomplish this task of transportation was a matter exclusively within the domain of the assessee. There is no privity of contract between the transporters and the consignor company (cement company). Hiring the services of the transporters for this purpose could have only been under a contract between the assessee and the transporters, irrespective of whether such a contract was reduced into writing or not. If a particular truck was not engaged, there existed no contract, but when any truck got engaged for the purpose of execution of the work undertaken by the assessee and freight charges were payable to its operator or owner upon execution of the work, i. e., transportation of the goods, all the essentials of a contract existed; and the truck operator or owner became a sub-contractor. The Supreme Court opined that the assessee was not acting as a facilitator or intermediary between the consignor company and the truck operators or owners because those two parties had no privity of contract between them. The contract of the company for transportation of its goods was only with the assessee and it was the assessee who hired the services of the trucks. The payment made by the assessee to such transporter was clearly a payment made to a sub-contractor. The Supreme Court, thus, held that section 194C was applicable and the assessee was under obligation to deduct tax at source in relation to the payments made by it to the truck operators or owners for hiring the vehicles for the purpose of its business of transportation of goods.

ILLUSTRATION 7

Bharathi Cements Ltd. purchased jute bags from Raj Kumar & Co. The latter has to supply the jute bags with the logo and address of the assessee, printed on it. From 01.09.2024 to 20.03.2025, the value of jute bags supplied is ₹ 8,00,000, for which the invoice has been raised on 20.03.2025. While effecting the payment for the same, is the assessee bound to deduct tax at source, assuming that the value of the printing component involved is ₹ 1,10,000. You are informed that the assessee has not sold any material to Raj Kumar & Co. and that the latter has to manufacture the jute bags in its plant using raw materials purchased by it from outsiders.

SOLUTION

As per the definition under section 194C, "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 or associate of such customer. This is regardless of the quantum of expenditure incurred towards printing or processing comprised in the bill amount.

The problem clearly states that Raj Kumar & Co. has to manufacture the jute bags using raw materials purchased from outsiders and that the assessee Bharathi Cements Ltd has not sold any material to them. Therefore, in this case, it is a contract of sale. Hence, the provisions of section 194C are **not** attracted and no liability to deduct tax at source would arise.

ILLUSTRATION 8

Alap Ltd. has made following payments on various dates in financial year 2024-25 to Vilambit Ltd. towards work done under different contracts:

Contract Number	*Date of payment*	*Amount (₹)*
1.	*5.5.2024*	*20,000*
2.	*6.6.2024*	*15,000*
3.	*8.8.2024*	*25,000*
4.	*10.12.2024*	*25,000*
5.	*29.01.2025*	*17,000*

Alap Ltd. claims that it is not liable for deduction of tax at source under section 194C. Examine the correctness of the claim made by the company. What would be the position if the value of contract no. 5 is ₹ 14,000 only and there was no further contract during the year?

SOLUTION

As per section 194C(5), tax has to be deducted at source where the amount credited or paid or likely to be credited or paid to a contractor or sub-contractor exceeds ₹ 30,000 in a single payment or ₹ 1,00,000 in aggregate during the financial year.

Therefore, in the given case, even though the value of each individual contract does not exceed ₹ 30,000, the aggregate amount exceeds ₹ 1,00,000. Hence, Alap Ltd's contention is not correct and tax is required to be deducted at source on the whole amount of ₹ 1,02,000 from the last payment of ₹ 17,000 towards Contract No.5 on account of which the aggregate amount exceeded ₹ 1,00,000.

However, no tax deduction is to be made if the value of the last contract is ₹ 14,000 as the aggregate amount in such case would only be ₹ 99,000, which is below the aggregate monetary limit of ₹ 1,00,000.

13.3.9 Insurance Commission [Section 194D]

(1) *Applicability of TDS under section 194D*

Section 194D casts responsibility on any person responsible for paying to a resident any income by way of remuneration or reward, whether by way of commission or otherwise, for soliciting or procuring insurance business (including the business relating to the continuance, renewal or revival of policies of insurance) to deduct tax at source.

(2) *Rate of TDS*

Such person is required to deduct income-tax at the rate of **5%** in case of resident other than a domestic company and **10%** in case of a domestic company.

(3) *Time of deduction*

The deduction is to be made at the time of the credit of the income to the account of the payee or at the time of making the payment (by whatever mode) to the payee, whichever is earlier.

(4) *Threshold limit*

The tax under this section has to be deducted at source only if the amount of such income or the aggregate of the amounts of such income credited or paid during the financial year to the account of the payee exceeds **₹ 15,000**.

13.3.10 Payment in respect of life insurance policy [Section 194DA]

(1) *Taxability of sum received under a life insurance policy*

Under section 10(10D), any sum received under a life insurance policy, including the sum allocated by way of bonus on such policy is exempt subject to fulfilment of conditions specified under the said section.

Consequently, the sum received under a life insurance policy which does not fulfill the conditions specified under section 10(10D) is taxable.

(2) Rate of TDS

For ensuring a proper mechanism for reporting of transactions and collection of tax in respect of sum paid under life insurance policies which are not exempt under section 10(10D), section 194DA provides for deduction of tax at the rate of **5%** on the amount of income comprised therein i.e., after deducting the amount of insurance premium paid by the resident assessee from the total sum received.

TDS rate has been reduced from 5% to 2% with effect from 01-10-2024. Thus, tax shall be deducted at a reduced rate of 2% on payments made on or after 01-10-2024.

(3) Threshold limit

Tax deduction is required only if the payment or aggregate payment under a life insurance policy, including the sum allocated by way of bonus in a financial year to an assessee, is **₹ 1,00,000 or more**. This is for alleviating the compliance burden on the small tax payers.

ILLUSTRATION 9

Examine the applicability of the provisions for tax deduction at source under section 194DA in the following cases -

(i) Mr. X, a resident, is due to receive ₹ 4.50 lakhs on 30.6.2024, towards maturity proceeds of LIC policy taken on 1.7.2021, for which the sum assured is ₹ 4 lakhs and the annual premium is ₹ 1,25,000.

(ii) Mr. Y, a resident, is due to receive ₹ 3.95 lakhs on 31.12.2024 on LIC policy taken on 31.12.2011, for which the sum assured is ₹ 3.50 lakhs and the annual premium is ₹ 26,100.

(iii) Mr. Z, a resident, is due to receive ₹ 95,000 on 31.7.2024 towards maturity proceeds of LIC policy taken on 1.8.2017 for which the sum assured is ₹ 90,000 and the annual premium is *₹ 10,000.*

SOLUTION

(i) Since the annual premium exceeds 10% of sum assured in respect of a policy taken after 31.3.2012, the maturity proceeds of ₹ 4.50 lakhs due on 30.6.2024 are not exempt under section 10(10D) in the hands of Mr. X. Therefore, tax is required to be deducted @5% under section 194DA on the amount of income comprised therein i.e., on ₹ 75,000 (₹ 4,50,000, being maturity proceeds - ₹ 3,75,000, being the aggregate amount of insurance premium paid).

(ii) Since the annual premium is less than 20% of sum assured in respect of a policy taken before 1.4.2012, the sum of ₹ 3.95 lakhs due to Mr. Y would be exempt under section 10(10D) in his hands. Hence, no tax is required to be deducted at source under section 194DA on such sum payable to Mr. Y.

(iii) Even though the annual premium exceeds 10% of sum assured in respect of a policy taken after 31.3.2012, and consequently, the maturity proceeds of ₹ 95,000 due on 31.7.2024 would not be exempt under section 10(10D) in the hands of Mr. Z. However, tax deduction at source provisions under section 194DA are not attracted since the maturity proceeds are less than ₹ 1 lakh.

13.3.11 Payments in respect of deposits under National Savings Scheme, etc. [Section 194EE]

(1) Rate of TDS

The person responsible for paying to any person any amount from National Savings Scheme Account shall deduct income-tax thereon at the rate of **10%** at the time of payment.

(2) Threshold limit

No such deduction shall be made where the amount of payment or the aggregate amount of payments in a financial year is less than **₹ 2,500**.

(3) Non-applicability of TDS under section 194EE

The provisions of this section shall not apply to the payments made to the heirs of the assessee.

13.3.12 Commission etc. on the sale of lottery tickets [Section 194G]

(1) Applicability and Rate of TDS

Under section 194G, the person responsible for paying to any person, who is or has been stocking, distributing, purchasing or selling lottery tickets, any income by way of commission, remuneration or prize (by whatever name called) on lottery tickets in an amount exceeding **₹ 15,000** shall deduct income-tax thereon at the rate of **5%**.

TDS rate has been reduced from 5% to 2% with effect from 01-10-2024. Thus, on or after 01-10-2024, tax shall be deducted at a reduced rate of 2%.

(2) Time of deduction of tax

Such deduction should be made at the time of credit of such income to the account of the payee or at the time of payment of such inco me by cash, cheque, draft or any other mode, whichever is earlier.

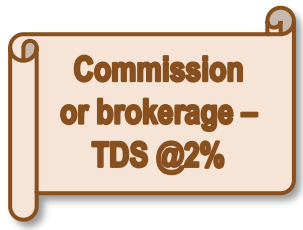
Where any such income is credited to any account, whether called "Suspense Account" or by any other name, in the books of account of the person liable to pay such income, such crediting shall be deemed to be credit of such income to the account of the payee and the provisions of this section shall apply accordingly.

13.3.13 Commission or brokerage [Section 194H]

(1) Applicability and Rate of TDS

Any person other than an individual or HUF, who is responsible for paying any income by way of commission (other than insurance commission) or brokerage to a resident shall deduct income tax at the rate of 5%.

TDS rate has been reduced from 5% to 2% with effect from 01-10-2024. Thus, on or after 01-10-2024, tax shall be deducted at a reduced rate of 2%.



However, an individual or HUF whose total sales, gross receipts or turnover from the business or profession carried on by him exceed **₹ 1 crore in case of business and ₹ 50 lakhs in case of profession** during the financial year immediately preceding the financial year in which such commission or brokerage is credited or paid, is liable to deduct tax at source.

(2) Time of deduction

The deduction shall be made at the time such income is credited to the account of the payee or at the time of payment in cash or by issue of cheque or draft or by any other mode, whichever is earlier.

Even where income is credited to some other account, whether called "Suspense account" or by any other name, in the books of account of the person liable to pay such income, such crediting shall be deemed to be credit to the account of the payee for the purposes of this section.

(3) Threshold limit

No deduction is required if the amount of such income or the aggregate of such amount does not exceed **₹ 15,000** during the financial year.

(4) Meaning of "Commission or brokerage"

"Commission or brokerage" includes any payment received or receivable, directly or indirectly, by a person acting on behalf of another person for services rendered, or for any services in the course of buying or selling of goods, or in relation to any transaction relating to any asset, valuable article or thing, **other than securities**.

(5) Non-applicability of TDS under section 194H

Non-applicability

(i) This section is not applicable to professional services. "Professional Services" means services rendered by a person in the course of carrying on legal, medical, engineering or architectural profession or the profession of accountancy or technical consultancy or interior decoration or such other profession as notified by the CBDT for the purpose of compulsory maintenance of books of account under section 44AA.

(ii) Further, there would be no requirement to deduct tax at source on commission or brokerage payments by BSNL or MTNL to their public call office (PCO) franchisees.

Circular

Applicability of TDS provisions on payments by television channels and publishing houses to advertisement companies for procuring or canvassing for advertisements ***[Circular No. 05/2016, dated 29-2-2016]***

There are two types of payments involved in the advertising business:

(i) Payment by client to the advertising agency, and

(ii) Payment by advertising agency to the television channel/newspaper company

The applicability of TDS on these payments has already been dealt with in Circular No. 715 dated 8-8-1995, where it has been clarified in Question Nos. 1 & 2 that while TDS under section 194C (as work contract) will be applicable on the first type of payment, there will be no TDS under section 194C on the second type of payment, e.g. payment by advertising agency to the media company.

However, another issue has been raised in various cases as to whether the fees/charges taken or retained by advertising companies from media companies for canvasing/booking advertisements (typically 15% of the billing) are 'commission' or 'discount' for attracting the provisions of section 194H.

The CBDT has clarified that no TDS is attracted on payments made by television channels/newspaper companies to the advertising agency for booking or procuring of or canvassing for advertisements. It is also further clarified that 'commission' referred to in Question No.27 of the *CBDT's Circular No. 715 dated 8-8-1995* does not refer to payments by media companies to advertising companies for booking of advertisements but to payments for engagement of models, artists, photographers, sportspersons, etc. and, therefore, is not relevant to the issue of TDS referred to in this Circular.

ILLUSTRATION 10

Moon TV, a television channel, made payment of ₹ 50 lakhs to a production house for the production of programme for telecasting as per the specifications given by the channel. The copyright of the programme is also transferred to Moon TV. Would such payment be liable for tax deduction at source under section 194C? Discuss.

Also, examine whether the provisions of tax deduction at source under section 194C would be attracted if the payment was made by Moon TV for the acquisition of telecasting rights of the content already produced by the production house.

SOLUTION

In this case, since the programme is produced by the production house as per the specifications given by Moon TV, a television channel, and the copyright is also transferred to the television channel, the same falls within the scope of definition of the term 'work' under section 194C. Therefore, the payment of ₹ 50 lakhs made by Moon TV to the production house would be subject to tax deduction at source under section 194C.

If, however, the payment was made by Moon TV for the acquisition of telecasting rights of the content already produced by the production house, there is no contract for ''carrying out any work", as required in section 194C(1). Therefore, such payment would not be liable for tax deduction at source under section 194C.

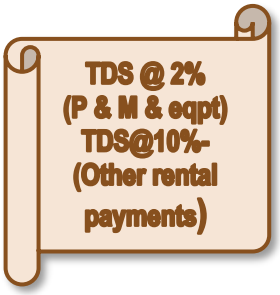
13.3.14 Rent [Section 194-I]

(1) Applicability and Rate of TDS

Any person other than individual or HUF, who is responsible for paying to a resident any income by way of rent, shall deduct income tax at the rate of:

(i) **2%** in respect of rent for plant, machinery or equipment;

(ii) **10%** in respect of other rental payments (i.e., rent for use of any land or building, including factory building or land appurtenant to a building, including factory building, or furniture or fittings).



However, an individual or HUF whose total sales, gross receipts or turnover from the business or profession carried on by him exceed ₹ 1 crore in case of business and ₹ 50 lakhs in case of profession during the F.Y. immediately preceding the F.Y. in which such rent was credited or paid, is liable to deduct tax at source.

Further, no deduction shall be made under this section from rent credited or paid to a business trust, being a REIT, in respect of any real estate asset owned directly by it.

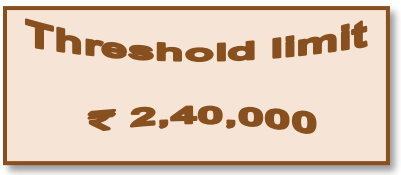
(2) Time of deduction

This deduction is to be made at the time of credit of such income to the account of the payee or at the time of payment thereof in cash or by issue of cheque or draft or by any other mode, whichever is earlier.

Where any such income is credited to any account, whether called "Suspense account" or by any other name, in the books of account of the person liable to pay such income, such crediting shall be deemed to be credit of such income to the account of the payee and the provisions of this section will apply accordingly.

(3) Threshold limit

No deduction needs to be made where the amount of such income or the aggregate of the amounts of such income credited or paid or likely to be credited or paid during the financial year to the account of the payee does not exceed **₹ 2,40,000**.



(4) Meaning of Rent

"Rent" means any payment, by whatever name called, under any lease, sub-lease, tenancy or any other agreement or arrangement for the use of (either separately or together) any –

(a) land; or

(b) building (including factory building); or

(c) land appurtenant to a building (including factory building); or

(d) machinery; or

(e) plant; or

(f) equipment; or

(g) furniture; or

(h) fittings,

whether or not any or all of the above are owned by the payee.

Circulars & Notifications

Applicability/non-applicability of TDS under section 194-I on certain payments

Nature of Payment	Analysis	Conclusion
*Payments made by the customers on account of **cooling charges to the cold storage owners**. [Circular No.1/2008 dated 10.1.2008]*	The main function of cold storage is to preserve perishable goods by means of a mechanical process, and storage of such goods is only incidental in nature. **The customer is also not given any right to use any demarcated space/place or the machinery of the cold store and thus does not become a tenant.** Therefore, the provisions of 194-I are not applicable to the cooling charges paid by the customers of the cold storage. However, **since the arrangement between the customers and cold storage owners is basically contractual in nature**, the provision of section 194C will be applicable to the amounts paid as cooling charges by the customers of the cold storage.	No tax is to be deducted under section 194-I. However, tax to be deducted under section 194C.

Remittance of Passenger Service Fees (PSF) by an Airline to an Airport Operator ***[Circular No. 21/2017, dated 12.06.2017]***	Section 194-I requires deduction of tax at source at specified percentage on any income payable to a resident by way of rent. Explanation to this section defines the term "rent" as any payment, by whatever name called, under any lease, sub-lease, tenancy or any other agreement or arrangement for the use of any (a) land; or (b) building; or (c) land appurtenant to a building; or (d) machinery; (e) plant; (f) equipment (g) furniture; or (h) fitting, whether or not any or all of them are owned by the payee. On the issue of whether payment of PSF by an airline to an Airport Operator qualifies as rent to attract TDS under section 194-I, the Bombay High Court relied on the Apex Court ruling in Japan Airlines and Singapore Airlines case, wherein it was observed that the primary requirement for any payment to qualify as rent is that the payment must be for the use of land and building and mere incidental/minor/insignificant use of the same while providing other facilities and service would not make it a payment for use of land and buildings so as to attract section 194-I. Accordingly, the Bombay High Court declined to admit the ground relating to the applicability of the provisions of section 194-I on PSF charges holding that no substantial question of law arises.	The provisions of section 194-I shall not be applicable.
Payment of lease rent or supplemental lease rent, made by a 'lessee' to a lessor, being a Unit located in International Financial Services Center for lease of an aircraft [Notification No. 65/2022, dated 16.06.2022]	*The Central Government has, vide Notification No. 65/2022, dated 16.06.2022 specified that no tax is required to be deducted under section 194-I on payment in the nature of lease rent or supplemental lease rent, as the case may be, made by a lessee to a lessor, being a Unit located in IFSC, for lease of an aircraft subject to the following conditions-* *(a) The lessor has to, -* *(i) furnish a statement-cum-declaration to the lessee giving details of previous years relevant to the ten consecutive assessment years for which the lessor opts for claiming deduction under section 80LA(1A) read with section 80LA(2); and*	*No tax is required to be deducted under section 194-I* *The* ***above relaxation is available to the lessor during the said previous years relevant to the ten consecutive assessment***

	(ii) such statement-cum-declaration has to be furnished for each previous year relevant to the ten consecutive assessment years for which the lessor opts for claiming deduction. (b) The lessee would – (i) not deduct tax on payment made or credited to lessor after the date of receipt of copy of statement cum-declaration from the lessor; and (ii) furnish the particulars of all the payments made to lessor on which tax has not been deducted in view of this notification in the statement of deduction of tax.	***years*** as declared by the lessor for which deduction under section 80LA is being opted. The lessee shall be liable to deduct tax on payment of lease rent for any other year.
TDS on GST component of rental income ***[Circular No.4/2008 dated 15.4.2008]***	Service tax paid by the tenant doesn't partake the nature of income of the landlord. The landlord only acts as a collecting agency for Government for collection of service tax. Therefore, tax deduction at source under section 194-I would be required to be made on the amount of rent paid/payable without including the service tax. ***Note -*** It is possible to take a view that the clarification given in Circular No. 4/2008 would apply in the GST regime also.	TDS to be deducted only on the amount of rent excluding rent
Lumpsum lease premium paid for acquisition of long-term lease [Circular No.35/2016, dated 13-10-2016]	The CBDT has, clarified that lump sum lease premium or one-time upfront lease charges, which are not adjustable against periodic rent, paid or payable for the acquisition of long-term leasehold rights over land or any other property are not payments in the nature of rent within the meaning of section 194-I.	Not liable for TDS under section 194-I.
Payment of lease rent or supplemental lease rent, made by a 'lessee' to a lessor, being a Unit located in International Financial Services Center for lease of a ship [Notification	The Central Government has, vide Notification No. 57/2023, dated 01.08.2023 specified that no tax is required to be deducted under section 194-I on payment in the nature of lease rent or supplemental lease rent, as the case may be, made by a lessee to a lessor, being a Unit located in IFSC, for lease of a ship subject to the following conditions- (a) The lessor has to furnish and verify a statement-cum-declaration to the lessee	No tax is required to be deducted under section 194-I The ***above relaxation is available to the lessor during the***

No. 57/2023 dated 01.08.2023]	*giving details of previous years relevant to the ten consecutive assessment years for which the lessor opts for claiming deduction under section 80LA(1A) read with section 80LA(2); and* *(b) The lessee would –* *(i) not deduct tax on payment made or credited to lessor after the date of receipt of copy of statement cum-declaration from the lessor; and* *(ii) furnish the particulars of all the payments made to lessor on which tax has not been deducted in view of this notification in the statement of deduction of tax.*	***said previous years relevant to the ten consecutive assessment years*** *as declared by the lessor for which deduction under section 80LA is being opted. The lessee shall be liable to deduct tax on payment of lease rent for any other year.*

ILLUSTRATION 11

ABC Ltd. took on sub-lease a building from J, an individual, with effect from 1.9.2024 on a rent of ₹ 25,000 per month. It also took on hire machinery from J with effect from 1.10.2024 on hire charges of ₹ 15,000 per month. ABC Ltd. entered into two separate agreements with J for sub-lease of building and hiring of machinery. The rent of building and hire charges of machinery for the financial year 2024-25 were ₹ 1,75,000 and ₹ 90,000, respectively, which were credited by ABC Ltd. to the account of J in its books of account on 31.3.2025. Examine the obligation of ABC Ltd. with regard to deduction of tax at source in respect of the rent and hire charges.

SOLUTION

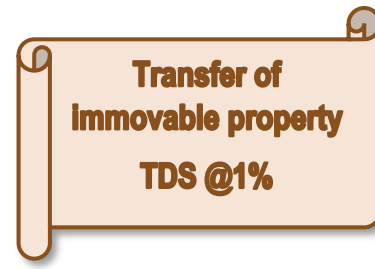
As per section 194-I dealing with the deduction of tax at source from payment of rent, the rate of TDS applicable is 2% for machinery hire charges and 10% for building lease rent. The scope of the section includes, within its ambit, rent for machinery, plant and equipment. Tax is required to be deducted at source from payment of rent, by whatever name called, under any lease, sub-lease, tenancy or any other agreement or arrangement for the use of building and machinery, irrespective of whether such assets are owned or not by the payee.

The limit of ₹ 2,40,000 for tax deduction at source will apply to the aggregate rent of all the assets. Even if two separate agreements are entered into, one for sub-lease of the building and another for hiring of machinery, rent and hire charges under the two agreements have to be aggregated for the purpose of application of the threshold limit of ₹ 2,40,000. In this case, since the payment for rent and hire charges credited to the account of J, the payee, aggregates to ₹ 2,65,000 (₹ 1,75,000 + ₹ 90,000), tax is deductible at source under section 194-I. Tax is deductible @10% on ₹ 1,75,000 (rent of building) and @2% on ₹ 90,000 (hire charges of machinery).

13.3.15 Payment on transfer of certain immovable property other than agricultural land [Section 194-IA]

(1) Applicability and Rate

Every transferee responsible for paying any sum as consideration for transfer of immovable property (land, other than agricultural land, or building or part of building) to a resident transferer shall deduct tax, at the rate of **1%** of **such sum or the stamp duty value of such property, whichever is higher.**



"Agricultural land", for the purpose of this section, means rural agricultural land. In other words, transfer of urban agricultural land, will attract the provision of section 194-IA, if the consideration or the stamp duty value of such land is **₹ 50 lakhs or more**.

It is clarified that in case there is more than one transferor or transferee in respect of immovable property, consideration for the purpose of TDS shall be the aggregate of the amounts paid or payable by all the transferees to the transferor or all the transferors for transfer of such immovable property. This shall be effective from 01.10.2024.

(2) Time of deduction

The deduction is to be made at the time of credit of such sum to the account of the resident transferor or at the time of payment of such sum to a resident transferor, whichever is earlier.

(3) Threshold limit

Tax is not required to be deducted at source where the total amount of consideration for the transfer of immovable property and the stamp duty value of such property, are both less than **₹ 50 lakhs**.

(4) Non-applicability of TDS under section 194-IA

Since tax deduction at source for compulsory acquisition of immovable property is covered under section 194LA, the provisions of section 194-IA do not get attracted into the hands of the transferee in such cases.

(5) No requirement to obtain TAN

The provisions of section 203A containing the requirement of obtaining Tax Deduction Account Number (TAN) shall not apply to the person required to deduct tax in accordance with the provisions of section 194-IA.

(6) Meaning of consideration for transfer of any immovable property

Consideration for transfer of any immovable property includes all charges of the nature of club membership fee, car parking fee, electricity or water facility fee, maintenance fee, advance fee or any other charges of a similar nature, which are incidental to transfer of the immovable property.

ILLUSTRATION 12

Mr. X sold his house property in Bangalore as well as his rural agricultural land for a consideration of ₹ 60 lakh and ₹ 15 lakh, respectively, to Mr. Y on 1.8.2024. He has purchased the house property and the land in the year 2023 for ₹ 40 lakh and ₹ 10 lakh, respectively. The stamp duty value on the date of transfer, i.e., 1.8.2024, is ₹ 85 lakh and ₹ 20 lakh for the house property and rural agricultural land, respectively. Examine the tax implications in the hands of Mr. X and Mr. Y and the TDS implications, if any, in the hands of Mr. Y, assuming that both Mr. X and Mr. Y are resident Indians.

SOLUTION

(i)	**Tax implications in the hands of Mr. X**
	As per section 50C, the stamp duty value of house property (i.e., ₹ 85 lakh) would be deemed to be the full value of consideration arising on transfer of property since the stamp duty value exceeds 110% of the consideration received. Therefore, ₹ 45 lakh (i.e., ₹ 85 lakh – ₹ 40 lakh, being the purchase price) would be taxable as short-term capital gains in the A.Y.2025-26. Since rural agricultural land is not a capital asset, the gains arising on sale of such land is not taxable in the hands of Mr. X.
(ii)	**Tax implications in the hands of Mr. Y**
	In case the immovable property is received for inadequate consideration, the difference between the stamp value and actual consideration would be taxable under section 56(2)(x), if such difference exceeds higher of ₹ 50,000 and 10% of the consideration.

	Therefore, in this case ₹ 25 lakh (₹ 85 lakh – ₹ 60 lakh) would be taxable in the hands of Mr. Y under section 56(2)(x). Since agricultural land is not a capital asset, the provisions of section 56(2)(x) are not attracted in respect of receipt of agricultural land for inadequate consideration, since the definition of "property" under section 56(2)(x) includes only capital assets specified thereunder.
(iii)	**TDS implications in the hands of Mr. Y**
	Since the sale consideration and stamp duty value of house property both are not less than ₹ 50 lakhs, Mr. Y is required to deduct tax at source under section 194-IA. The tax to be deducted under section 194-IA would be ₹ 85,000, being 1% of ₹ 85 lakh (higher of ₹ 60 lakhs and ₹ 85 lakhs). TDS provisions under section 194-IA are not attracted in respect of transfer of rural agricultural land.

13.3.16 Payment of rent by certain individuals or Hindu undivided family [Section194-IB]

(1) Applicability and Rate of TDS

Section 194-IB requires any person, being individual or HUF, other than those individual or HUF whose total sales, gross receipts or turnover from the business or profession exceeds ₹ 1 crore in case of business and ₹ 50 lakhs in case of profession in the financial year immediately preceding the financial year in which such rent was credited or paid, responsible for paying to a resident any income by way of rent, to deduct income tax at the rate of **5%**.

Rent by an Individual or HUF- TDS @2%

TDS rate has been reduced from 5% to 2% with effect from 01-10-2024. Thus, on or after 01-10-2024, tax shall be deducted at a reduced rate of 2%.

(2) Threshold limit

Under this section, tax has to be deducted at source only if the amount of such rent exceeds **₹ 50,000** for a month or part of a month during the previous year.

Threshold limit

(3) Time of deduction

This deduction is to be made at the time of credit of such rent, for the last month of the previous year or the last month of tenancy, if the property is vacated during the year, as the case may be, to the account of the payee or at the time of payment thereof in cash or by issue of cheque or draft or by any other mode, whichever is earlier.

(4) No requirement to obtain TAN

The provisions of section 203A containing the requirement of obtaining a Tax Deduction Account Number (TAN) shall not apply to the person required to deduct tax in accordance with the provisions of section 194-IB.

(5) Meaning of "Rent"

"Rent" means any payment, by whatever name called, under any lease, sub-lease, tenancy or any other agreement or arrangement for the use of any land or building or both.

(6) Deduction not to exceed rent for last month

Where the tax is required to be deducted as per the provisions of section 206AA, such deduction shall not exceed the amount of rent payable for the last month of the previous year or the last month of the tenancy, as the case may be. [Section 206AA provides for deduction of tax at source at a higher rate, which is discussed at length later on in this chapter]

ILLUSTRATION 13

Mr. X, a salaried individual, pays rent of ₹ 55,000 per month to Mr. Y from June, 2024. Is he required to deduct tax at source? If so, when is he required to deduct tax? Also, compute the amount of tax to be deducted at source.

Would your answer change if Mr. X vacated the premises on 31st August, 2024?

Also, what would be your answer if Mr. Y does not provide his PAN to Mr. X?

SOLUTION

Since Mr. X pays rent exceeding ₹ 50,000 per month in the F.Y. 2024-25, he is liable to deduct tax at source @5% till 30.09.2024 and thereafter @2%. The tax is to be deducted in the last month of the P.Y. 2024-25 i.e., March 2025 or in the last month of tenancy, if the property is vacated during the year,. Since property is not vacated during the year, ₹ 11,000 [(₹ 55,000 x 2% x 10)] has to be deducted from rent payable for March, 2025.

If Mr. X vacated the premises in August, 2024, then tax of ₹ 8,250 [₹ 55,000 x 5% x 3] has to be deducted from rent payable for August, 2024.

In case Mr. Y does not provide his PAN to Mr. X, tax would be deductible @20%, instead of 5% or 2%.

In case 1 above, this would amount to ₹ 1,10,000 [₹ 55,000 x 20% x 10] but the same has to be restricted to ₹ 55,000, being rent for March, 2025.

In case 2 above, this would amount to ₹ 33,000 [₹ 55,000 x 20% x 3].

13.3.17 Payment under specified agreement [Section 194-IC]

(1) Applicability and Rate

This section casts responsibility on any person responsible for paying to a resident any sum by way of consideration, not being consideration in kind, under a specified agreement under section 45(5A), to deduct income-tax at the rate of **10%**.

(2) Time of deduction

This deduction is to be made at the time of credit of such sum to the account of the payee or at the time of payment thereof in cash or by issue of cheque or draft or by any other mode, whichever is earlier.

Specified Agreements - TDS @10%

(3) Non-applicability of section 194-IA

Since tax deduction at source for specified agreement under section 45(5A) is covered under section 194-IC, the provisions of section 194-IA do not get attracted in the hands of the transferee in such cases.

(4) Meaning of specified agreement

Specified agreement under section 45(5A):

- It means a registered agreement in which a person owning land or building or both, agrees to allow another person to develop a real estate project on such land or building or both.
- The consideration, in this case, is a share, being land or building or both in such project; part of the consideration may also be in cash.

13.3.18 Fees for professional or technical services [Section 194J]

(1) Applicability and Rate of TDS

Every person other than an individual or a HUF, who is responsible for paying to a resident any sum by way of–

(i) fees for professional services; or

(ii) fees for technical services; or

(iii) any remuneration or fees or commission, by whatever name called, other than those on which tax is deductible under section 192, to a director of a company; or

FTS or royalty for cinematographic films - TDS @2%
Others - TDS @10%
[Payee is in operation of call centre – TDS @2%]

(iv) royalty, or

(v) non-compete fees referred to in section 28(va)

shall deduct tax at source at the rate of

(a) **2%** in case of fees for technical services (not being professional services) or royalty where such royalty is in the nature of consideration for sale, distribution or exhibition of cinematographic films; and

(b) **10%** in other cases.

However, in case of a payee, engaged only in the business of operation of a call centre, the tax shall be deducted at source @ **2%**

(2) Time of deduction

The deduction is to be made at the time of credit of such sum to the account of the payee or at the time of payment thereof in cash or by issue of a cheque or draft or by any other mode, whichever is earlier.

Where any sum is credited to any account, whether called suspense account or by any other name, in the books of accounts of the person liable to pay such sum, such crediting shall be deemed to be credit of such sum to the account of the payee and tax has to be deducted accordingly.

(3) Threshold limit

No tax deduction is required if the amount of fees or the aggregate of the amounts of fees credited or paid or likely to be credited or paid during a financial year does not exceed **₹ 30,000** in the case of fees for professional services, **₹ 30,000** in the case of fees for technical services, **₹ 30,000** in the case of royalty and **₹ 30,000** in the case of non-compete fees.

The limit of ₹ 30,000 under section 194J is applicable separately for fees for professional services, fees for technical services, royalty and non-compete fees referred to in section 28(va). It implies that if the payment to a person towards each of the above is less than ₹ 30,000, no tax is required to be deducted at source, even though the aggregate payment or credit exceeds ₹ 30,000 to such person. However, there is no such exemption limit for deduction of tax on any remuneration or fees or commission payable to director of a company.

Summary of rates and threshold limit u/s 194J for deduction of tax at source

Nature of payment	TDS rate	Separate Limit
Fees for technical services (not being professional services)	2%	₹ 30,000
Fees for professional services	10%	₹ 30,000
Royalty in the nature of consideration for sale, distribution or exhibition of cinematographic films	2%	₹ 30,000
Other royalty	10%	
Any remuneration or fees or commission, by whatever name called, other than those on which tax is deductible under section 192, to a director of a company	10%	Nil
Non-compete fees	10%	₹ 30,000
Note - In case of a payee, engaged only in the business of operation of call centre, the tax shall be deducted at source **@2%**		

ILLUSTRATION 14

XYZ Ltd. makes a payment of ₹ 28,000 to Mr. Ganesh on 2.8.2024 towards fees for professional services and another payment of ₹ 25,000 to him on the same date towards fees for technical services. Discuss whether TDS provisions under section 194J are attracted.

SOLUTION

TDS provisions under section 194J would not get attracted, since the limit of ₹ 30,000 is applicable for fees for professional services and fees for technical services, separately. It is assumed that there is no other payment to Mr. Ganesh towards fees for professional services and fees for technical services during the P.Y.2024-25.

(4) Non-applicability of TDS under section 194J

(i) An individual or a Hindu undivided family is not liable to deduct tax at source.

However, an individual or HUF, whose total sales, gross receipts or turnover from business or profession carried by him exceeds ₹ 1 crore in case of business or ₹ 50 lakhs in case of profession in the financial year immediately preceding the financial year in which the **fees for professional services or fees for technical services** is credited or paid is required to deduct tax on such fees.

Note *- It may be noted that since this provision requires such individuals/HUFs to deduct tax at source only in respect of fees for professional services or fees for technical services, it can be inferred that individuals and HUFs are not required to deduct tax at source under section 194J on royalty and non-compete fees.*

(ii) Further, an individual or Hindu Undivided Family, shall not be liable to deduct income-tax on the sum payable by way of fees for professional services, in case such sum is credited or paid exclusively for personal purposes.

(5) Meaning of "Professional services"

"Professional services" means services rendered by a person in the course of carrying on legal, medical, engineering or architectural profession or the profession of accountancy or technical consultancy or interior decoration or advertising or such other profession as is notified by the CBDT for the purposes of section 44AA or of this section.

Other professions notified for the purposes of section 44AA are as follows:

(a) Profession of "authorised representatives";

(b) Profession of "film artist";

(c) Profession of "company secretary".

(d) Profession of "Information technology"

The CBDT has notified the services rendered by following persons in relation to the sports activities as Professional Services for the purpose of the section 194J:

(i) Sports Persons,

(ii) Umpires and Referees,

(iii) Coaches and Trainers,

(iv) Team Physicians and Physiotherapists,

(v) Event Managers,

(vi) Commentators,

(vii) Anchors and

(viii) Sports Columnists.

Accordingly, the requirement of TDS as per section 194J would apply to all the aforesaid professions. The term "profession", as such, is of a very wide import. However, the term has been defined exhaustively in this section. For the purposes of TDS, therefore, all other professions would be outside the scope of section 194J. For example, this section will not apply to professions of teaching, sculpture, painting, etc., unless they are notified.

(6) Meaning of "Fees for technical services"

Explanation (b) to section 194J provides that the term 'fees for technical services' shall have the same meaning as in *Explanation 2* to section 9(1)(vii). The term 'fees for technical services' as defined in *Explanation 2* to section 9(i)(vii) means any consideration (including any lump sum consideration) for rendering of any of the following services:

(i) Managerial services;

(ii) Technical services;

(iii) Consultancy services;

(iv) Provision of services of technical or other personnel.

It is expressly provided that the term 'fees for technical services' will not include the following types of consideration:

(i) Consideration for any construction, assembly, mining or like project, or

(ii) Consideration which is chargeable under the head 'Salaries'.

(7) TPAs liable to deduct tax under section 194J on payment to hospitals on behalf of insurance companies

The CBDT has, through *Circular No.8/2009 dated 24.11.2009*, clarified that TPAs (Third Party Administrator's) who are making payment on behalf of insurance companies to hospitals for settlement of medical/insurance claims etc. under various schemes, including cashless schemes are liable to deduct tax at source under section 194J on all such payments to hospitals etc. This is because the services rendered by hospitals to various patients are primarily medical services and, therefore, the provisions of section 194J are applicable to payments made by TPAs to hospitals, etc.

Whether transaction charges paid by the members of the stock exchange for availing fully automated online trading facility, being a facility provided by the stock exchange to all its members, constitute fees for technical services to attract the provisions of tax deduction at source under section 194J [CIT v. Kotak Securities Ltd (2016) 383 ITR 1 (SC)]

The Supreme Court observed that technical services like managerial and consultancy service are in the nature of specialised services made available by the service provider to cater to the special needs of the customer-user as may be felt necessary. It is the above feature that would distinguish or identify a service provider from a facility offered.

The Apex Court, accordingly, held that the service provided by the BSE for which transaction charges are paid failed to satisfy the test of specialized, exclusive and individual requirement of the user or the consumer who may approach the service provider for such assistance or service.

Therefore, the transaction charges paid to BSE by its members are not for technical services but are in the nature of payments made for facilities provided by the stock exchange. Such payments would, therefore, not attract the provisions of tax deduction at source under section 194J.

(8) Consideration for use or right to use of computer software is royalty within the meaning of section 9(1)(vi)

As per section 9(1)(vi), any income payable by way of royalty in respect of any right, property or information is deemed to accrue or arise in India. The term "royalty" means consideration for transfer of all or any right in respect of certain rights, property or information.

As per *Explanation 4* to section 9(1)(vi), the consideration for use or right to use of computer software would be royalty. This *Explanation* clarifies that, transfer of all or any rights in respect of any right, property or information includes and has always included transfer of all or any right for use or right to use a computer software (including granting of a licence) irrespective of the medium through which such right is transferred.

Consequently, the provisions of tax deduction at source under section 194J and section 195 would be attracted in respect of consideration for use or right to use computer software since the same falls within the definition of royalty as per the provisions of the Income-tax Act, 1961.

Note - The Central Government has, vide *Notification No.21/2012 dated 13.6.2012*, effective from 1st July, 2012, exempted certain software payments from the applicability of tax deduction under section 194J. Accordingly, where payment is made by the transferee for acquisition of software from a resident-transferor, the provisions of section 194J would **not** be attracted if -

(1) the software is acquired in a subsequent transfer without any modification by the transferor;

(2) tax has been deducted either under section 194J or under section 195 on payment for any previous transfer of such software; and

(3) the transferee obtains a declaration from the transferor that tax has been so deducted along with the PAN of the transferor.

ILLUSTRATION 15

East Bengal Club, a renowned football club, has engaged Raghu, a resident in India, as its coach at a remuneration of ₹ 6 lakhs per annum. The club wants to know from you whether it is liable to deduct tax at source from such remuneration.

SOLUTION

Section 194J requires deduction of tax at source @10% from the amount credited or paid by way of fees for professional services, where such amount or aggregate of such amounts credited or paid to a person exceeds ₹ 30,000 in the F.Y. 2024-25. As per *Explanation (a)* to section 194J, professional services include services rendered by a person in the course of carrying on such other profession as is notified by the CBDT for the purposes of section 194J.

Accordingly, the CBDT has, vide *Notification No.88 dated 21.8.2008*, notified the services rendered by coaches and trainers in relation to the sports activities as professional services for the purposes of section 194J.

Therefore, the club is liable to deduct tax at source under section 194J from the remuneration payable to the Coach, Raghu.

13.3.19 Income in respect of units [Section 194K]

(1) Applicability and rate of tax

Payment in respect of Units TDS @10%

Section 194K provides for deduction of tax at source **@10%** by any person responsible for paying to a resident any income in respect of –

(i) units of a Mutual fund specified under section 10(23D)

(ii) units from Administrator of the specified undertaking

(iii) units from the specified company, being a company whose entire capital is subscribed by financial institutions or banks as notified by the Central Government

(2) Time of deduction

The deduction is to be made at the time of credit of such sum to the account of the payee or at the time of payment by any mode, whichever is earlier.

Where any income in respect of units of a mutual fund, Administrator of the specified undertaking or the specified company is credited to any account in the books of account of the person liable to pay such income, such crediting is deemed to be credit of such income to the account of the payee and tax has to be deducted at source. The account to which such income is credited may be called "Suspense account" or by any other name.

(3) Non-applicability of section 194K

No tax is required to be deducted if -

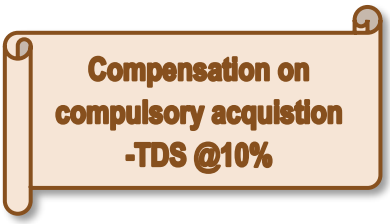
(i) the amount of such income or the aggregate of the amounts of such income credited or paid or likely to be credited or paid during a financial year does not exceed **₹ 5,000**; or

(ii) the income is of the nature of capital gains.

13.3.20 Payment of compensation on acquisition of certain immovable property [Section 194LA]

(1) Applicability

Section 194LA provides for deduction of tax at source by a person responsible for paying to a resident any sum in the nature of –



(i) compensation or the enhanced compensation or

(ii) the consideration or the enhanced consideration

on account of compulsory acquisition, under any law for the time being in force, of any immovable property (other than agricultural land).

Immovable property means any land (other than agricultural land) or any building or part of a building.

"Agricultural land" for the purpose of this section means any land situated in India including urban agricultural land.

(2) Rate of TDS

The amount of tax to be deducted is ***10%*** of such sum mentioned in (1) above.

(3) Time of deduction

The tax should be deducted at the time of payment of such sum in cash or by issue of a cheque or draft or by any other mode, whichever is earlier.

(4) Threshold limit

No tax is required to be deducted where the amount of such payment or, as the case may be, the aggregate amount of such payments to a resident during the financial year does not exceed **₹ 2,50,000**.

(5) Non-applicability of TDS under section 194LA

No tax is required to be deducted where payment is made in respect of any award or agreement which has been exempted from levy of income tax under section 96 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013.

13.3.21 Payment made by an individual or a HUF for contract work or by way of commission or brokerage or fees for professional services [Section 194M]

(1) Applicability and rate of TDS

Section 194M provides for deduction of tax at source **@5%** by an individual or a HUF responsible for paying any sum during the financial year to any resident –

(i) for carrying out any work (including supply of labour for carrying out any work) in pursuance of a contract; or

(ii) by way of commission (not being insurance commission referred to in section 194D) or brokerage; or

(iii) by way of fees for professional services.

TDS rate has been reduced from 5% to 2% with effect from 01-10-2024. Thus, on or after 01-10-2024, tax shall be deducted at a reduced rate of 2%.

It may be noted that only individuals and HUFs (other than those who are required to deduct income-tax as per the provisions of section 194C or 194H or 194J) are required to deduct tax in respect of the above sums payable during the financial year to a resident.

(2) Time of deduction

The tax should be deducted at the time of credit of such sum or at the time of payment of such sum, whichever is earlier.

(3) Threshold limit

No tax is required to be deducted where such sum or, as the case may be, aggregate amount of such sums credited or paid to a resident during the financial year does not exceed **₹ 50,00,000.**

(4) Non-applicability of TDS under section 194M

An individual or a Hindu undivided family is not liable to deduct tax at source under section 194M, if –

(i) they are required to deduct tax at source u/s 194C for carrying out any work (including supply of labour for carrying out any work) in pursuance of a contract, i.e., an individual or a HUF whose total sales, gross receipts or turnover from the business or profession carried on by him exceeds ₹ 1 crore in case of business and ₹ 50 lakhs in case of profession during the immediately preceding financial year and such amount is not exclusively credited or paid for personal purposes of such individual or HUF.

(ii) they are required to deduct tax at source u/s 194H on commission (not being insurance commission referred to in section 194D) or brokerage, i.e., an individual or an HUF whose total sales, gross receipts or turnover from the business or profession carried on by him exceeds ₹ 1 crore in case of business and ₹ 50 lakhs in case of profession during the immediately preceding financial year.

(iii) they are required to deduct tax at source u/s 194J on fees for professional services, i.e., an individual or a HUF whose total sales, gross receipts or turnover from the business or profession carried on by him exceeds ₹ 1 crore in case of business and ₹ 50 lakhs in case of profession during the immediately preceding financial year and

such amount is not exclusively credited or paid for personal purposes of such individual or HUF.

(5) No requirement to obtain TAN

The provisions of section 203A containing the requirement of obtaining Tax Deduction Account Number (TAN) shall not apply to the person required to deduct tax in accordance with the provisions of section 194M.

Note - *For the meaning of the terms "Work", "Professional services" and "Commission or brokerage" refer sub-heading "15.3.7 Payments to contractors and sub-contractors [Section 194C]", "15.3.18 Fees for professional or technical services [Section 194J]" and "15.3.13 Commission or brokerage [Section 194H]", respectively.*

ILLUSTRATION 16

Examine whether TDS provisions would be attracted in the following cases, and if so, under which section. Also, specify the rate of TDS applicable in each case. Assume that all payments are made to residents.

	Particulars of the payer	***Nature of payment***	***Aggregate of payments made in the F.Y.2024-25***
1.	*Mr. Ganesh, an individual carrying on retail business with turnover of ₹ 2.5 crores in the P.Y.2023-24*	*Contract Payment for repair of residential house*	*₹ 5 lakhs*
		Payment of commission to Mr. Vallish for business purposes	*₹ 80,000 in November 2024*
2.	*Mr. Rajesh, a wholesale trader whose turnover was ₹ 95 lakhs in P.Y. 2023-24.*	*Contract Payment for the reconstruction of a residential house (made during the period January-March, 2025)*	*₹ 20 lakhs in January, 2025, ₹ 15 lakhs in Feburary 2025 and ₹ 20 lakhs in March 2025.*
3.	*Mr. Satish, a salaried individual*	*Payment of brokerage for buying a residential house in March, 2025*	*₹ 51 lakhs*
4.	*Mr. Dheeraj, a pensioner*	*Contract payment made during October-November 2024 for reconstruction of residential house*	*₹ 48 lakhs*

SOLUTION

	Particulars of the payer	Nature of payment	Aggregate of payments in the F.Y.2024-25	Whether TDS provisions are attracted?
1.	Mr. Ganesh, an individual carrying on retail business with turnover of ₹ 2.5 crores in the P.Y.2023-24	Contract Payment for repair of residential house	₹ 5 lakhs	No; TDS under section 194C is **not** attracted since the payment is for personal purpose. TDS under section 194M is not attracted as aggregate of contract payment to the payee in the P.Y.2024-25 does not exceed ₹ 50 lakhs.
		Payment of commission to Mr. Vallish for business purposes	₹ 80,000	Yes, u/s 194H @2%, since the payment exceeds ₹ 15,000, and Mr. Ganesh's turnover from business exceeds ₹ 1 crore in the P.Y.2023-24.
2.	Mr. Rajesh, a wholesale trader whose turnover was ₹ 95 lakhs in P.Y.2023-24	Contract Payment for reconstruction of residential house	₹ 55 lakhs	Yes, under section 194M @2%, since the aggregate of payments (i.e., ₹ 55 lakhs) exceed ₹ 50 lakhs. Since, his turnover from business does not exceed ₹ 1 crore in the P.Y.2023-24, TDS provisions under section 194C are not attracted in respect of payments made in the P.Y.2024-25.
3.	Mr. Satish, a salaried individual	Payment of brokerage for buying a residential house	₹ 51 lakhs	Yes, under section 194M@2%, since the payment of ₹ 51 lakhs made in March 2025 exceeds the threshold of ₹ 50 lakhs. Since Mr. Satish is a salaried individual, the provisions of section 194H are not applicable in this case.

4.	Mr. Dheeraj, a pensioner	Contract payment for the reconstruction of residential house	₹ 48 lakhs	TDS provisions under section 194C are **not** attracted since Mr. Dheeraj is a pensioner. TDS provisions under section 194M are also **not** applicable in this case, since the payment of ₹ 48 lakhs does not exceed the threshold of ₹ 50 lakhs.

13.3.22 TDS on cash withdrawal [Section 194N]

(1) Applicability and rate of TDS

Section 194N provides that every person, being

Cash withdrawals -TDS @2%

- a banking company to which the Banking Regulation Act, 1949 applies (including any bank or banking institution referred under section 51 of that Act)
- a co-operative society engaged in carrying on the business of banking; or
- a post office

who is responsible for paying **any sum,** being the amount or aggregate of amounts, as the case may be, **in cash exceeding ₹ 1 crore during the previous year**, to any person from one or more accounts maintained by such recipient-person with it, shall deduct tax at source **@2% of such sum**

Where the recipient is a co-operative society, the higher threshold limit of ₹ 3 crores is applicable for cash withdrawals.

(2) Time of deduction

This deduction is to be made at the time of payment of such sum.

(3) Modification in rate of TDS and threshold limit of withdrawal for recipient who has not furnished return of income for last 3 years

If the recipient has not furnished the returns of income for all the three assessment years relevant to the three previous years, for which the time limit for filing return of income under section 139(1) has expired, immediately preceding the previous year in which the payment of the sum is made, **the sum shall mean the amount or the aggregate of amounts, as the**

case may be, in cash > ₹ 20 lakhs during the previous year, and the tax shall be deducted at the rate of -

- **2%** of the sum, where the amount or aggregate of amounts, as the case may be, being paid in cash **> ₹ 20 lakhs but ≤ ₹ 1 crore (₹ 3 crores in case the recipient is a co-operative society**
- **5%** of the sum, where the amount or aggregate of amounts, as the case may be, being paid in cash **> ₹ 1 crore (₹ 3 crores in case the recipient is a co-operative society.**

However, the Central Government is empowered to specify, with the consultation of RBI, by notification, the recipient in whose case this provision shall not apply or apply at reduced rate, subject to the satisfaction of the conditions specified in such notification.

(4) Non-applicability of TDS under section 194N

Liability to deduct tax at source under section 194N shall **not** be applicable to any payment made to –

(i) the Government

(ii) any banking company or co-operative society engaged in carrying on the business of banking or a post-office

(iii) any business correspondent of a banking company or co-operative society engaged in carrying on the business of banking, in accordance with the RBI guidelines

(iv) any white label ATM operator of a banking company or co-operative society engaged in carrying on the business of banking, in accordance with the authorisation issued by the RBI under the Payment and Settlement Systems Act, 2007

The Central Government may specify, with the consultation of RBI, by notification, the recipient in whose case section 194N shall not apply or apply at a reduced rate, subject to the satisfaction of the conditions specified in such notification. Accordingly, the Central Government has, after consultation with the Reserve Bank of India (RBI), specified –

(i) Cash Replenishment Agencies (CRA's) and franchise agents of White Label Automated Teller Machine Operators (WLATMO's) – For availing exemption from applicability of TDS u/s 194N, CRA's and franchise agents of WLATMO's should maintain a separate bank account from which withdrawal is made only for the purposes

of replenishing cash in the Automated Teller Machines (ATM's) operated by such WLATMO's. Further, the WLATMO should furnish a certificate every month to the bank certifying that the bank account of the CRA's and the franchise agents of the WLATMO's have been examined and the amounts being withdrawn from their bank accounts have been reconciled with the amount of cash deposited in the ATM's of the WLATMO's.

(ii) **Commission agent or trader, operating under Agriculture Produce Market Committee (APMC), and registered under any law relating to Agriculture Produce Market of the concerned State** - For availing exemption from the applicability of TDS u/s 194N, the commission agent/trader should intimate to the banking company or co-operative society or post office, his account number through which he wishes to withdraw cash in excess of ₹ 1 crore in the previous year along with his Permanent Account Number (PAN) and the details of the previous year. Also, he should certify to the banking company or co-operative society or post office that the withdrawal of cash from the account in excess of ₹ 1 crore during the previous year is for the purpose of making payments to the farmers on account of purchase of agriculture produce. Further, the banking company or co-operative society or post office has to ensure that the PAN quoted is correct and the commission agent or trader is registered with the APMC, and for this purpose, collect necessary evidences and place the same on record.

(iii) (a) the authorised dealer and its franchise agent and sub-agent; and

(b) Full-Fledged Money Changer (FFMC) licensed by the RBI and its franchise agent;

Such persons should maintain a separate bank account from which withdrawal is made only for the purposes of -

(i) purchase of foreign currency from foreign tourists or non-residents visiting India or from resident Indians on their return to India, in cash as per the directions or guidelines issued by RBI; or

(ii) disbursement of inward remittances to the recipient beneficiaries in India in cash under Money Transfer Service Scheme (MTSS) of the RBI;

The exemption from the requirement to deduct tax u/s 194N would be available only if a certificate is furnished by the authorised dealers and their franchise agent and sub-agent, and the Full-Fledged Money Changers (FFMC) and their franchise agent to the

bank that withdrawal is only for the purposes specified above and the directions or guidelines issued by the RBI have been adhered to.

"Authorised dealer" means any person who is authorised by the RBI as an authorised dealer to deal in foreign exchange [Section 10(1) of the Foreign Exchange Management Act, 1999].

(5) Person to whom credit is to be given for tax deducted and paid: Rule 37BA provides the manner of giving credit for tax deducted and remitted to the Central Government, i.e., it specifies the person to whom credit for tax deducted is to be given and also the assessment year for which the credit may be given. Accordingly, sub-rule (3A) has been inserted in Rule 37BA, to provide that, for the purposes of section 194N, credit for tax deducted at source shall be given to the person from whose account tax is deducted and paid to the Central Government account for the assessment year relevant to the previous year in which such tax deduction is made.

(6) Furnishing particulars in case of no deduction of tax in consequence of exemption [Rule 31A]

Every person has to furnish particulars of the amount paid or credited on which tax was not deducted in view of the exemption provided in point (4) above. [Rule 31A].

Example

The persons referred to in (i) to (vi) in Column (2) of the table below have always been filing their returns of income on or before the due date u/s 139(1). The persons mentioned in (vii) to (x) in Column (2) of the table below have not filed their returns of income for the last five years. Determine the liability of deduction of tax at source u/s 194N by the bank/co-operative bank referred to in column (3) of the table below in each of the following individual cases, assuming that this is the only withdrawal in the P.Y.2024-25 by the persons referred to in Column (2).

(1)	(2)	(3)	(4)	(5)	(6)
	Person making the withdrawal	**Bank/Co-operative Bank from which money is withdrawn**	**Date of withdrawal**	**Amount of withdrawal (₹)**	**TDS u/s 194N (₹)**
(i)	*Mr. Harshit*	*SBI*	*1.7.2024*	*1,10,00,000*	*₹ 10,00,000 x 2% = ₹ 20,000*
(ii)	*Mr. Pranav*	*SBI*	*1.8.2024*	*90,00,000*	*Nil (since withdrawals < ₹ 1 crore)*

(iii)	*ABC Co-operative Society*	*SBI*	*1.9.2024*	*2,70,00,000*	*Nil (since withdrawals < ₹3 crore)*
(iv)	*XYZ Co-operative Society*	*MNO Co-operative bank*	*1.9.2024*	*3,10,00,000*	*₹10,00,000 x 2% = ₹20,000*
(v)	*Mr. Vaibhav*	*MNO Co-operative bank*	*1.9.2024*	*2,10,00,000*	*₹1,10,00,000 x 2% = ₹2,20,000*
(vi)	*A Ltd.*	*MNO Co-operative bank*	*1.10.2024*	*1,05,00,000*	*₹5,00,000 x 2% = ₹10,000*
(vii)	*M/s. DEF & Co., a firm*	*MNO Co-operative bank*	*1.2.2025*	*90,00,000*	*₹70,00,000 x 2% = ₹1,40,000*
(viii)	*Mr. Varun*	*BOI*	*1.2.2025*	*1,20,00,000*	*₹80,00,000 x 2% **(+)** ₹20,00,000 x 5% = ₹2,60,000*
(ix)	*Mr. Rakesh*	*BOI*	*1.2.2025*	*45,00,000*	*₹25,00,000 x 2% = ₹50,000*
(x)	*PQR Co-operative Society*	*BOI*	*1.2.2025*	*3,30,00,000*	*₹2,80,00,000 x 2% **(+)** ₹30,00,000 x 5% = ₹7,10,000*

13.3.23 TDS on certain payment by e-commerce operator to e-commerce participant [Section 194-O]

(1) Applicability and rate of TDS

Section 194-O provides that where sale of goods or provision of services of an e-commerce participant is facilitated by an e-commerce operator through its digital or electronic facility or platform, such e-commerce operator is liable to deduct tax at source **@1%** of the gross amount of such sales or services or both.

Payment by e-commerce operator- TDS @ 0.1%

TDS rate has been reduced from 1% to 0.1% with effect from 01-10-2024. Thus, on or after 01-10-2024, tax shall be deducted at a reduced rate of 0.1%.

(2) Time of deduction

The deduction is to be made at the time of credit of amount of such sale or services or both to the account of an e-commerce participant or at the time of payment thereof to such e-commerce participant by any mode, whichever is earlier.

(3) Deemed credit

Any payment made by a purchaser of goods or recipient of services directly to an e-commerce participant for the sale of goods or provision of services or both, facilitated by an e-commerce operator, would be deemed to be amount credited or paid by the e-commerce operator to the e-commerce participant. Accordingly, such payment would be included in the gross amount of such sales or services for the purpose of deduction of income-tax under this section.

(4) Non-applicability of TDS under section 194-O

No tax is required to be deducted under section 194-O in case of any sum credited or paid to an e-commerce participant, being an individual or HUF, where the gross amount of such sale or services or both during the previous year does not exceed ₹ 5 lakh and such e-commerce participant has furnished his PAN/ Aadhaar number to e-commerce operator.

(5) Non-applicability of TDS under any other section

A transaction in respect of which tax has been deducted by the e-commerce operator under this section or which is not liable to tax deduction under this section on account of the exemption discussed in point (4) above, would not be liable to tax deduction at source under any other provision of this Chapter.

However, this exemption from TDS under this would not apply to any amount or aggregate of amounts received or receivable by an e-commerce operator for hosting advertisements or providing any other services which are not in connection with the sale of goods or services referred to in point (1) above.

(6) Power of CBDT to issue guidelines

In case any difficulty arises in giving effect to the provisions of this section, the CBDT may issue guidelines for the purpose of removing the difficulty with the approval of the Central Government.

Every guideline issued by the CBDT shall be laid before each House of Parliament and shall be binding on the income-tax authorities and on the e-commerce operator.

Guidelines

Accordingly, the CBDT has, vide **Circular no. 17/2020 dated 29.9.2020 and Circular no. 20/2021 dated 25.11.2021,** issued the following guidelines for removing certain difficulties-

1. **Applicability on transactions carried through various Exchanges:**

In order to remove practical difficulties in implementing section 194-O in case of certain exchanges and clearing corporations, it has been provided that section 194-O shall **not be applicable** in relation to-

- transactions in securities and commodities which are traded through recognized stock exchanges or cleared and settled by the recognized clearing corporation, including recognized stock exchanges or recognized clearing corporation located in International Financial Service Centre;
- transactions in electricity, renewable energy certificates and energy saving certificates traded through power exchanges registered in accordance with Regulation 21 of the CERC (Central Electricity Regulatory Commission).

2. **Applicability on payment gateway:**

In e-commerce transactions, the payments are generally facilitated by payment gateways. Consequently, it is possible that there may be applicability of section 194-O twice i.e., once on the main ecommerce operator who is facilitating sale of goods or provision of services or both and once on payment gateway who also happens to qualify as e-commerce operator for facilitating service. To illustrate, a buyer buys goods worth ₹ 1 lakh on e-commerce website "XYZ". He makes payment of ₹ 1 lakh through the digital platform of "ABC". On these facts, the liability to deduct tax under section 194-O may fall on both "XYZ" and "ABC".

In order to remove this difficulty, it is provided that the payment gateway will not be required to deduct tax under section 194-O on a transaction, if the tax has been deducted by the e commerce operator under section 194-O, on the same transaction. Hence, in the above example, if "XYZ" has deducted tax under section 194-O on ₹ 1 lakh, "ABC" will not be required to deduct tax under section 194-O on the same transaction. To facilitate proper implementation, "ABC" may take an undertaking from XYZ" regarding deduction of tax.

3. Applicability on insurance agent or insurance aggregator:

Insurance agents or insurance aggregators in many cases, have no involvement in transactions between the insurance company and the buyer for subsequent years. Therefore, in subsequent years, the liability to deduct tax may arise on the insurance agents or insurance aggregators, even if the transactions have been completed directly with the insurance company. This may result into hardship for the insurance agents/aggregators.

In order to remove the difficulty, it is provided that in years subsequent to the first year, if the insurance agent or insurance aggregator has no involvement in transactions between the insurance company and the buyer of insurance policy, he would not be liable to deduct tax under section 194-O for those subsequent years. However, the insurance company shall be required to deduct tax on commission payment, if any, made to the insurance agent or insurance aggregator for those subsequent years under the relevant provision of the Act.

4. Applicability on E-auction services carried out by e-auctioneers through electronic portal: The provisions of section 194-O **would not** apply in relation to e-auction activities carried out by e-auctioneers if all the facts listed in (a) to (f) are satisfied:

(a) The e-auctioneer conducts e-auction services for its clients in its electronic portal and is responsible for the **price discovery only** which is reported to the client.

(b) The price so discovered through e-auction process is not necessarily the price at which the transaction takes place and it is up to the discretion of the client to accept the price or to directly negotiate with the counter-party.

(c) The transaction of purchase/sale takes place directly between the buyer and the seller party outside the electronic portal maintained by the e-auctioneer and **price discovery only acts as the starting point** for negotiation and conclusion of purchase/sale.

(d) The e-auctioneer is **not responsible for facilitating the purchase and sale of goods** for which e-auction was conducted on its electronic portal except to the extent of price discovery.

(e) Payments for the transactions are carried out directly between the buyer and the seller outside the electronic portal and the **e-auctioneer does not have**

any information about the quantum and the schedule of payment which is decided mutually by the client and the counterparty.

(f) For payment made to e-auctioneer for providing e-auction services, the client deducts tax under the relevant provisions of the Act other than section 194-O.

If any of these facts are not satisfied, the provisions of section 194-O will apply. Further, the buyer and seller would still be liable to deduct/collect tax as per the provisions of section 194Q and 206C(IH), as the case may be.

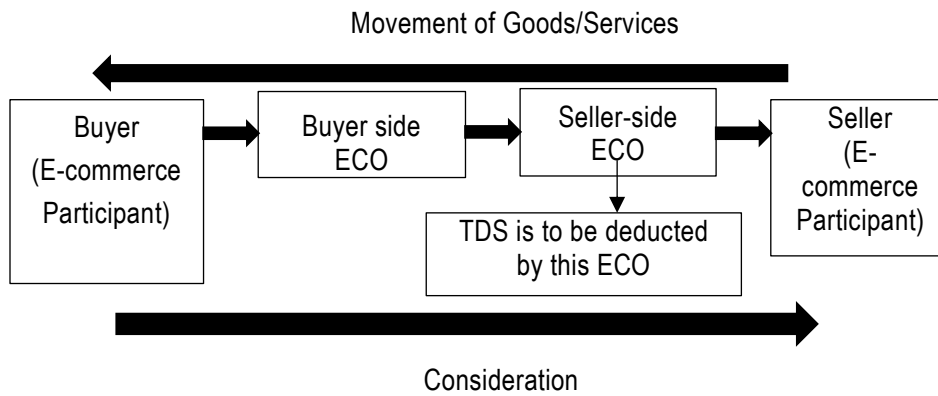
The CBDT further issued, vide ***Circular No. 20/2023 dated 28.12.2023,*** *guidelines for tax deduction at source under section 194-O encompassing transactions that involve* ***multiple e-commerce operators*** *in respect of the following issues:*

1. Who should deduct tax at source where there are multiple e-commerce operators (ECO) involved in a transaction?

There may be a platform or network (e.g. the Open Network for Digital Commerce) on which multiple e-commerce operators are participating in a single transaction. For example, there could be a buyer side ECO involved in buyer-side functions and a seller-side ECO involved in seller side functions. In this case, there may be two situations:

Situation 1: *Where multiple ECOs are involved in a single transaction of sale of goods or provision of services through ECO platform or network and* ***where the seller-side ECO is not the actual seller of the goods or services:***

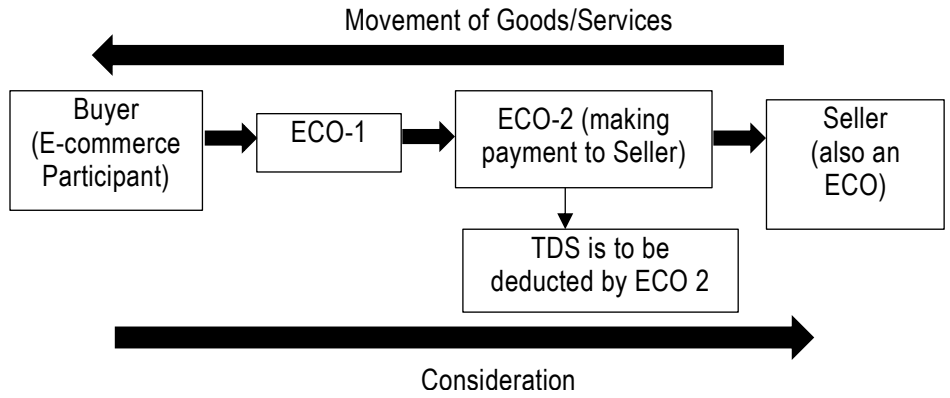
On the buying side, a buyer-side ECO could be providing an interface to the buyer and on the selling side, a seller-side ECO could be providing an interface to the seller.



In this situation, the compliance under section 194-O is to be done by the seller-side ECO who finally makes the payment or the deemed payment to the seller for goods sold or services provided.

Situation 2: *Where multiple ECOs are involved in a single transaction of sale of goods or provision of services through ECO platform or network and* ***where the seller-side ECO is the actual seller of the goods or services.***

On the buying side, an ECO could be providing an interface to the buyer and on the selling side, the seller itself is an ECO and is directly interacting with an ECO.



In this situation, since on the selling side, the seller itself is an ECO and is directly interacting with an ECO, the compliance under section 194-O is to be done by the ECO which finally makes the payment or the deemed payment to the seller for goods or services sold.

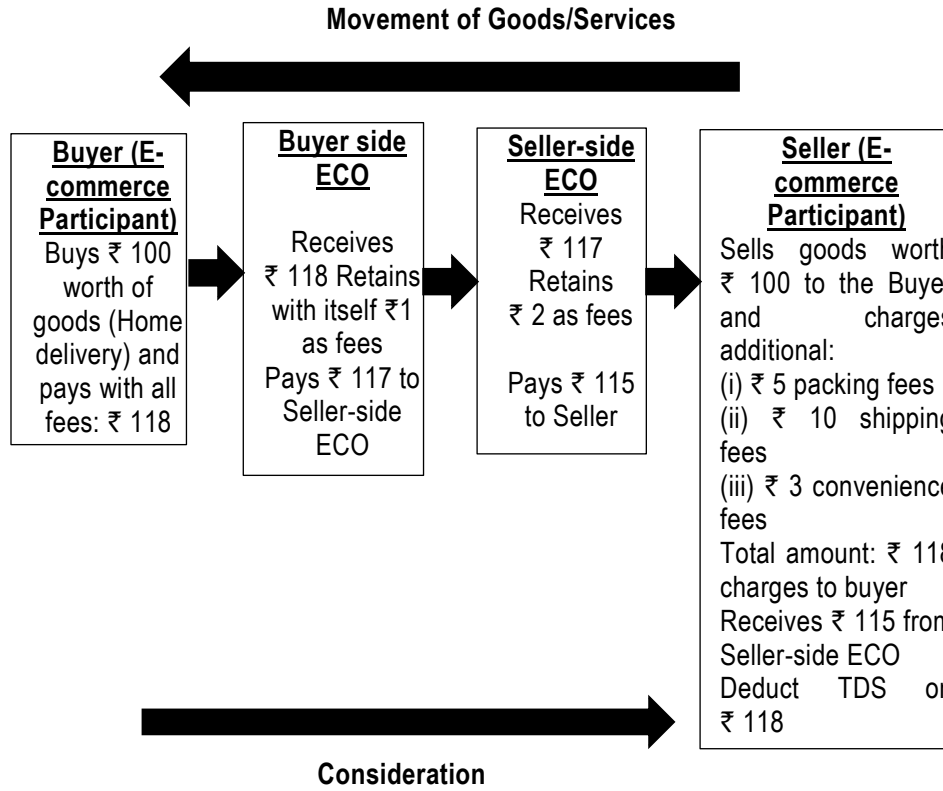
Note - *In both the above situations, the tax shall be deducted on the "gross amount" of such sale of goods or provision of services and shall be deducted by seller-side ECO/ECO-2, as the case may be, at the time of credit to the account of a seller (being e-commerce participant) or at the time of the payment or the deemed payment thereof to such seller by any mode, whichever is earlier.*

2. ***E-commerce operators may be levying convenience fees or charging commission for each transaction and seller might levy logistics & delivery fees for the transaction. Payments may also be made to the platform or network (e.g. ONDC) provider for facilitating the transaction. Would these form part of the "gross amount" for the purposes of TDS under section 194-O of the Act?***

In e-commerce, it is common for an order to be shipped to the buyer from the seller. It is therefore common for the sellers to charge the buyer additionally for shipping in the form of logistics/delivery/shipping/ packaging fees.

Further, the buyer-side ECO and seller-side ECO may charge a commission to the seller to enable the online transaction, and the seller may choose to recoup all or part of that amount from the buyer.

Example 1: *A Buyer purchases goods worth ₹ 100 from the Seller and opts for home delivery. The Seller charges the Buyer an additional ₹ 5 as packing fees, ₹ 10 as shipping fees, and ₹ 3 as a convenience charge (to recoup the fees charged by the seller-side ECO, which includes ₹ 1 charged by the Buyer-side ECO and ₹ 2 charged by the Seller-side ECO itself). So, the seller will issue an invoice for ₹ 118 (i.e. 100 + 5 + 10 + 2 + 1) to the buyer. The shipping fees, packaging fees and convenience fees are separately charged to the buyer to provide services in relation to the main supply. In such a case, TDS is to be deducted by the seller-side ECO under section 194-O on ₹ 118 since this is the gross amount of sales.*



It is thus clarified that TDS shall be deducted by the seller-side ECO on the gross amount of sales of goods (₹ 118) or provision of services at the time of payment (including deemed payment) or credit.

As per section 194-O(3), a transaction on which tax has been deducted by an ECO under section 194-O(1), such transaction shall not be liable to TDS under any other

provision of Chapter XVII-B. Accordingly, this exclusion will also apply to the amount received by ECO for the provision of services which are in connection with the main transaction of sale of goods or provision of service or both referred to in section 194-O(1). However, section 194S(4) overrides section 194-O and states that if tax is deducted under section 194-S, no tax is deductible under section 194-O.

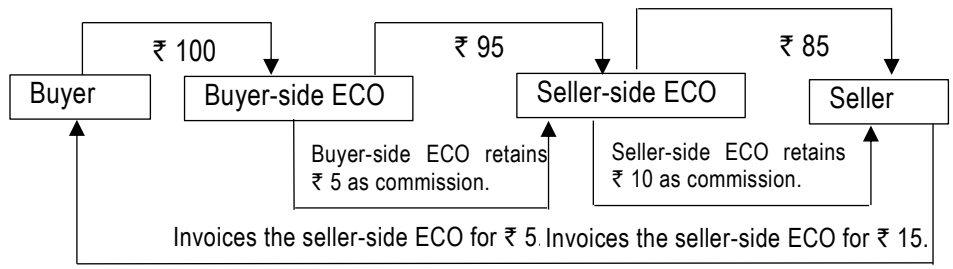
In this example, fees charged by the seller-side ECO (₹ 3 charged to the seller) and buyer-side ECO (₹ 1 charged to the seller-side ECO) for services provided would ordinarily have been subjected to TDS under section 194H and the seller and seller-side ECO respectively would have had to deduct tax and file TDS return with respect to the fees paid.

However, as tax has been deducted under section 194-O(1) on the gross amount of sales of ₹ 118, this amount (which includes buyer-side ECO fee of ₹ 1 and seller-side ECO fee of ₹ 2 charged to the end customer) will not be subject to TDS under any other provision. However, this is subject to provisions of section 194S(4).

Payments may also be made to the platform or network (e.g., the ONDC) provider to facilitate the transaction. These would form part of the "gross amount" for the purposes of TDS under section 194-O if they are included in the payment for the transaction. If these payments are being paid on a lump-sum basis and are not linked to a specific transaction, then these need not be included in the "gross amount".

Example 2:

Money Flow



Invoicing Flow

The Seller's label-price for a product is ₹ 85, the seller-side ECO's fee (for listing the Seller catalogue and facilitating the transaction) is ₹ 10, and the Buyer- side ECO's fee (to provide an interface to enable the Buyer to discover the seller/product and to enable them to place an order) is ₹ 5. The Seller charges the Buyer a total of ₹ 100 (₹ 85 + ₹ 10 + ₹ 5) and issues an invoice for ₹ 100 (gross amount) as shown in the above diagram.

The TDS under section 194-O has to be calculated on ₹ 100 (gross invoice value) @1% by the seller ECO. The buyer ECO's fees (₹ 5) charged to the seller-side ECO and seller ECO's fees (₹ 15) charged to the Seller will not be subject to further TDS under section 194H.

3. *How will GST, various state levies and taxes other than GST such as VAT/ Sales tax/ Excise duty / CST be treated when calculating gross amount of sales of goods or provision of services as per the provisions of section 194-O?*

Condition	Amount on which tax is to be deducted u/s 194-O
Where tax is deducted at the time of credit of amount in the account of the seller and the component of GST/various state levies and taxes comprised in the amount payable to the seller is indicated separately	*Tax has to be deducted under section 194-O on the amount credited without including such GST/ various state levies and taxes.*
Where tax is deducted on payment basis because payment is earlier than the credit	*Tax has to be deducted on the whole amount (since it is not possible to identify the payment with GST/various state levies and taxes component to be invoiced in the future)*

4. *How will adjustment for purchase returns take place?*

Tax is required to be deducted under section 194-O at the time of payment or credit, whichever is earlier. Thus, before purchase-return happens, the tax must have already been deducted under section 194-O on that purchase. In such case -

(i) Where the money is refunded against purchase returns

Tax deducted, if any, may be adjusted against the next transaction by the deductor with the same deductee in the same financial year. Further, the tax deducted and deposited will be allowed as credit to the seller.

(ii) Where goods are replaced by the seller against the purchase return

No adjustment is required as in that case the transaction on which tax was deducted under section 194-O has been completed with goods replaced.

5. *How will discounts given by seller as an e-commerce participant or by any of the multiple e-commerce operators be treated while calculating "gross amount"?*

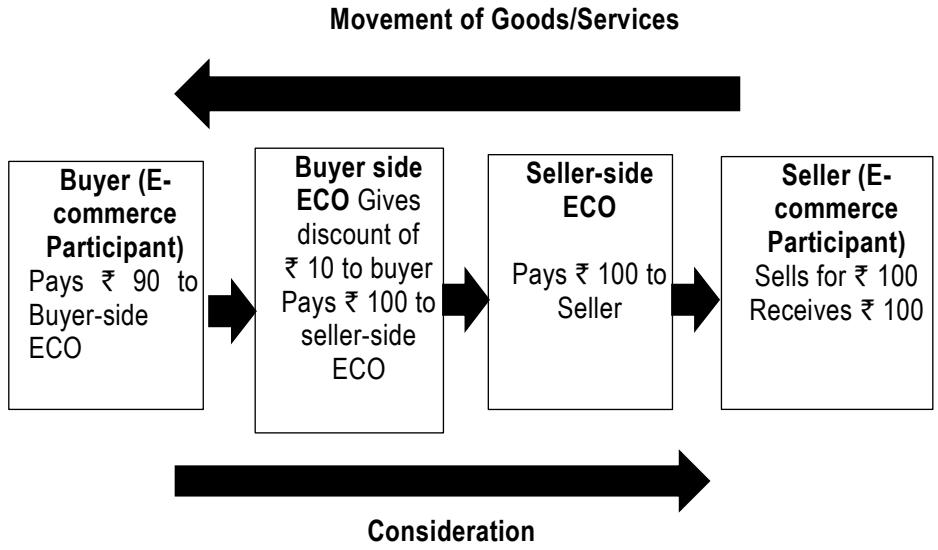
(i) Treatment of discounts offered by the actual seller

Where the discount is given by the seller itself, the seller would reduce the price of the products sold or services provided.

For example, if the label-price of a product is ₹ 100, and the seller offers a discount of ₹ 10, ₹ 90 will be receivable from the buyer. In this case, the seller will invoice the buyer for ₹ 90, and hence the TDS has to be calculated on ₹ 90.

(ii) Treatment of discounts offered by the buyer ECO or Seller ECO

Where discount is given by the buyer ECO/seller ECO, usually the seller receives full consideration for the product, however part of it is received from the buyer and the balance is discharged to the seller by the buyer ECO/seller ECO, as the case may be.



In the above diagram, if the price quoted by the seller is ₹ 100, and the buyer ECO gives a discount of ₹ 10, ₹ 90 (i.e. 100 - 10) will be collected from the buyer and remitted to the seller, and the buyer ECO will pay the remaining ₹ 10 to the seller via the seller ECO. The invoice on the buyer will be raised for ₹ 100 and tax will therefore be deducted by the seller-side ECO on ₹ 100, which is the gross amount of sales.

(7) Person responsible for paying

For the purpose of this section, the e-commerce operator shall be deemed to be the person responsible for paying to the e-commerce participant.

(8) Meaning of certain terms

Term	Meaning
Electronic commerce	The supply of goods or service or both, including digital products, over digital or electronic network.
E-commerce operator	A person who owns, operates or manages digital or electronic facility or platform for electronic commerce.
E-commerce participant	A person resident in India selling goods or providing services or both, including digital products, through digital or electronic facility or platform for electronic commerce.
Services	It includes fees for technical services and fees for professional services as defined in section 194J.

13.3.24 Deduction of tax by a specified bank in case of specified senior citizen [Section 194P]

(1) Applicability and rate of TDS

(i) Where the deductee exercises the option to shift out of the default tax regime under section 115BAC: Section 194P requires deduction of tax at source on the basis of **rates in force by a specified bank**, being a notified banking company, on **the total income of specified senior citizen** for the relevant assessment year, computed **after giving effect to** -

Tax to be deducted by specified bank

- deduction allowable under Chapter VI-A; **and**
- rebate allowable under section 87A.

(ii) Where the deductee does not exercise the option to shift out of the default tax regime under section 115BAC: In such case, the specified bank shall deduct tax at source in accordance with the rates provided under section 115BAC(1A) subject to certain conditions, including the condition that the specified senior citizen does not avail of specified exemptions and deductions.

(2) Exemption from filing return of income

The specified senior citizen is exempted from filing his return of income for the assessment year relevant to the previous year in which the tax has been deducted under this section.

(3) Meaning of certain terms

Term	Meaning
Specified bank	A banking company which is a scheduled bank and has been appointed as agents of Reserve Bank of India under section 45 of the Reserve Bank of India Act, 1934.
Specified senior citizen	An individual, being a resident in India, who 1. is of the age of 75 years or more at any time during the previous year; 2. is having pension income [Also, he should have no other income except interest income received or receivable from any account maintained by such individual in the same specified bank in which he is receiving his pension income]; and 3. has furnished a declaration to the specified bank containing such particulars, in the prescribed form and verified in the prescribed manner. Accordingly, CBDT has inserted Rule 26D to prescribe the form and manner for furnishing the declaration discussed below.

(4) Prescribed form and manner for furnishing declaration with the bank [Rule 26D]

Sub-rule	Provision
1	**Form No. and manner of furnishing the form:** The declaration required to be furnished by the specified senior citizen to the specified bank shall be in Form no. 12BBA to be furnished in paper form duly verified.
2 & 3	**Specified bank deducts tax at source considering the declaration furnished:** On furnishing of the declaration in Form No. 12BBA, the specified bank would compute the total income of such specified senior citizen for the relevant assessment year, after giving effect to the deduction allowable under Chapter VI-A and rebate allowable under section 87A and deduct income-tax on such total income on the basis of the rates in force. The effect of the deduction allowable under Chapter VI-A has to be given based on the evidence furnished by the specified senior citizen during the previous year.
4	**Specified bank responsible for keeping and maintaining declaration and evidence furnished by the senior citizen:** The declaration referred to in sub-rule (1) and evidence for claiming deduction under Chapter VI-A referred to in sub-rule (3) shall be properly maintained by the Specified Bank and shall be made available to the Principal Chief Commissioner of Income-tax or Chief Commissioner of Income-tax, as and when required

ILLUSTRATION 17

Mr. Sharma, a resident Indian aged 77 years, gets pension of ₹55,000 per month from the UP State Government. The same is credited to his savings account in SBI, Lucknow Branch. In addition, he gets interest@8% on fixed deposit of ₹20 lakhs with the said bank. Out of the deposit of ₹20 lakhs, ₹2 lakh represents a five-year term deposit made by him on 1.4.2024. Interest on savings bank credited to his SBI savings account for the P.Y.2024-25 is ₹9,500.

(I) From the above facts, compute the total income and tax liability of Mr. Sharma for the A.Y. 2025-26 in a manner more beneficial to him.

(II) What would be the amount of tax deductible at source by SBI, assuming that the same is a specified bank? Is Mr. Sharma required to file his return of income for A.Y.2025-26, if tax deductible at source has been fully deducted? Examine.

(III) Is Mr. Sharma required to file his return of income for A.Y.2025-26, if the fixed deposit of ₹20 lakhs was with Canara Bank instead of SBI, other facts remaining the same?

SOLUTION

(I) (i) Computation of total income of Mr. Sharma for A.Y.2025-26 under default tax regime

	Particulars	₹	₹
I	**Salaries**		
	Pension (55,000 x 12)	6,60,000	
	Less: Standard deduction u/s 16(ia)	75,000	
			5,85,000
II	**Income from Other Sources**		
	Interest on fixed deposit (₹ 20 lakhs x 8%)	1,60,000	
	Interest on savings account	9,500	1,69,500
Gross total income			**7,54,500**
Less:	**Deductions under Chapter VI-A** [Deduction under section 80C and 80TTB would not be available under default regime under section 115BAC]		Nil
Total Income			**7,54,500**

Computation of tax liability		
Tax payable		
Upto ₹ 3,00,000	Nil	
₹ 3,00,001 to ₹ 7,00,000 [5% of ₹ 4,00,000]	20,000	
₹ 7,00,001 to ₹ 7,54,500 [10% of ₹ 54,500]	5,450	25,450
Add: Health and Education Cess@4%		1,018
Tax liability		**26,468**
Tax liability (rounded off)		**26,470**

(ii) Computation of total income of Mr. Sharma for A.Y.2025-26, if he shifts out of the default regime provided under section 115BAC

	Particulars	₹	₹
I	**Salaries**		
	Pension (55,000 x 12)	6,60,000	
	Less: Standard deduction u/s 16(ia)	50,000	
			6,10,000
II	**Income from Other Sources**		
	Interest on fixed deposit (₹ 20 lakhs x 8%)	1,60,000	
	Interest on savings account	9,500	1,69,500
Gross total income			**7,79,500**
Less:	**Deductions under Chapter VI-A**		
	Under Section 80C		
	Five years term deposit (₹ 2 lakh, restricted to ₹ 1.5 lakh)	1,50,000	
	Under section 80TTB		
	Interest on fixed deposit and savings account, restricted to ₹ 50,000, since Mr. Sharma is a resident Indian of the age of 77 years.	50,000	2,00,000
Total Income			**5,79,500**
Computation of tax liability			
Tax payable [₹ 79,500 x 20% + ₹ 10,000]			25,900
Add: Health and Education Cess@4%			1,036
Tax liability			**26,936**
Tax liability (rounded off)			**26,940**

Since Mr. Sharma's tax liability is lower under the default regime under section 115BAC, it is advisable to him to pay tax under the default regime.

(II) SBI, being a specified bank, is required to deduct tax at source u/s 194P and remit the same to the Central Government. In such a case, Mr. Sharma would not be required to file his return of income u/s 139.

(III) If the fixed deposit of ₹ 20 lakh is with a bank other than SBI, which is the bank where his pension is credited, then, Mr. Sharma would not qualify as a "specified senior citizen". In this case, Mr. Sharma would have to file his return of income u/s 139, since his total income (without giving effect to *deduction* under Chapter VI-A) exceeds the basic exemption limit.

13.3.25 Deduction of tax at source on purchase of goods [Section 194Q]

(1) Applicability and rate of TDS

Section 194Q requires any person, being a **buyer who is responsible for paying any sum to any resident-seller for purchase of goods** of the value or aggregate of such value exceeding ₹ 50 lakhs in a previous year, to deduct tax at source **@0.1% of such sum exceeding ₹ 50 lakhs**.

Purchase of goods - TDS @ 0.1% of sum > ₹ 50 lakhs

(2) Time of deduction

The deduction is to be made at the time of credit of such sum to the account of the resident-seller or at the time of payment thereof by any mode, whichever is earlier.

Where such sum is credited to any account in the books of account of the person liable to pay such income, such credit of income is deemed to be credit of such income to the account of the payee and tax has to be deducted at source. The account to which such sum is credited may be called "Suspense account" or by any other name.

(3) Non-applicability of TDS under section 194Q [Section 194Q(5)]

Tax is **not** required to be deducted under this section in respect of a transaction on which -

(a) tax is deductible under any of the provisions of this Act; and

(b) tax is collectible under the provisions of section 206C, other than section 206C(1H).

Non-applicability

In case of a transaction to which both section 206C(1H) and section 194Q applies, tax is required to be deducted under section 194Q.

(4) Meaning of buyer

Buyer means a person whose **total sales, gross receipts or turnover** from the business carried on by him **exceeds ₹ 10 crores** during the financial year immediately preceding the financial year in which the purchase of goods is carried out.

Turnover > ₹ 10 crores

However, the buyer does not include a person as notified by the Central Government for this purpose, subject to fulfillment of the stipulated conditions.

(5) Power of the CBDT to issue guidelines

In case of any difficulty arises in giving effect to the provisions of this section, the CBDT is empowered to issue guidelines, with the approval of the Central Government, for the purpose of removing the difficulty.

Every guideline issued by the CBDT shall be laid before each House of Parliament, and shall be binding on the income-tax authorities and on the person liable to deduct tax.

Guidelines

Accordingly, the CBDT has, vide ***Circular no. 13/2021 dated 30.6.2021 and Circular No. 20/2021 dated 25.11.2021***, issued the following guidelines for removing certain difficulties-

1. Applicability on transactions carried through various Exchanges

There are practical difficulties in implementing the provisions of TDS contained in section 194-Q in case of certain exchanges and clearing corporations. In these transactions, sometimes, there is no one-to-one contract between the buyers and the sellers.

In order to remove such difficulties, it is provided that the provisions of section 194Q would **not** be applicable in relation to,-

(i) transactions in securities and commodities which are traded through recognized stock exchanges or cleared and settled by the recognized clearing corporation, including recognized stock exchanges or recognized clearing corporation located in International Financial Service Centre (IFSC)

(ii) transactions in electricity, renewable energy certificates and energy saving certificates traded through registered power exchanges.

2. Adjustment for GST, various state levies and taxes other than GST, purchase returns

Vide Circular No.17/2020 dated 29.9.2020, it was clarified that no adjustment on account of GST is required to be made for collection of tax under section 206C(1H), since the collection is made with reference to receipt of amount of sale consideration.

However, the situation is different so far as TDS is concerned. It has been clarified in Circular No.23/2017 dated 19th July 2017 as under –

"Wherever in terms of the agreement or contract between the payer and the payee, the component of 'GST on services' comprised in the amount payable to a resident is indicated separately, tax shall be deducted at source under Chapter XVII-B on the amount paid or payable without including such 'GST on services' component. GST for these purposes shall include Integrated Goods and Services Tax, Central Goods and Services Tax, State Goods and Services Tax and Union Territory Goods and Services Tax."

Treatment of tax deduction on GST component included in the invoice and in case of purchase of goods which are not covered within the purview of GST, but which are subject to VAT/Sales tax/Excise duty/CST has been clarified vide CBDT Circular No. 13/2021 dated 30.6.2021 and Circular No. 20/2021 dated 25.11.2021, respectively.

	Condition	***Amount on which tax is to be deducted u/s 194Q***
(i)	*Where tax is deducted at the time of credit of amount in the account of the seller* *and* *In terms of the agreement or contract between the buyer and seller, component of GST is indicated separately in the invoice and where purchase of goods are not covered within the purview of GST, VAT/ Sales tax/ Excise duty/ CST is indicated separately in the invoice*	*Tax has to be deducted on the amount credited (without including such GST/ VAT/ Sales tax/ Excise duty/ CST)*

(ii)	*Where tax is deducted on payment basis (if payment is earlier than the credit)*	*Tax has to be deducted on the whole amount (since it is not possible to identify the payment with the tax component to be invoiced in the future)*
(iii)	*In case of purchase returns, where the money is refunded by the seller*	*Tax deducted earlier u/s 194Q on such purchase (which is now returned) may be adjusted against the next purchase from the same seller*
(iv)	*In case of purchase returns, where goods are replaced by the seller*	*No adjustment is required as in that case the purchase on which tax was deducted under section 194Q has been completed with goods replaced*

3. Can non-resident be a buyer under section 194Q?

The provisions of section 194Q would **not** apply to a non-resident whose purchase of goods from a seller resident in India is not effectively connected with the permanent establishment of such non-resident in India. For this purpose, "permanent establishment" shall mean to include a fixed place of business through which the business of the enterprise is wholly or partly carries on.

4. Should tax be deducted when the seller is a person whose income is exempt?

The provisions of section 194Q would **not** apply on purchase of goods from a person, being a seller, who as a person is exempt from income tax under the Act (like person exempt under section 10) or under any other Act passed by the Parliament (Like RBI Act, ADB Act etc.).

Similarly, with respect to section 206C(1H) [discussed later in the chapter], it is clarified that the provisions thereof would not apply to sale of goods to a person, being a buyer, who as a person is exempt from income-tax under the Act (like person exempt under section 10) or under any other Act passed by the Parliament (like RBI Act, ADB Act etc.).

The above clarifications would not apply if only part of the income of the person (being a seller or being a buyer, as the case may be) is exempt.

5. Should tax be deducted on advance payment?

Since the provisions apply on payment or credit whichever is earlier, the provisions of section 194Q shall apply to advance payment made by the buyer to the seller.

6. Would provisions of section 194Q apply to buyer in the year of incorporation?

Under section 194Q, a buyer is required to have total sales or gross receipts or turnover from the business carried on by him exceeding ₹ 10 crore during the financial year immediately preceding the financial year in which the purchase of goods is carried out. Since this condition would not be satisfied in the year of incorporation, the provisions of section 194Q shall **not** apply in the year of incorporation.

7. Would provisions of section 194Q apply to buyer if the turnover from business is ₹ 10 crore or less?

As regards whether the provisions of section 194Q would apply to a buyer who has turnover or gross receipts exceeding ₹ 10 crore but total sales or gross receipts or turnover from business is ₹ 10 crore or less, it is clarified that, for the purposes of section 194Q, a buyer is required to have total sales or gross receipts or turnover **from the business carried on by him** exceeding ₹ 10 crore during the financial year immediately preceding the financial year in which the purchase of goods is carried out. **Hence, the sales or gross receipts or turnover from business carried on by him must exceed ₹ 10 crore.** His turnover or receipts from non-business activity is **not** to be counted for this purpose.

8. Applicability of the provisions of section 194Q in case of department of Government not being a public sector undertaking or corporation

As per the provisions of section 194Q, for a person to be considered as a buyer, following conditions are required to be fulfilled:

(a) Such person shall be carrying out a business/ commercial activity;

(b) The total sales, gross receipts or turnover from such business/ commercial activity shall be more than ₹ 10 crore during the financial year immediately preceding the financial year in which goods are being purchased by such person.

	Issue	Would TDS u/s 194Q be attracted?
(i)	Can Department of Government be a "buyer" for the purposes of section 194Q? - If it is carrying on business/ commercial activity	Yes (subject to fulfillment of other conditions)

	- If it is not carrying on any business/ commercial activity	No, since it will not be considered as a buyer
(ii)	Can Department of Central/State Government be considered as "seller" for the purpose of section 194Q?	No [Hence, no tax can be deducted u/s 194Q by the buyer]

Note - A Public sector Undertaking or corporation established under Central or State Act or any other such body, authority or entity, would, however, be required to comply with the provisions of section 194Q and tax shall be deducted accordingly.

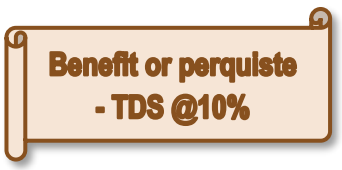
13.3.26 Deduction of tax at source on benefit or perquisite in respect of business or profession [Section 194R]

(1) Applicability and rate of TDS [Section 194R(1)]

Any person who is responsible for providing, to a resident,

- any benefit or perquisite whether convertible into money or not,
- arising from business or the exercise of a profession,

by such resident



has to, before providing such benefit or perquisite, as the case may be, to such resident, ensure that tax has been deducted in respect of such benefit or perquisite **@10% of the value or aggregate of value of such benefit or perquisite**.

The provisions of section 194R(1) would apply to any benefit or perquisite whether in cash or in kind or partly in cash and partly in kind.

(2) Meaning of "Person responsible for providing" [Explanation 1 to section 194R]

"Person responsible for providing" means the person providing such benefit or perquisite. In case of a company, it means the company itself, including the principal officer thereof.

(3) Cases where benefit or perquisite is wholly in kind or partly in kind and partly in cash [First Proviso to section 194R(1)]

Where the benefit or perquisite, as the case may be, is wholly in kind or partly in cash and partly in kind but the part in cash is not sufficient to meet the liability of deduction of tax in respect of whole of such benefit or perquisite, the person responsible for providing such benefit or perquisite has to, before releasing the benefit or perquisite, ensure that tax required to be deducted has been paid in respect of the benefit or perquisite.

(4) Cases where no tax is required to be deducted under section 194R [Second and Third Proviso to section 194R(1)]

No tax is required to be deducted under section 194R in the following cases –

- In case of a resident, where the value or aggregate of the value of the benefit or perquisite provided or likely to be provided to such resident during the financial year does not exceed ₹ 20,000; or

- Where a person responsible for providing such benefit or perquisite is an individual or HUF, whose total sales, gross receipts or turnover from business or profession does not exceed ₹ 1 crore in case of business or ₹ 50 lakhs in case of profession, during the financial year immediately preceding the financial year in which such benefit or perquisite, as the case may be, is provided by such person.

(5) Power of CBDT to issue guidelines [Section 194R(2)/(3)]

In case any difficulty arises in giving effect to the provisions of this section, the CBDT may issue guidelines for the purpose of removing the difficulty with the previous approval of the Central Government.

Every guideline issued by the CBDT would be laid before each House of Parliament, and would be binding on the income-tax authorities and on the person providing such benefit or perquisite.

Accordingly, the CBDT has, with the prior approval of the Central Government, vide **Circular no. 12/2022 dated 16.6.2022 and Circular no. 18/2022 dated 13.9.2022**, issued the following guidelines –

Question 1: Is it necessary that the person providing benefit or perquisite needs to check if the amount is taxable under section 28(iv), before deducting tax under section 194R?

Answer: No. The deductor is not required to check whether the amount of benefit or perquisite that he is providing would be taxable in the hands of the recipient under section 28(iv). The amount could be taxable under any other section like section 41(1) etc. Section 194R casts an obligation on the person responsible for providing any benefit or perquisite to a resident, to deduct tax at source @10%. There is no further requirement to check whether the amount is taxable in the hands of the recipient or under which section it is taxable.

In the context of section 195 it is a requirement to know whether the payment made by the deductor is income in the hands of the non-resident recipient, as section 195 requires deduction on any other sum chargeable under the provisions of this Act at the rates in force. Thus, there is requirement that the deductor needs to verify if the "sum is chargeable under the Income-tax Act". The term "rate in force" is defined under section 2(37A) and it allows benefit of agreement under section 90 or section 90A, if eligible, in determining the rate of tax at which the tax is to be deducted at source. Hence, there is further requirement of checking if the amount is taxable under tax treaty and if yes, at what rate. Such a requirement is not there in section 194R, in the absence of these two terms in this section. Hence, there is no requirement for deductor to verify whether the amount is taxable in the hands of the recipient or section under which it is taxable.

These two terms are also not there in section 194E and the Supreme Court in the case of *PILCOM vs. CIT West Bengal*, held that tax is to be deducted under section 194E at a specific rate indicated there in and there is no need to see the taxability or the rate of taxability in the hands of the non-resident.

Question 2: Is it necessary that the benefit or perquisite must be in kind for section 194R to operate?

Answer: Tax under section 194R is required to be deducted whether the benefit or perquisite is in cash or in kind.

First proviso to section 194R(1) clearly indicates the intent of the legislature that there could also be situations where the benefit or perquisite is in cash or the benefit or perquisite is in kind or partly in cash and partly in kind. Thus, section 194R clearly brings in its scope the situation where the benefit or perquisite is in cash or in kind or partly in cash or partly in kind.

Question 3: Is there any requirement to deduct tax under section 194R, when the benefit or perquisite is in the form of a capital asset?

Answer: As has been stated in answer to question no 1, there is no requirement to check whether the perquisite or benefit is taxable in the hands of the recipient and the section under which it is taxable.

Further, Courts have held many benefits or perquisites to be taxable even though one can argue that they are in the nature of capital asset. The following judgments illustrate this point:

- Assessee entered into an agreement with "J" for purchase of a plot of land and certain amount was paid as earnest money. However, possession of land was not given to assessee and seller entered into another agreement with a third party to develop the

said plot. Assessee filed suit in which a consent decree was passed and in pursuance of same certain amount as paid to assessee. On appeal, it was held that such sum received in pursuance of consent decree was liable to tax as business income under section 28(iv) *[Ramesh Babulal Shah v CIT (2015) 53 taxmann.com 277(Bom)]*.

- The amount representing principal loan waived by bank under one time settlement scheme would constitute income falling under section 28(iv) relating to value of any benefit or perquisite, arising from business or exercise of profession [*CIT v Ramaniyam Homes (P) Ltd (2016) 68 taxmann.com 289 (Mad)]*.
- Value of rent free accommodation, furniture and fixtures given to director was held as taxable under section 28(iv). *CIT v Subrata Roy (2016) 385 ITR 547 (All*).
- Where a car was given to an assessee by his disciple, who had been benefited from his preaching, the value of car was held to be taxable in the hands of the assessee being a receipt from the exercise of the vocation carried on by him [*CIT (Addl) v Ram Kripal Tripathi (1980) 125 ITR 408 (All)].*
- The assessee was a director of a company. In terms of an agreement with the promoters, shares were allotted to the director. On these facts, it was held that the shares received by the director were benefit or perquisite received from a company by the director and it was a benefit assessable to tax [*D. M. Neterwala v CIT (1986) 122 ITR 880 (Bom)].*
- Value of gift of land was held as a receipt by the assessee in carrying on of his vocation and was held as taxable [*Amarendra Nath Chakraborty v CIT (1971) 79 ITR 342 (Cal)]*

Thus, the asset given as benefit or perquisite may be a capital asset in general sense of the term like car, land, etc, but in the hands of the recipient, it is benefit or perquisite and has accordingly been held to be taxable. In any case, as stated earlier, the deductor is not required to check if the benefit or perquisite is taxable in the hands of recipient. Thus, the deductor is required to deduct tax under section 194R in all cases where benefit or perquisite (of whatever nature) is provided.

Question 4: If loan settlement/waiver by a bank is to be treated as benefit/ perquisite, it would lead to hardship as the bank would need to incur the additional cost of tax deduction in addition to the haircut that he has taken. Will section 194R apply in such a situation?

As per the judgment of *CIT v. Ramaniyam Homes (P) Ltd (2016) 68 taxmann.com 289 (Mad)* mentioned above, the amount representing principal loan waived by bank under one time

settlement scheme would constitute income falling under section 28(iv) relating to value of any benefit or perquisite, arising from business or exercise of profession

However, it has been clarified, vide Circular no. 18/2022 dated 13.9.2022, that one-time loan settlement with borrowers or waiver of loan granted on reaching settlement with the borrowers by the following would not be subjected to tax deduction at source under section 194R:

(i) Public Financial Institution

(ii) Scheduled Bank

(iii) Cooperative bank (other than a primary agricultural credit society)

(iv) Primary co-operative Agricultural and Rural Development Bank

(v) State Financial Corporation

(vi) State Industrial Investment Corporation being a Government company, engaged in the business of providing long-term finance for industrial projects;

(vii) Deposit taking Non-Banking Financial Company

(viii) Systemically Important Non-deposit Taking Non-Banking Financial Company

(ix) Public company engaged in providing long term finance for construction or purchase of houses in India for residential purpose and which is registered in accordance with the guidelines/ direction issued by the National Housing Bank formed under National Housing Bank Act 1987;

(x) Registered Asset Reconstruction Companies

This clarification is only for the purposes of section 194R. The treatment of such settlement/ waiver in the hands of the person who had got benefitted from such waiver would not be impacted by this clarification. Taxability of such settlement/ waiver in the hands of the beneficiary will be governed by the relevant provisions of the Act.

Question 5: Whether sales discounts, cash discounts and rebates are benefit or perquisite?

Answer: Sales discounts, cash discounts or rebates allowed to customers from the listed retail price represent lesser realization of the sale price itself. To that extent, the purchase price of customer is also reduced.

These are also benefits though related to sales/purchase. Since TDS under section 194R is applicable on all forms of benefit/perquisite, tax is required to be deducted. However, subjecting these to tax deduction would put seller to difficulty. To remove such difficulty, it has been clarified that no tax is required to be deducted under section 194R on sales discounts, cash discounts and rebates allowed to customers.

Where a seller is selling its items from its stock in trade to a buyer, the seller offers two items free with purchase of 10 items. In substance, the seller is actually selling 12 items at a price of 10 items. Let us assume that the price of each item is ₹ 12. In this case, the selling price for the seller would be ₹ 120 for 12 items. For buyer, he has purchased 12 items at a price of 10. Just like seller, the purchase price for the buyer is ₹ 120 for 12 items and he is expected to record so in his books.

In such a situation, again, there could be difficulty in applying section 194R provision. Hence, to remove difficulty it has been clarified that on the above facts no tax is required to be deducted under section 194R.

It has been clarified that the situation is different when free samples are given and the above relaxation would not apply to a situation of free samples.

Similarly, this relaxation should not be extended to other benefits provided by the seller in connection with its sale. To illustrate, the following are some of the examples of benefits/perquisites on which tax is required to be deducted under section 194R (the list is not exhaustive):

- When a person gives incentives (other than discount, rebate) in the form of cash or kind such as car, TV, computers, gold coin, mobile phone etc.
- When a person sponsors a trip for the recipient and his/her relatives upon achieving certain targets
- When a person provides free ticket for an event
- When a person gives medicine samples free to medical practitioners.

The above examples are only illustrative. The relaxation provided from the non-deduction of tax for sales discounts and rebates is only for those items and should not be extended to others.

It has been further clarified that these benefits/perquisites may be used by owner/ director/ employee of the recipient entity or their relatives who in their individual capacity may not be

carrying on business or exercising a profession. However, the tax is required to be deducted by the person in the name of recipient entity since the usage by owner/ director/ employee/ relative is by virtue of their relation with the recipient entity and in substance the benefit/perquisite has been provided by the person to the recipient entity.

To illustrate, the free medicine sample may be provided by a company to a doctor who is an employee of a hospital. The TDS under section 194R is required to be deducted by the company in the hands of hospital as the benefit/perquisite is provided to the doctor on account of him being the employee of the hospital. Thus, in substance, the benefit/perquisite is provided to the hospital. The hospital may subsequently treat this benefit/perquisite as the perquisite given to its employees (if the person who used it is his employee) under section 17 and deduct tax under section 192. In such a case, it would first be taxable in the hands of the hospital and then allowed as a deduction as salary expenditure. Thus, ultimately the amount would get taxed in the hands of the employee and not in the hands of the hospital. Hospital can get credit of tax deducted under section 194R by furnishing its tax return. It has been further clarified that the threshold of ₹ 20,000 is also required to be seen with respect to the recipient entity.

Similarly, the tax is required to be deducted under section 194R if the benefit or perquisite is provided to a doctor who is working as a consultant in the hospital. In this case the benefit or perquisite provider may deduct tax under section 194R with hospital as the recipient and then hospital may again deduct tax under section for providing the same benefit or perquisite to the consultant. To remove difficulty, as an alternative, the original benefit or perquisite provider may directly deduct tax under section 194R in the case of the consultant as a recipient.

The provisions of section 194R would not apply if the benefit or perquisite is being provided to a Government entity, like Government hospital, not carrying on business or profession.

Question 6: How is the valuation of benefit/perquisite required to be carried out?

Answer: The valuation would be based on the fair market value of the benefit or perquisite except in following cases:-

	Situation	Value for such benefit/perquisite
(i)	The benefit/perquisite provider has purchased the benefit/perquisite before providing it to the recipient	purchase price
(ii)	The benefit/perquisite provider manufactures such items given as benefit/perquisite	the price that it charges to its customers for such items

It has been further clarified that GST would not be included for the purposes of valuation of benefit/perquisite for TDS under section 194R.

Question 7: Many times, a social media influencer is given a product of a manufacturing company so that he can use that product and make audio/video to speak about that product in social media. Is this product given to such influencer a benefit or perquisite?

Answer: Whether this is benefit or perquisite will depend upon the facts of the case.

In case of benefit or perquisite being a product like car, mobile, outfit, cosmetics, etc. and if the product is returned to the manufacturing company after using for the purpose of rendering service, then it will not be treated as a benefit/perquisite for the purposes of section 194R.

However, if the product is retained, then it would be in the nature of benefit/perquisite and tax is required to be deducted accordingly under section 194R.

Question 8: Whether reimbursement of out of pocket expense incurred by service provider in the course of rendering service is benefit/perquisite?

Answer: Any expenditure which is the liability of a person carrying out business or profession, if met by the other person is in effect benefit/perquisite provided by the second person to the first person in the course of business/profession.

For example, a consultant is rendering service to a person "X" for which he is receiving consultancy fee. In the course of rendering that service, he has to travel to a different city from the place where is regularly carrying on business or profession. For this purpose, he pays for boarding and lodging expenses incurred exclusively for the purposes of rendering the service to "X". Ordinarily, the expenditure incurred by the consultant is part of his business expenditure which is deductible from the fee that he receives from company "X". In such a case, the fee received by the consultant is his income and the expenditure incurred on travel is his expenditure deductible from such income in computing his total income.

If this travel expenditure is met by the company "X", it is benefit or perquisite provided by "X" to the consultant.

However, sometimes the invoice is obtained in the name of "X" and accordingly, if paid by the consultant, is reimbursed by "X". In this case, since the expense paid by the consultant (for which reimbursement is made) is incurred wholly and exclusively for the purposes of rendering services to "X" and the invoice is in the name of "X", then the reimbursement made

by "X" being the service recipient will not be considered as benefit/perquisite for the purposes of section 194R.

If the invoice is not in the name of "X" and the payment is made by "X" directly or reimbursed, it is the benefit/perquisite provided by "X" to the consultant for which deduction is required to be made under section 194R.

However, it has been clarified, vide circular no. 18/2022 dated 13.9.2022, that in case of a supplier who is a "pure agent" fulfilling the following conditions, the reimbursement would not be treated as benefit/ perquisite for the purpose of section 194R -

i. the supplier acts as a pure agent of the recipient of the supply, when he makes payment to the third party on authorization by such recipient;

ii. the payment made by the pure agent on behalf of the recipient of supply has been separately indicated in the invoice issued by the pure agent to the recipient of service; and

iii. the supplies procured by the pure agent from the third party as a pure agent of the recipient of supply are in addition to the services he supplies on his own account.

In case these conditions are not satisfied, such expenditure incurred is included in the value of supply under GST. However, in the abovementioned case of "pure agent", if all the conditions are satisfied, the GST input credit is allowed to the recipient and it is not considered as supply of the pure agent. In such a case, it is clarified that the amount incurred by such "pure agent" for which he is reimbursed by the recipient would not be treated as benefit/perquisite for the purpose of section 194R.

Meaning of "Pure Agent" – A "pure agent" means a person who

a) enters into a contractual agreement with the recipient of supply to act as his pure agent to incur expenditure or costs in the course of supply of goods or services or both;

b) neither intends to hold nor holds any title to the goods or services or both, so procured or provided as pure agent of the recipient of supply;

c) does not use for his own interest such goods or services so procured; and

d) receives only the actual amount incurred to procure such goods or services in addition to the amount received for supply he provides on his own account.

Question 9: Tax deduction under sections 194C and 194J is required to be made from the gross amount of bill, including the reimbursement. A person has provided service to a company and out-of-pocket expenses are charged by him to the company along with service fee in the same bill. Company deducts tax under section 194J on both service fee components as well as on out-of-pocket expense. Is there a noncompliance with the provision of section 194R?

If out-of-pocket expenses (reimbursement) are already part of the consideration in the bill on which tax is deducted under the relevant provisions of the Act, other than section 194R, it is clarified, vide circular no. 18/2022 dated 13.9.2022, that there will not be further liability for tax deduction under section 194R.

In the above example, out-of-pocket expense is part of the consideration in the bill for professional fee that is charged to the company and the tax is deducted under section 194J on the entire consideration including out-of-pocket expense. In such a case, the out-of-pocket expense is already included as part of professional fee. Hence, there is no further benefit/perquisite which requires tax deduction under section 194R.

Question 10: If there is a dealer conference to educate the dealers about the products of the company - Is it benefit/perquisite?

Answer: The expenditure pertaining to dealer/ business conference would not be considered as benefit/ perquisite for the purposes of section 194R in a case where dealer/ business conference is held with the prime object to educate dealers/customers about any of the following or similar aspects:

(i) new product being launched

(ii) discussion as to how the product is better than others

(iii) obtaining orders from dealers/customers

(iv) teaching sales techniques to dealers/customers

(v) addressing queries of the dealers/customers

(vi) reconciliation of accounts with dealers/customers

However, such conference must not be in the nature of incentives/ benefits to select dealers/customers who have achieved particular targets.

Further, in the following cases the expenditure would be considered as benefit or perquisite for the purposes of section 194R -

(i) Expense attributable to leisure trip or leisure component, even if it is incidental to the dealer/ business conference.

(ii) Expenditure incurred for family members accompanying the person attending dealer/ business conference

(iii) Expenditure on participants of dealer/ business conference for days which are on account of prior stay or overstay beyond the dates of such conference. However, a day immediately prior to actual start date of the conference and a day immediately following the actual end date of conference would not be considered as over stay.

Question 11: If there is a dealer conference to educate the dealers about the products of the company - (i) is there a requirement that all dealers must be invited in the conference, (ii) how to identify benefit against individual dealers in a group activity?

It has been clarified, vide circular no. 18/2022 dated 13.9.2022, that it is not necessary that all dealers are required to be invited in a dealer/business conference for the expenses to be not considered as benefit/perquisite for the purposes of tax deduction under section 194R.

There may be expenses during such dealer/business conference which need to be classified as benefit/perquisite and tax is required to be deducted under section 194R. However, there may be practical difficulties in identifying such benefit/perquisite to actual recipient due to the fact that it is a group activity and reasonable allocation is not possible. Non compliance of the provision of section 194R, in such a case, would not only result in disallowance under section 40(ia) but may also result in treating the benefit/perquisite provider as assessee in default under section 201 with all other consequences.

In order to remove these practical difficulties, it has been clarified that if benefit/perquisite is provided in a group activity in a manner that it is difficult to match such benefit/perquisite to each participant using a reasonable allocation key, the benefit/perquisite provider may at his option not claim the expense, representing such benefit/perquisite, as deductible expenditure for calculating his total income. If he decides to opt so, he will not be required to deduct tax under section 194R on such benefit/perquisite and therefore he will not be treated as assessee in default under section 201. Thus, in such a case he must add back the expenditure, representing such benefit/perquisite, to calculate his total income if such expenditure is debited in the account.

Question 12: Section 194R provides that if the benefit/ perquisite is in kind or partly in kind (and cash is not sufficient to meet TDS) then the person responsible for providing such benefit or perquisite is required to ensure that tax required to be deducted has been paid in respect of the benefit or perquisite, before releasing the benefit or perquisite. How can such person be satisfied that tax has been deposited?

Answer: The requirement of law is that if a person is providing benefit in kind to a recipient and tax is required to be deducted under section 194R, the person is required to ensure that tax required to be deducted has been paid by the recipient. Such recipient would pay tax in the form of advance tax. The tax deductor may rely on a declaration along with a copy of the advance tax payment challan provided by the recipient confirming that the tax required to be deducted on the benefit/perquisite has been deposited. This would then be required to be reported in TDS return along with challan number. This year Form 26Q has included provisions for reporting such transactions.

In the alternative, as an option to remove difficulty if any, the benefit provider may deduct the tax under section 194R and pay to the Government. The tax should be deducted after taking into account the fact the tax paid by him as TDS is also a benefit under section 194R. In the Form 26Q he will need to show it as tax deducted on benefit provided.

Question 13: Company "A" gifts a car to its dealer "B" and deducted tax on this benefit under section 194R. Dealer "B"uses this car in his business. Will he get deduction for depreciation in calculating his income under the head "profits and gains of business or profession"?

It has been clarified, vide circular no. 18/2022 dated 13.9.2022, that once Company "A" has deducted tax on gifting of car in accordance with section 194R (or released the car after dealer "B" showed him payment of tax on such benefit) and dealer "B" has included this benefit as income in his income tax return, it would be deemed that the "actual cost" of the car for the purposes of section 32 shall be the amount of benefit included by dealer "B" as income in his income-tax return. Hence, dealer "B" can get depreciation on fulfilment of other conditions for claiming depreciation.

Question 14: Whether Embassy/High Commissions are required to deduct tax under section 194R?

Answer: It has been clarified, vide circular no. 18/2022 dated 13.9.2022, that the provision of section 194R is not applicable on benefit/perquisite provided by, an organization in scope of The United Nations (Privileges and Immunity Act) 1947, an international organization whose income is exempt under a specific Act of Parliament (such as the Asian Development Bank Act 1966), an embassy, a High Commission, legation, commission, consulate and the trade representation of a foreign state.

Question 15: Whether issuance of bonus share/right share is a benefit or perquisite if issued by a company in which the public are substantially interested and whether tax is required to be deducted under section 194R?

Answer: In case of bonus shares which are issued to all shareholders by a company in which the public are substantially interested as defined in clause (18) of section 2 of the Act, it has been represented that this does not result in any benefit to shareholders as the overall value and ownership of their holding does not change. Further cost of acquisition of bonus share is taken as nil for capital gains computation when this share is sold. Similar representations have been received seeking clarity on issuance of right shares.

It has been clarified, vide circular no. 18/2022 dated 13.9.2022, that the tax under section 194R is not required to be deducted on the issuance of bonus or right shares by a company in which the public are substantially interested, where bonus shares are issued to all shareholders by such a company or right shares are offered to all shareholders by such a company, as the case may be.

13.3.27 Non-applicability of TDS provisions on payments made to Corporations whose income is exempt under section 10(26BBB) [Circular No.7/2015, dated 23-04-2015]

The CBDT had earlier issued *Circular No.4/2002 dated 16.07.2002* which laid down that there would be no requirement for tax deduction at source in respect of payments made to such entities, whose income is unconditionally exempt under section 10 of the Income-tax Act, 1961 and who are statutorily not required to file return of income as per the section 139. The said Circular also lists the entities which are unconditionally exempt under section 10 and who are statutorily not required to file return of income as per section 139.

Section 10(26BBB) provides that any income of a corporation established by a Central, State or Provincial Act for the welfare and economic upliftment of ex-servicemen being the citizens of India does not form part of the total income. The corporations covered under section 10(26BBB) are also statutorily not required to file return of income as per the section 139.

The corporations covered under section 10(26BBB) satisfy the two conditions of Circular No. 4/2002 i.e., such corporations are statutorily not required to file return of income as per section 139 and their income is also unconditionally exempt under section 10 of the Income-tax Act, 1961. Accordingly, the CBDT has examined the matter and extended the benefit of the said Circular to such corporations whose income is exempt under section 10(26BBB). Hence, there would be no requirement for tax deduction at source from the payments made to such corporations, since their income is anyway exempt under the Income-tax Act, 1961.

13.3.28 Income payable "net of tax" [Section 195A]

(1) Where, under an agreement or other arrangement, the tax chargeable on any income referred to in the foregoing provisions of this Chapter is to be borne by the person by whom the income is payable, then, for the purposes of deduction of tax under those provisions such income shall be increased to such amount as would, after deduction of tax thereon, be equal to the net amount payable under such agreement or arrangement.

(2) However, no grossing up is required in the case of tax paid under section 192(1A) by an employer on the non-monetary perquisites provided to the employee.

ILLUSTRATION 18

'X' while making payment "net of tax" to a non-resident for providing technical services on a world bank aided project had deducted tax out of such payments as per rates prescribed but says that the payee is not entitled for the TDS certificate. Examine.

SOLUTION

A payment made of 'net of tax' in terms of section 195A, refers to an agreement/arrangement, where the tax chargeable on any income is borne by the payer of the income, and for the purpose of deduction of tax at source, such income is increased to such an amount as would after deduction of tax thereon, be equal to the net amount payable under the agreement.

As per section 198, any sum deducted in accordance with the provisions of Chapter XVII-B of the Income-tax Act, 1961 is deemed to be income received while computing the income of the payee. Further, section 199 provides that credit for the tax deducted at source and paid to the Central Government shall be given to the person from whose income the deduction was made on the production of a certificate furnished under section 203 of the Income-tax Act.

As per section 203, every person deducting tax at source shall furnish to the payee a certificate in the prescribed form within the prescribed time.

Even in a case where X undertakes to pay the tax on the grossed-up amount, the non-resident shall be entitled for issue of certificate for tax deducted at source in respect of payment made 'net of tax'. This has been clarified vide CBDT *Circular No.785 dated 24.11.1999.*

Therefore, X has a legal obligation to issue TDS certificate to the non-resident, even if he has made payment of income "net of tax" to him.

13.3.29 Interest or dividend or other sums payable to Government, Reserve Bank or certain corporations [Section 196]

(1) No deduction of tax shall be made by any person from any sums payable to –

(i) the Government; or

(ii) the Reserve Bank of India; or

(iii) a corporation established by or under a Central Act, which is, under any law for the time being in force, exempt from income-tax on its income; or

(iv) a Mutual Fund specified under section 10(23D).

(2) This provision for non-deduction is applicable when such sum is payable to the above entities by way of –

(i) interest or dividend in respect of securities or shares –

(a) owned by the above entities; or

(b) in which they have full beneficial interest or

(ii) any other income accruing or arising to them.

The following is the summary of those TDS provisions which are discussed in detail in other chapters of the Study Material as mentioned in Column (4):

Section	Nature of payment	Rate of TDS	Chapter
(1)	(2)	(3)	(4)
194E	Income referred to under section 115BBA payable to non-resident sportsmen/sports association or an entertainer	20%	21: Non-resident Taxation (Module 4)
194LB	Interest payable by infrastructure debt fund to a non-corporate non-resident or foreign company	5%	
194LBA(1)/(2)	Distribution of any interest income, received or receivable by a business trust from a SPV, to its unit holders.	10% (resident) 5% (Non-resident and foreign company)	10: Assessment of Trusts, Political Parties and other Special Entities (Module 2)
	Distribution of any dividend income, received or receivable by business trust from a SPV exercising option to pay tax at concessional rate under section 115BAA, to its unit holders. However, if the SPV is not exercising the option to pay tax at concessional rate under section 115BAA, dividend income would be exempt in the hands of unit holders and tax would not be deductible at source.	10% (resident, non-resident and foreign Co.)	
194LBA(1)/(3)	Distribution of any income received from renting or leasing or letting out any real estate asset directly owned by the business trust, to its unit holders.	10% (resident)/ At the rates in force (Non-resident and foreign company)	
194LBB	Investment fund paying income to a unit holder [other than income which is exempt under section 10(23FBB)].	At the rates in force (Non-resident and foreign company)	
194LBC(1)/(2)	Income in respect of investment made in a securitisation trust (specified in *Explanation* to section 115TCA)	25% (resident individual/HUF),	

		30% (resident other than individual/HUF) At the rates in force (Non-resident and foreign company)	
194LC	Interest payable by an Indian Company or a business trust to a non-corporate non-resident or foreign company - in respect of money borrowed in foreign currency from a source outside India • under a loan agreement between 1.7.2012 and 30.6.2023 or • by way of issue of long-term infrastructure bonds during the period between 1.7.2012 and 30.9.2014 • by way of issue of long term bonds (including long term infrastructure bond) between 1.10.2014 and 30.6.2023 as approved by Central Government or - in respect of money borrowed from source outside India by way of rupee denominated bond on or before 30.6.2023	5%	21: Non resident Taxation (Module 4)
	Interest payable by an Indian company or a business trust to a non-corporate non-resident or foreign company, in respect of monies borrowed by it from a source outside India by way of issue of any long-term bond or rupee denominated bond - (i) between 1.4.2020 and 30.6.2023, which is listed only on a recognised stock exchange located in any International Financial Services Centre.	4%	

	(ii) on or after 1.7.2023, which is listed only on a recognised stock exchange located in any International Financial Services Centre.	9%	
	Interest payable by an Indian company or a business trust to a non-resident, including a foreign company, in respect of rupee denominated bond issued outside India during the period from 17.9.2018 to 31.3.2019	Nil (Since such interest is exempt u/s 10(4C), no tax is deductible u/s 194LC)	
194S	Payment of any sum to any resident by way of consideration for transfer of virtual digital asset	1%	12: Taxation of digital transactions (Module 2)
195	Any other sum payable to a non-resident	At the rates in force	21: Non resident Taxation (Module 4)
196A	Income on units of a mutual fund specified under section 10(23D) or from the specified company referred to in section 10(35) payable to non-corporate non-resident or foreign company	20% or the rates specified in DTAA, whichever is lower (provided tax residency certificate is furnished by the non-resident)	
196B	Income from units of a mutual fund or UTI purchased in foreign currency (including long term capital gain on transfer of such units) payable to an Offshore Fund	*10% in respect of* *- income from units or* *- long term capital gain arising on transfer of such units which takes place before 23.7.2024* *12.5% in respect of long term capital gain on transfer of such*	

		units which takes place on or after 23.7.2024	
196C	Income by way of interest or dividend on bonds of an Indian company or public sector company sold by the Government and purchased by a non-resident in foreign currency or GDRs referred to in section 115AC (including long term capital gain on transfer of such bonds or GDRs) payable to a non-resident	*10% in respect of* *- interest or dividend from bonds or GDRs or* *- long term capital gain on transfer of such bonds or GDRs which takes place before 23.7.2024* *12.5% in respect of long-term capital gains on transfer of such bonds or GDRs which takes place on or after 23.7.2024*	
196D	Income of Foreign Institutional Investors (FIIs) from securities (not being capital gain arising from such securities)	20% In case DTAA applies to FII, and if FII furnishes a TRC, tax would be deducted @20% or rate provided in DTAA, whichever is lower.	
	Income of specified fund from securities [not being capital gain arising from such securities or income exempt u/s 10(4D)]	10%	

Note: *In the above cases, wherever payment is made to a non-corporate non-resident or a foreign company, the rate of TDS would be further increased by a surcharge, wherever applicable, and health and education cess @4%.*

13.4 CERTIFICATE FOR DEDUCTION OF TAX AT A LOWER RATE [SECTION 197]

(1) This section applies where, in the case of any income of any person or sum payable to any person, income-tax is required to be deducted at the time of credit or payment, as the case may be at the rates in force as per the provisions of sections 192, 193, 194, 194A, 194C, 194D, 194G, 194H, 194-I, 194J, 194K, 194LA, 194LBA, 194LBB, 194LBC, 194M, 194-O, and 195.

To facilitate ease of doing business and to provide an option to seek a lower deduction certificate so as to reduce compliance burden on the assessee, section 194Q has been included within the scope of section 197 with effect from 1.10.2024.

(2) In such cases, the assessee can make an application to the Assessing Officer for deduction of tax at a lower rate or for non-deduction of tax.

(3) If the Assessing Officer is satisfied that the total income of the recipient justifies the deduction of income-tax at lower rates or no deduction of income-tax, as the case may be, he may give to the assessee such certificate, as may be appropriate.

(4) Where the Assessing Officer issues such a certificate, then the person responsible for paying the income shall deduct income-tax at such lower rates specified in the certificate or deduct no tax, as the case may be, until such certificate is cancelled by the Assessing Officer.

(5) Enabling powers have been conferred upon the CBDT to make rules for prescribing the procedure in this regard.

13.5 NO DEDUCTION IN CERTAIN CASES [SECTION 197A]

(1) Enabling provision for filing of declaration for receipt of dividend and NSS payment without deduction of tax [Sub-section (1)]

(i) This section enables an individual, who is resident in India and whose estimated total income of the previous year is less than the basic exemption limit, to receive dividends and any sum out of National Savings Scheme Account, without deduction of tax at source under sections 194 and 194EE, on furnishing a declaration in duplicate in the prescribed form and verified in the prescribed manner.

(ii) The declaration in the above form is to be furnished in writing in duplicate by the declarant to the person responsible for paying any income of the nature referred to in sections 194 or 194EE. The declaration will have to be to the effect that the tax on the estimated total income of the declarant of the previous year in which such income is to be included in computing his total income will be **Nil**.

(2) Enabling provision for filing of declaration for non-deduction of tax under section 192A or 193 or 194A or 194D or 194DA or 194-I or 194K by persons, other than companies and firms [Sub-section (1A)]

No deduction of tax shall be made under the above provisions of the Act, where a person, who is not a company or a firm, furnishes to the person responsible for paying any income of the nature referred to in these sections, a declaration in writing in duplicate in the prescribed form to the effect that the tax on his estimated total income of the previous year in which such income is to be included in computing his total income will be **Nil.**

(3) Filing declaration not permissible if income/aggregate of incomes exceed basic exemption limit [Sub-section (1B)]

Declaration cannot be furnished as per the above provisions, where -

(i) payments of dividend; or

(ii) payments in respect of deposits under National Savings Schemes, etc.; or

(iii) payment of premature withdrawal from Employee Provident Fund; or

(iv) income from interest on securities or

(v) interest other than "interest on securities"; or

(vi) insurance commission; or

(vii) payment in respect of life insurance policy; or

(viii) rent; or

(ix) income from units; or

(x) the aggregate of the amounts of such incomes in (i) to (ix) above

credited or paid or likely to be credited or paid during the previous year in which such income is to be included exceeds the basic exemption limit.

(4) Enabling provision for filing of declaration by resident senior citizens for non-deduction of tax at source [Sub-section (1C)]

For a resident senior citizen, who is of the age of 60 years or more at any time during the previous year, no deduction of tax shall be made under section 192A or section 193 or section 194 or section 194A or section 194D or section 194DA or section 194EE or section 194-I or section 194K, if such individual furnishes a declaration in writing in duplicate in Form 15H to the payer, that tax on his estimated total income of the previous year in which such income is to be included in computing his total income is **Nil**. The restriction contained in sub-section (1B) will not apply to resident senior citizens.

Further, declaration in Form 15H can also be made in a case where income of the assessee, who is eligible for rebate of income-tax under section 87A, is higher than the basic exemption limit (after allowing for deduction(s) under Chapter VI-A, if any, or set off of loss, if any, under the head "Income from house property" for which, the declarant is eligible) but his tax liability would be "Nil" after taking into account the rebate available to him under section 87A.

(5) Non-deduction of tax in certain cases

(i) Interest payments by an Offshore Banking Unit to a non-resident/not ordinarily resident in India [Sub-section (1D)]

No deduction of tax shall be made by an Offshore Banking Unit from the interest paid on -

(a) deposit made by a non-resident/not-ordinarily resident on or after 1.4.2005; or

(b) borrowing from a non-resident/not-ordinarily resident on or after 1.4.2005.

Applicability of section 197A(1D) and section 10(15)(viii) to interest paid by IFSC Banking Units (IBUs) [*Circular No 26/2016 dated 4.7.2016*]

The CBDT Circular clarifies that in accordance with the provisions of section 197A(1D), tax is not required to be deducted on interest paid by IFSC Banking Units, on deposit made on or after 1.4.2005 by a non-resident or a person who is not ordinarily resident in India, or on borrowings made on or after 1.4.2005 from such persons.

(ii) Payment to any person for, or on behalf of, the NPS Trust [Sub-section (1E)]

No deduction of tax at source shall be made from any payment to any person for, or on behalf of, the New Pension System Trust referred in section 10(44).

(iii) Payments to notified institutions/class of institutions etc. [Sub-section (1F)]

No deduction of tax shall be made or deduction of tax shall be made at such lower rate, from such payment to such person or class of persons, including institution, association or body or class of institutions or associations or bodies as may be notified by the Central Government in the Official Gazette in this behalf. Therefore, in respect of such payments made to a notified person or class of persons, no tax is to be deducted at source or tax is to be deducted at a lower rate.

(6) Time limit for delivery of one copy of declaration [Sub-section (2)]

On receipt of the declaration referred to in sub-sections (1), (1A) or (1C), the person responsible for making the payment will be required to deliver or cause to be delivered to the Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner, one copy of the declaration **on or before the 7th of the month following the month in which the declaration is furnished** to him.

13.6 MISCELLANEOUS PROVISIONS

13.6.1 Tax deducted is income received [Section 198]

Deemed income

(1) All sums deducted in accordance with the foregoing provisions ***and the income tax paid outside India by way of deduction, in respect of which an assessee is allowed a credit against the tax payable***, *shall*, for the purpose of computing the income of an assessee, be deemed to be income received.

(2) However, the following tax paid or deducted would not be deemed to be income received by the assessee for the purpose of computing the total income –

(i) the tax paid by an employer under section 192(1A) on non-monetary perquisites provided to the employees

(ii) tax deducted under section 194N.

13.6.2 Credit for tax deducted at source [Section 199]

(1) Tax deducted at source in accordance with the above provisions and paid to the credit of the Central Government shall be treated as payment of tax on behalf of the-

(i) person from whose income the deduction was made; or

(ii) owner of the security; or

(iii) depositor; or

(iv) owner of property; or

(v) unit-holder; or

(vi) shareholder.

(2) Any sum referred to in section 192(1A) and paid to the Central Government, shall be treated as the tax paid on behalf of the person in respect of whose income, such payment of tax has been made.

(3) The CBDT is empowered to frame rules for the purpose of giving credit in respect of tax deducted or tax paid under Chapter XVII. The CBDT also has the power to make rules for giving credit to a person other than the persons mentioned in (1) and (2) above. Further, the CBDT can specify the assessment year for which such credit may be given.

(4) Rule 37BA – Credit for tax deducted at source for the purposes of section 199

Rule 37BA(1) provides that credit for tax deducted at source and paid to the Central Government shall be given to the person to whom the payment has been made or credit has been given (i.e., the deductee) on the basis of information relating to deduction of tax furnished by the deductor to the income-tax authority or the person authorized by such authority.

Rule 37BA(2) provides that where under any provision of the Act, the whole or any part of the income on which tax has been deducted at source is assessable in the hands of a person other than the deductee, credit for the whole or any part of the tax deducted at source, as the case may be, shall be given to the other person and not to the deductee.

However, the deductee should file a declaration with the deductor and the deductor should report the tax deduction in the name of the other person in the information relating to deduction of tax referred to in Rule 37BA(1).

Rule 37BA(3), provides that credit for tax deducted at source and paid to the Central Government, shall be given for the assessment year for which such income is assessable.

Where tax has been deducted at source and paid to the Central Government and the income is assessable over a number of years, credit for tax deducted at source shall be allowed across those years in the same proportion in which the income is assessable to tax.

Rule 37BA(3A), provides that, for the purposes of section 194N, credit for tax deducted at source shall be given to the person from whose account tax is deducted and paid to the Central Government account for the assessment year relevant to the previous year in which such tax deduction is made.

13.6.3 Duty of person deducting tax [Section 200]

(1) The persons responsible for deducting the tax at source should deposit the sum so deducted to the credit of the Central Government or as the Board directs, within the prescribed time [Sub-section (1)].

Deposit of TDS

(2) Further, an employer paying tax on non-monetary perquisites provided to employees in accordance with section 192(1A), should deposit within the prescribed time, the tax to the credit of the Central Government or as the Board directs [Sub-section (2)].

(3) For the purpose of improving the reporting of payment of TDS made through book entry and to make existing mechanism enforceable, section 200(2A) provides that where the tax deducted or tax referred to in section 192(1A) has been paid without the production of a challan, the Pay and Accounts Officer or the Treasury Officer or the Cheque Drawing and Disbursing Officer (PAO/TO/CDDO) or any other person, by whatever name called, who is responsible for crediting such sum to the credit of the Central Government, shall deliver or cause to be delivered within the prescribed time a statement in the prescribed form, verified in the prescribed manner and setting forth prescribed particulars to the prescribed income-tax authority or the person authorised by such authority.

(4) Sub-section (3) casts responsibility on the following persons for preparing such statements for such periods as may be prescribed, after paying the tax deducted to the credit of the Central Government within the prescribed time –

Statement for deposit of TDS

(i) any person deducting any sum on or after 1st April, 2005 in accordance with the foregoing provisions of this chapter; or,

(ii) any person being an employer referred to in section 192(1A).

(5) Such statements have to be delivered or caused to be delivered to the prescribed income-tax authority or the person authorised by such authority.

(6) Such statements should be in the prescribed form and verified in the prescribed manner.

(7) It should set forth such particulars and should be delivered within such time as may be prescribed.

(8) The deductor may also deliver to the prescribed authority, a correction statement -

(a) for rectification of any mistake; or

(b) to add, delete or update the information furnished in the statement delivered under section 200(3).

(9) ***There is a time limit for furnishing statements detailing the TDS/TCS, however, there is no time limit for furnishing correction statements. Hence, such statements may be revised multiple times indefinitely. In order to put certainty and finality on the filing process of TDS and TCS statements, it is provided that, w.e.f. 1.4.2025, the deductor cannot submit a correction statement after the expiry of six years from the end of the financial year in which the original statement referred to in section 200(3) is delivered.***

Note *– Refer diagram on page no.13.124 for the time limit for payment of TDS to the Government account or tax paid under section 192(1A) prescribed under section 200(1)/(2) read with Rule 30 and furnishing statement of TDS under section 200(3) read with Rule 31A.*

13.6.4 Consequences of failure to deduct or pay

1. Deemed assessee-in-default [Section 201(1)]

Any person, including the principal officer of a company,

(i) who is required to deduct any sum in accordance with the provisions of the Act; or

(ii) an employer paying tax on non-monetary perquisites under section 192(1A)

would be deemed to be an assesse-in-default, if he does not deduct, or does not pay or after deducting, fails to pay, the whole or any part of the tax, as required by or under the provisions of the Income-tax Act, 1961.

(2) Non-applicability of deeming provision

Any person (including the principal officer of the company) who fails to deduct the whole or any part of the tax on the amount credited or paid to a payee shall not be deemed to be an assessee-in-default in respect of such tax if such payee –

(i) has furnished his return of income under section 139;

(ii) has taken into account such sum for computing income in such return of income; and

(iii) has paid the tax due on the income declared by him in such return of income,

and the payer furnishes a certificate to this effect from an accountant in such form as may be prescribed.

(3) No penalty under section 221

No penalty shall be charged under section 221 from such person unless the Assessing Officer is satisfied that such person has failed to deduct and pay the tax without good and sufficient reasons.

(4) Interest Liability

(i) A person deemed to be an assessee-in-default under section 201(1), for failure to deduct tax or to pay the tax after deduction, is liable to pay simple interest

- **@1% for every month or part of month** on the amount of such tax from the date on which tax was deductible to the date on which such tax was actually deducted and
- **@1½% for every month or part of month** from the date on which tax was deducted to the date on which such tax is actually paid [Section 201(1A)].

ILLUSTRATION 19

An amount of ₹ 40,000 was paid to Mr. X on 1.7.2024 towards fees for professional services without deduction of tax at source. Subsequently, another payment of ₹ 50,000 was due to Mr. X on 28.2.2025, from which tax @10% (amounting to ₹ 9,000) on the entire amount of ₹ 90,000 was deducted. However, this tax of ₹ 9,000 was deposited only on 22.6.2025. Compute the interest chargeable under section 201(1A).

SOLUTION

Interest under section 201(1A) would be computed as follows –

Particulars	₹
1% on tax deductible but not deducted i.e., 1% on ₹ 4,000 for 8 months	320
1½% on tax deducted but not deposited i.e. 1½% on ₹ 9,000 for 4 months[1]	540
	860

(ii) Such interest should be paid before furnishing the statements in accordance with section 200(3).

(iii) Where the payer fails to deduct the whole or any part of the tax on the amount credited or payment made to a payee and is not deemed to be an assessee-in-default under section 201(1) on account of payment of taxes by such payee, interest under section 201(1A)(i) i.e., @1% p.m. or part of month, shall be payable by the payer from the date on which such tax was deductible to the date of furnishing of return of income by such payee. The date of deduction and payment of taxes by the payer shall be deemed to be the date on which return of income has been furnished by the payee.

[1] TRACES, the TDS Centralised Processing Cell, however, calculates interest @1½% for 5 months in the above case.

(iv) Where any order is made by the Assessing Officer for the default under section 201(1), the interest shall be paid by the person in accordance with such order.

(v) Where the tax has not been paid after it is deducted, the amount of the tax together with the amount of simple interest thereon, shall be a charge upon all the assets of the person or the company, as the case may be.

Guidelines for waiver of interest charged under section 201(1A) of the Income-tax Act, 1961 – *[Circular No. 11/2017, dated 24.03.2017]*

Circular

In exercise of the powers conferred under section 119(2)(a), the CBDT has directed that the Chief Commissioner of Income-tax and Director General of Income-tax may reduce or waive interest charged under section 201(1A)(i) in the classes of cases specified below for the period and to the extent the Chief Commissioner of Income-tax/Director General of Income-tax may deem fit. However, no reduction or waiver of such interest shall be ordered unless the principal demand under sections 200A, 201(1) or 234E, as the case may be, stands fully paid or satisfactory arrangements for payment of the principal demand under these sections have been made. The Chief Commissioner of Income-tax or Director General of Income-tax may also impose any other condition as deemed fit for the said reduction or waiver of interest.

The class of cases in which the reduction or waiver of interest under section 201(1A)(i) can be considered, are as follows:

(a) Where during the course of proceedings for search and seizure under section 132, or otherwise, the books of account and other documents necessary for making deduction under Chapter XVII-B of the Act were seized and the assessee was not able to, within the time specified, deduct tax at source from any sum credited to any account (whether called "suspense account" or by any other name) in his books of account.

(b) Where any sum paid or payable was not liable for deduction of tax at source in the case of a deductor on the basis of any order passed by the jurisdictional High Court, and as a result, he did not deduct tax at source in relation to such sum, and subsequently, in consequence of any retrospective amendment of law or a decision of the Supreme Court of India or a decision of a Larger Bench of the jurisdictional High Court (which was not challenged before the Supreme Court and has become final) in any proceedings, as the case may be, tax was held to be deductible or the tax deducted by the deductor during such financial year was found to be less than the tax deductible on such sums paid or payable.

(c) Where the default under section 201 relates to non-deduction or a lower deduction of tax under section 195 in respect of a payment made to a non-resident (including a foreign company) being a resident of a country or specified territory outside India with whom India has entered into an agreement referred to in section 90 or 90A of the Act, and where —

(i) a dispute regarding the tax payable in India in respect of the said payment had been referred to the Competent Authority in India mentioned in Rule 44H of the Income-tax Rules, 1962, under the said agreement under section 90 or 90A of the Act;

(ii) such reference had been received by the Competent Authority in India within a period of two years of the date on which the notice of demand determining the tax payable was received by the person in default under section 201;

(iii) the dispute has been settled by way of a resolution arrived at under the Mutual Agreement Procedure (MAP) provided in the said agreement; and

(iv) the person in default under section 201 has given his acceptance to the resolution and has withdrawn his appeal(s) pending on the issue, within the meaning of Rule 44H(4) of the Income-tax Rules, within a period of one month of the date on which the resolution is communicated to him.

Even if the interest under section 201(1A)(i) has already been paid by the deductor, the same can be considered for a waiver, subject to the conditions above and a refund may be given to the deductor, if waiver is ordered.

The Chief Commissioner of Income-tax or Director General of Income-tax examining an application for waiver of interest under this order shall pass a speaking order after providing adequate opportunity of being heard to the applicant.

The CBDT reserves the power to examine any grievance arising out of an order passed or not passed by Chief Commissioner of Income-tax or Director General of Income-tax, as the case may be, and issue suitable directions to these authorities for proper implementation of this order. However, no review of or appeal against the orders passed on merits by such authorities would be entertained by the CBDT.

(5) Time limit for deeming a person to be an assessee-in-default for failure to deduct tax at source

No order under section 201(1), deeming a person to be an assessee-in-default for failure to deduct the whole or any part of the tax from a **person resident in India**, shall be passed at

any time after the expiry of

- seven years from the end of the financial year in which the payment is made or credit is given, or
- two years from the end of the financial year in which the correction statement is delivered under the proviso to section 200(3)

whichever is later.

There was no time limit where there has been a failure to deduct the whole or any part of the tax from a non-resident. Accordingly, w.e.f. 1.4.2025, section 201(3) has been amended to provide that no order under section 201(1), deeming a person to be an assessee-in-default for failure to deduct the whole or any part of the tax from a person, shall be passed at any time after the expiry of

- ***six years from the end of the financial year in which the payment is made or credit is given, or***
- ***two years from the end of the financial year in which the correction statement is delivered under the first proviso to section 200(3)***

whichever is later.

Further, the exclusions from the time limit, as specified in *Explanation 1* to section 153, would also apply to the above time limit for passing an order deeming a person to be an assessee-in-default. Also, the time limit would not apply to an order passed consequent to the direction contained in an order of the Commissioner under sections 263 and 264, Commissioner (Appeals) under section 250, Appellate Tribunal under section 254, Supreme Court/National Tax Tribunal under section 260 and Supreme Court under section 262. Thus, the time limit would be extended where effect is to be given to various appellate proceedings or where proceedings are stayed.

(6) Non-specification of time limit where tax has been deducted but not paid

Section 201(1) deems a person to be an assessee-in-default if he –

(i) does not deduct tax; or

(ii) does not pay; or

(iii) after so deducting fails to pay

the whole or any part of the tax, as required by or under this Act.

Thus, section 201(1) contemplates three types of defaults. The default contemplated in (ii) is covered by the default contemplated in (iii). However, the time limit has been specified only for passing of orders relating to default contemplated in (i) above. There is no time limit specified in respect of the other defaults.

Therefore, no time-limits have been prescribed for the order under section 201(1) where –

(i) the deductor has deducted but not deposited the tax deducted at source, as this would be a case of defalcation of government dues,

(ii) the employer has failed to pay the tax wholly or partly, under section 192(1A), as the employee would not have paid tax on such perquisites,

13.6.5 Deduction only one mode of recovery [Section 202]

(1) Recovery of tax through deduction at source is only one method of recovery.

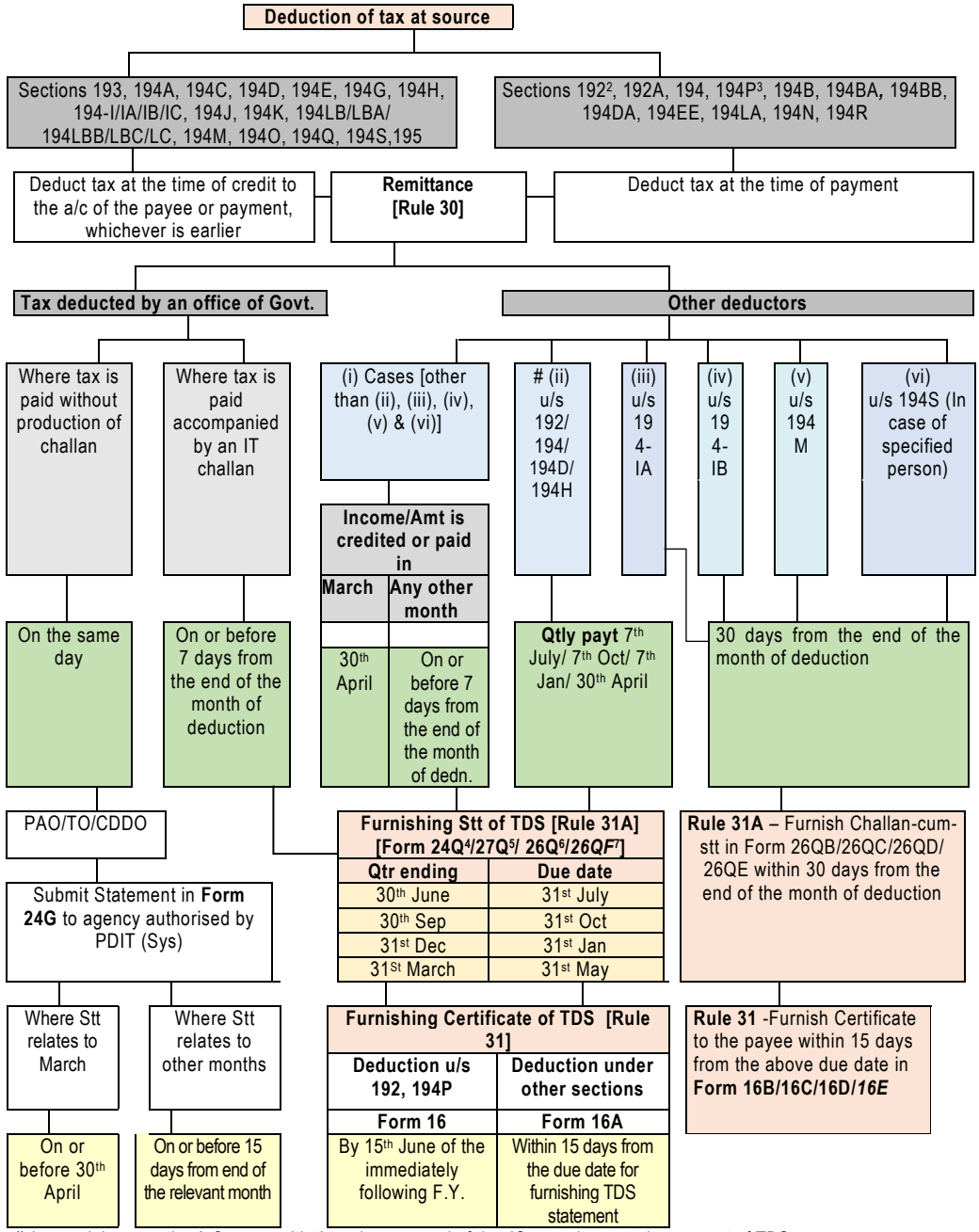
(2) The Assessing Officer can use any other prescribed methods of recovery in addition to tax deducted at source.

13.6.6 Certificate for tax deducted [Section 203]

(1) Every person deducting tax at source shall issue a certificate to the effect that tax has been deducted and specify the amount so deducted, the rate at which tax has been deducted and such other particulars as may be prescribed.

(2) Every person, being an employer, referred to in section 192(1A) shall, within such period, as may be prescribed, furnish to the person in respect of whose income such payment of tax has been made, a certificate to the effect that tax has been paid to the Central Government, and specify the amount so paid, the rate at which the tax has been paid and such other particulars as may be prescribed

[Refer diagram given on the next page for the TDS certificate under section 203 read with Rule 31].



 # In special cases, the A.O. may, with the prior approval of the JC, permit quarterly payment of TDS

[2] *Except in case of TDS on perquisite of ESOP provided by eligible start-up*
[3] *TDS required to be deducted at the time of payment, if declaration is furnished by the specified senior citizen in Form No. 12BBA*
[4] *If deduction of tax is u/s 192 and section 194P*
[5] *If deduction of tax is u/s 193 to 196D other than section 194P in respect of deductee who is non corporate non resident or a foreign company or RNOR*
[6] *If deduction of tax is u/s 193 to 196D other than section 194P in respect of all other deductees*
[7] *If deduction of tax is u/s 194S by an Exchange in accordance with guidelines u/s 194S(6)*

13.6.7 Common number for TDS and TCS [Section 203A]

(1) **Application for TAN:** Persons responsible for deducting tax or collecting tax at source should apply to the Assessing Officer for the allotment of a "tax-deduction and collection-account number".

(2) **Quoting of TAN:** Section 203A(2) enlists the documents/ certificates/ returns/ challans in which the "tax deduction account number" or "tax collection account number" or "tax deduction and collection account number" has to be compulsorily quoted. They are -

(i) challans for payment of any sum in accordance with the provisions of section 200 or section 206C(3);

Tax deduction and collection of Account Number (TAN)

(ii) certificates furnished under section 203 or section 206C(5);

(iii) statements prepared and delivered or caused to be delivered in accordance with the provisions of section 200(3) or section 206C(3);

(iv) returns delivered in accordance with the provisions of section 206 or section 206C(5A) or section 206C(5B); and

(v) in all other documents pertaining to such transactions as may be prescribed in the interests of revenue.

(3) **No requirement to obtain TAN in notified cases:** The requirement of obtaining and quoting of TAN under section 203A shall not apply to such person, as may be notified by the Central Government in this behalf.

(4) **Penalty for failure to comply with the provisions of section 203A:** Penalty under section 272BB would be imposable of ₹ 10,000 for

- failure to comply with the provisions of section 203A or
- Quoting false TAN willfully in challans/certificates/statements/other documents referred to in section 203A(2).

Such penalty is imposable by the Assessing Officer. However, no penalty is imposable unless the person on whom penalty is to be imposed is given an opportunity of being heard in the matter.

13.6.8 Person responsible for paying tax deducted at source [Section 204]

For purposes of deduction of tax at source the expression "person responsible for paying" means:

	Nature of income/payment	Person responsible for paying tax
(1)	Salary (other than payment of salaries by the Central or State Government)	(i) the employer himself; or (ii) if the employer is a company, the company itself, including the principal officer thereof.
(2)	Interest on securities (other than payments by or on behalf of the Central or State Government)	the local authority, corporation or company, including the principal officer thereof.
(3)	Any sum payable to a non-resident Indian, representing consideration for the transfer by him of any foreign exchange asset, which is not a short term capital asset	the "Authorised Person" responsible for remitting such sum to the non-resident Indian or for crediting such sum to his Non-resident (External) Account maintained in accordance with the Foreign Exchange Management Act, 1999 and any rules made thereunder.
(4)	furnishing of information relating to payment to a non corporate non-resident, or to a foreign company, of any sum, whether or not chargeable under the provisions of this Act	(i) the payer himself; or (ii) if the payer is a company, the company itself including the principal officer thereof.
(5)	Credit/payment of any other sum chargeable under the provisions of the Act	(i) the payer himself; or (ii) if the payer is a company, the company itself including the principal officer thereof.
(6)	Credit/payment of any sum chargeable under the provisions of the Act made by or on behalf of the Central Government or the Government of a State.	(i) the drawing and disbursing officer; or (ii) any other person, by whatever name called, responsible for crediting, or as the case may be, paying such sum.
(7)	In case of a person not resident in India (irrespective of the nature of payment or income)	(i) the person himself; or (ii) any person authorized by such person; or (iii) the agent of such person in India including any person treated as an agent under section 163.

13.6.9 Bar against direct demand on assessee [Section 205]

Where tax is deductible at source under any of the aforesaid sections, the assessee shall not be called upon to pay the tax himself to the extent to which tax has been deducted from that income.

13.6.10 Furnishing of statements in respect of payment of any income to residents without deduction of tax [Section 206A]

(1) This section casts responsibility on every banking company or co-operative society or public company referred to in the proviso to section 194A(3)(i) [i.e., a public company formed and registered in India with the main object of carrying on the business of providing long-term finance for construction or purchase of residential houses in India and which is eligible for deduction under section 36(1)(viii)] to prepare such statement, for such period as may be prescribed –

— if they are responsible for paying to a resident,

— the payment should be of any income not exceeding ₹ 40,000, where the payer is a banking company or a co-operative society, and ₹ 5,000 in any other case.

— such income should be by way of interest (other than interest on securities)

(2) The statements have to be delivered or caused to be delivered to the prescribed income-tax authority or the person authorised by such authority.

(3) The statements have to be in the prescribed form, containing such particulars verified in the prescribed manner. The statement has to be filed within the prescribed time.

(4) The CBDT may cast responsibility on any person other than a person mentioned in (1) above, who is responsible for paying to a resident any income liable for deduction of tax at source.

(5) Such persons may be required to prepare statement for such period as may be prescribed in the prescribed form and deliver or cause to be delivered such statement within the prescribed time to the prescribed income-tax authority or the person authorized by such authority.

(6) Such statements should be in the prescribed form, containing such particulars and verified in the prescribed manner.

(7) Such person referred to in (1) and (4) above may also deliver to the prescribed authority, a correction statement -

(a) for rectification of any mistake; or

(b) to add, delete or update the information furnished in the statement delivered referred in (2) & (5) above.

(8) Penalty under section 272A(2) would be levied for failure to deliver or to be delivered the statement within the time specified of **₹ 500** for every day during which default continues.

13.6.11 Mandatory requirement to furnish PAN [Section 206AA]

(1) The non-furnishing of PAN by deductees in many cases led to delays in issue of refunds on account of problems in the processing of returns of income and in granting credit for tax deducted at source.

(2) With a view to strengthening the PAN mechanism, section 206AA provides that any person whose receipts are subject to deduction of tax at source, i.e., the deductee, shall mandatorily furnish his PAN to the deductor failing which the deductor shall deduct tax at source at higher of the following rates –

Higher TDS for non-furnishing of PAN

(i) the rate prescribed in the Act;

(ii) at the rate in force, i.e., the rate mentioned in the Finance Act; or

(iii) at the rate of 20% [**5%**, in case tax, is required to be deducted at source u/s 194-O and u/s 194Q]

Example: *In case of rental payment for plant and machinery, where the payee does not furnish his PAN to the payer, tax would be deductible @20% instead of @2% prescribed under section 194-I.*

However, non-furnishing of PAN by the deductee in case of income by way of winnings from lotteries, card games, etc., would result in tax being deducted at the existing rate of 30% under section 194B. Therefore, wherever tax is deductible at a rate higher than 20%, this provision would not have any impact.

(3) Tax would be deductible at the rates mentioned above also in cases where the taxpayer files a declaration in Form 15G or 15H (under section 197A) but does not provide his PAN.

(4) Further, no certificate under section 197 will be granted by the Assessing Officer unless the application contains the PAN of the applicant.

(5) Both the deductor and the deductee have to compulsorily quote the PAN of the deductee in all correspondence, bills, vouchers and other documents exchanged between them.

(6) If the PAN provided to the deductor is invalid or it does not belong to the deductee, it shall be deemed that the deductee has not furnished his PAN to the deductor. Accordingly, tax would be deductible at the rate specified in (2) above.

(7) The provisions of section 206AA shall not apply in respect of payment of interest on long-term bonds, as referred to in section 194LC, to a non-corporate non-resident or to a foreign company.

(8) **Non-applicability of section 206AA to non-residents subject to fulfilment of certain conditions [Rule 37BC]:**

For the purpose of reducing the compliance burden, Rule 37BC provides for relaxation to a non-corporate non-resident or a foreign company not having PAN in respect of payment in the nature of interest, royalty, fees for technical services, dividends and payments on transfer of any capital asset, subject to the deductee furnishing the following details and documents to the deductor, namely:-

a. name, e-mail id, contact number;

b. address in the country or specified territory outside India of which the deductee is a resident;

c. a certificate of his being resident in any country or specified territory outside India from the Government of that country or specified territory if the law of that country or specified territory provides for issuance of such certificate;

d. Tax Identification Number of the deductee in the country or specified territory of his residence, and in case no such number is 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.

13.6.12 Higher rate of TDS for non-filers of income-tax return [Section 206AB]

(1) Section 206AB requires tax to be deducted at source under the provisions of this Chapter on any sum or income or amount paid, or payable or credited, by a person **to a specified person**, at higher of the following rates –

(i) at twice the rate prescribed in the relevant provisions of the Act;

(ii) at twice the rate or rates in force, i.e., the rate mentioned in the Finance Act; or

(iii) at 5%

However, section 206AB is **not** applicable in case of tax deductible at source under sections 192, 192A, 194B, 194BA, 194BB, 194-IA, 194-IB, 194LBC, 194M and 194N.

(2) In case the provisions of section 206AA are also applicable to the specified person, in addition to the provisions of this section, then, tax is required to be deducted at higher of the two rates provided in section 206AA and section 206AB.

(3) **Meaning of "specified person" –** A person who has not furnished the return of income

- for the assessment year relevant to the previous year immediately preceding the financial year in which tax is required to be deducted, for which the time limit for furnishing the return of income under section 139(1) has expired and
- the aggregate of tax deducted at source and tax collected at source, in his case, is **₹ 50,000 or more** in the said previous year.

However, the specified person does not include

- a non-resident who does not have a permanent establishment in India or
- a person and who is not required to furnish the return of income for the assessment year relevant to the previous year and is notified by the Central Government. ***Accordingly, the Central Government has, vide Notification no. 46/2024 dated 27.5.2024, excluded RBI from the list of specified person.***

13.7 TAX COLLECTION AT SOURCE

(1) Applicability and Rates

(I) Sale of certain goods [Section 206C(1)]

Under section 206C(1), sellers of certain goods are required to collect tax from the buyers at the specified rates. The specified percentage for collection of tax at source is as follows:

	Nature of Goods	Percentage
(a)	Alcoholic liquor for human consumption	1%
(b)	Tendu leaves	5%
(c)	Timber obtained under a forest lease	2.5%
(d)	Timber obtained by any mode other than (c)	2.5%
(e)	Any other forest produce not being timber or tendu leaves	2.5%
(f)	Scrap	1%
(g)	Minerals, being coal or lignite or iron ore	1%

Non-applicability of TCS [Section 206C(1A)]

No collection of tax shall be made under section 206C(1) in the case of a resident buyer, if such buyer furnishes to the person responsible for collecting tax, a declaration in writing in duplicate in the prescribed form and verified in the prescribed manner to the effect that goods referred to in above table are to be utilised for the purpose of manufacturing, processing or producing articles or things or for the purposes of generation of power and not for trading purposes.

Furnishing of copy of declaration within specified time [Section 206C(1B)]

The person responsible for collecting tax under this section shall deliver or cause to be delivered to the Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner one copy of the declaration referred to in 206C (1A) on or before 7th of the month next following the month in which the declaration is furnished to him.

(II) Lease or a licence of parking lot, toll plaza or mine or a quarry [Section 206C(1C)]

Section 206C(1C) provides for collection of tax by every person who grants a lease or a licence or enters into a contract or otherwise transfers any right or interest in any -

- parking lot or
- toll plaza or
- a mine or a quarry

to another person (other than a public sector company) for the use of such parking lot or toll plaza or mine or quarry for the purposes of business. The tax shall be collected as provided, from the licensee or lessee of any such licence, contract or lease of the specified nature, at the rate of 2%.

Note *– Mining and quarrying excludes mining and quarrying of mineral oil. Mineral oil includes petroleum and natural gas. Thus, mining and quarrying excludes mining and quarrying of petroleum and natural gas. Consequently, the oil exploration and incidental services are relieved from the applicability of TCS provisions, since these services are in the organized sector.*

(III) Sale of motor vehicle or other notified goods of value exceeding ₹ 10 lakhs [Section 206C(1F)]

Section 206C(1F) provides that every person, being a seller, who receives any amount as consideration for the sale of a motor vehicle or ***other notified goods (luxury goods)*** of the value exceeding ₹ 10 lakhs, shall collect tax from the buyer @1% of the sale consideration.

It is important to note that the provisions for collection of tax at source on the sale consideration of other notified luxury goods is effective from 01.01.2025. Accordingly, tax shall be collected on the consideration received on or after 01.01.2025.

Clarification relating to certain issues with respect to section 206C(1F) [Circular No. 22/2016 dated 8.6.2016]

The CBDT has, vide *Circular No. 22/2016 dated 8.6.2016*, clarified the following issues in "Question & Answer (Q & A)" format.

Q.1 Whether TCS @1% is on sale of motor vehicle at the retail level or also on sale of motor vehicles by manufacturers to dealers/ distributors?

A. To bring high value transactions within the tax net, section 206C has been amended to provide that the seller shall collect the tax @ 1% from the purchaser on sale of motor vehicle of the value exceeding ₹ 10 lakhs. This is brought to cover all transactions of retail sales and accordingly, section 206C(1F) **will <u>not</u> apply on sale of motor vehicles by manufacturers to dealers/distributors.**

Q.2 Whether TCS @1% on sale of motor vehicle is applicable only to luxury cars?

A. No, as per section 206C(1F), the seller shall collect tax @1% from the purchaser on sale of any motor vehicle of the value exceeding ₹ 10 lakhs.

Q.3 Whether TCS @1% is applicable in the case of sale to Government Departments, Embassies, Consulates and United Nation Institutions, of motor vehicle or any other goods or provision of services?

A. Government, institutions notified under the United Nations (Privileges and Immunities) Act 1947, and Embassies, Consulates, High Commission, Legation, Commission and trade representation of a foreign State shall not be liable to levy of TCS @1% under section 206C(1F).

Q.4 Whether TCS is applicable on each sale of motor vehicle or on aggregate value of sale during the year?

A. Tax is to be collected at source @1% on sale consideration of a motor vehicle exceeding ₹ 10 lakhs. It is applicable to each sale and not to the aggregate value of sale made during the year.

Q.5 Whether TCS @1% on sale of motor vehicle is applicable in case of an individual?

A. The definition of "Seller" as given in clause (c) of the *Explanation* below sub-section (11) of section 206C shall be applicable in the case of sale of motor vehicles also.

Q.6 How would the provisions of TCS on sale of motor vehicle be applicable in a case where part of the payment is made in cash and part is made by cheque?

A. The provisions of TCS on sale of motor vehicle exceeding ₹ 10 lakhs is not dependent on mode of payment. Any sale of motor vehicle exceeding ₹ 10 lakhs would attract TCS @1%.

Meaning of certain terms referred in Para (I) to (III)

Term	Meaning
Buyer	**For section 206C(1):** A person who obtains in any sale, by way of auction, tender, or any other mode, goods of the nature specified in the Table in point (1) or the right to receive any such goods but does not include – (A) a public sector company, the Central Government, a State Government, and an embassy, a high commission, legation, commission, consulate and the trade representation of a foreign State and a club, or (B) a buyer in the retail sale of such goods purchased by him for personal consumption [*Explanation* to section 206C] **For section 206C(1F):** A person who obtains in any sale, goods of the nature specified therein, but does **not** include – (A) the Central Government, a State Government and an embassy, a High Commission, legation, commission, consulate and the trade representation of a foreign State; or (B) a local authority; or (C) a public sector company which is engaged in the business of carrying passengers. [*Explanation* to section 206C]

Seller	**For section 206C(1) and section 206C(1F):** (i) The Central Government, (ii) a State Government or (iii) any local authority or (iv) corporation or (v) authority established by or under a Central, State or Provincial Act, or (vi) any company or (vii) firm or (viii) co-operative society Seller also includes an individual or a HUF whose total sales, gross receipts or turnover from the business or profession carried on by him exceed ₹ 1 crore in case of business and ₹ 50 lakhs in case of profession during the financial year immediately preceding the financial year in which the goods of the nature specified in the Table in point (1) are sold. [*Explanation* to section 206C]
Scrap	Waste and scrap from the manufacture or mechanical working of materials which is definitely not usable as such because of breakage, cutting up, wear and other reasons. [*Explanation* to section 206C]

(IV) Overseas remittance or an overseas tour package [Section 206C(1G)]

As per section 206C(1G), every person,

- being **an authorized dealer**, who receives amount, under the Liberalised Remittance Scheme of the RBI, for remittance from a buyer, being a person remitting such amount;
- being **a seller of an overseas tour programme package,** who receives any amount from the buyer who purchases the package

is required to collect tax at source on such amount received from the buyer.

Tax has to be collected at the time of debiting the amount payable by the buyer or at the time of receipt of such amount from the said buyer, by any mode, whichever is earlier.

Rate of TCS in case of collection by an authorized dealer/ seller of an overseas tour programme package

S. No.	Particulars	Rate of TCS
(i)	Remittances for the purpose of education [other than (ii) below] or medical treatment;	No TCS upto ₹ 7 lakhs 5% of the amt or agg. of amts in excess of ₹ 7 lakhs
(ii)	Remittances out of loan obtained from any financial institution as referred under section 80E, for the purpose of pursuing any education	No TCS upto ₹ 7 lakhs 0.5% of the amt or agg. of amts in excess of ₹ 7 lakhs
(iii)	Overseas Tour Program Package	5% upto ₹ 7 lakhs and 20% above ₹ 7 lakhs
(iv)	Remittances for purposes other than mentioned in (i) to (iii)	No TCS upto ₹ 7 lakhs 20% on the amount or aggregate of amounts in excess of ₹ 7 lakhs

Power to issue guidelines [Section 206C(1-I): In case any difficulty arises to give effect to, *inter alia,* the provisions of section 206C(1G), the CBDT is empowered to issue guidelines, with the approval of the Central Government, for the purpose of removing the difficulty.

In exercise of the power to issue guidelines, the CBDT has, with the approval of Central Government, vide **Circular no. 10/2023 dated 30.6.2023,** issued the following guidelines for removing certain difficulties-

Question 1: Whether payment through an overseas credit card would be counted in LRS?

Answer: *As announced in the press release dated 28th June, 2023, the classification of use of international credit card while being overseas, as LRS is postponed.*

Therefore, no TCS shall be applicable on expenditure through international credit card while being overseas till further order.

Question 2: Whether the threshold of ₹7 lakh, for TCS to become applicable on LRS,

applies separately for various purposes like education, health treatment and others? For example, if remittance of ₹ 7 lakh under LRS is made in a financial year for education purpose and other remittances in the same financial year of ₹7 lakh is made for medical treatment and ₹7 lakh for other purposes, whether the exemption limit of ₹7 lakh shall be given to each of the three separately?

Answer: *It is clarified that the threshold of ₹ 7 lakh for LRS is* ***combined threshold*** *for applicability of the TCS on LRS irrespective of the purpose of the remittance. This is clear from the first proviso to section 206C(1G). The proviso states that the TCS is not required if the amount or aggregate of the amounts being remitted by a buyer is less than seven lakh rupees in a financial year.*

Thus, in the given example, upto ₹ 7 lakh remittance under LRS during a financial year shall not be liable for TCS. However, subsequent ₹ 14 lakh remittance under LRS shall be liable for TCS in accordance with the TCS rates applicable for such remittance. TCS rates would be applicable as under:-

Remittances	Rate of TCS
First ₹ 7 lakhs remittance under LRS during the financial year 2024-25 for education purpose (or for that matter any purpose)	*No TCS*
Remittances beyond ₹ 7 lakhs under LRS during the financial year 2024-25	*TCS at 0.5% (if it is for education purpose financed by loan from a financial institution), 5% (if it is for education or medical treatment) and 20% (if it is for other purposes)*

Question 3: Whether the threshold of ₹ 7 lakh, for TCS to become applicable on LRS, applies separately for each remittance through different authorised dealers? If not, how will authorised dealer know about the earlier remittances by that remitter through some other authorised dealer?

Threshold is Qua remitter

Answer: *It is clarified that the threshold of ₹ 7 lakh for LRS is qua remitter and not qua authorised dealer. This is clear from the first proviso to section 206C(1G). The proviso states that the TCS is not required if the amount or aggregate of amounts being remitted by a buyer is less than seven lakh rupees in a financial year. The threshold continues to apply qua remitter.*

Since the facility to provide real time update of remittance under LRS by remitter is still under development by the RBI, it is clarified that the details of earlier remittances under LRS by the remitter during the financial year may be taken by the authorised dealer through an undertaking at the time of remittance. If the authorised dealer correctly collects the tax at source based on information given in this undertaking, he will not be treated as "assessee in default". However, for any false information in the undertaking, appropriate action may be taken against the remitter under the Act.

It is further clarified that same methodology of taking undertaking from the buyer of overseas tour program package may be followed by the seller of such package.

Question 4: There is threshold of ₹7 lakh for remittance under LRS for TCS to become applicable while there is another threshold of ₹7 lakh for purchase of overseas tour program package where reduced rate of 5% of TCS applies. Whether these two thresholds apply independently?

Answer: *Yes, these two thresholds apply independently. For LRS, the threshold of ₹7 lakh applies to make TCS applicable. For purchase of overseas tour program package, the threshold of ₹7 lakh applies to determine the applicable TCS rate as 5% or 20%.*

Question 5: A resident individual spends ₹3 lakh for the purchase of an overseas tour program package from a foreign tour operator and remits money which is classified under LRS. There is no other remittance under LRS or purchase of overseas tour program during the financial year. Whether TCS is applicable?

Answer: *In case of purchase of overseas tour program package which is classified under LRS, TCS provision for purchase of overseas tour program package shall apply and not TCS provisions for remittance under LRS.*

Since for the purchase of overseas tour program package, the threshold of ₹7 lakh for applicability of TCS does not apply, TCS is applicable and tax is required to be collected by the seller. In this case the tax shall be required to be collected at 5% since the total amount spent on purchase of overseas tour program package during the financial year is less than ₹7 lakh. The TCS should be made by the seller.

Question 6: There are different rates for remittance under LRS for medical treatment/education purposes and for other purposes. What is the scope of remittance under LRS for medical treatment/education purposes?

Answer: *As per the clarification by the RBI, remittance for the purposes of* ***medical treatment*** *shall include,-*

(i) remittance for purchase of tickets of the person to be treated medically overseas (and his attendant) for commuting between India and the overseas destination;

(ii) his medical expense; and

(iii) other day to day expenses required for such purpose.

It may be noted that code 50304 (under the Purpose Group Name "Travel"), in RBI master

direction for LRS, pertains to travel for medical treatment. As per BPM6, A.P. (DIR Series) Circular no 50, dated 11 Feb 2016 this code covers the transactions which are related to health services acquired by residents travelling abroad for medical reasons, which includes medical services, other healthcare, food, accommodation and local transport transactions.

In addition, code 51108 (under the Purpose Group Name "Personal, Cultural & Recreational services") covers transactions for health services rendered remotely or onsite (that is no travel by service recipient is involved). This cover services from hospitals, doctors, nurses, paramedical and similar services, etc.

TCS provision for purpose of medical treatment would apply when remittance is under code 50304 or under code 51108.

Education

Remittance for purpose of education shall include,-

(i) remittance for purchase of tickets of the person undertaking study overseas for commuting between India and the overseas destination;

(ii) the tuition and other fees to be paid to educational institute; and

(iii) other day to day expenses required for undertaking such study.

It may be noted that code 50305 (under the Purpose Group Name "Travel"), in RBI master direction for LRS, pertains to travel for education (including fees, hostel expenses, etc). As per BPM6, A.P. (DIR Series) Circular no 50, dated 11 Feb 2016 this code covers education related services such as tuition, food, accommodation, local transport and health services acquired by resident students while residing overseas.

In addition, code 51107 (under the Purpose Group Name "Personal, Cultural & Recreational services") covers transactions for education (e.g., fees for correspondence courses abroad) where the person receiving education does not travel overseas.

TCS provision for purpose of education would apply when the remittance is under code 50305 or under 51107.

Question 7: Whether purchase of international travel ticket or hotel accommodation on standalone basis is purchase of overseas tour program package?

Answer: *The term 'overseas tour program package' is defined as to mean any tour package which offers a visit to a country or countries or territory or territories outside India and includes expenses for travel or hotel stay or boarding or lodging or any other expenditure of similar nature or in relation thereto.*

*It is clarified that purchase of **only** an international travel ticket or the purchase of **only** hotel accommodation, by in itself is not covered within the definition of 'overseas tour program package'. To qualify as an 'overseas tour program package', the package should include **at least two** of the followings:-*

(i) international travel ticket,

(ii) hotel accommodation (with or without food)/boarding/lodging,

(iii) any other expenditure of similar nature or in relation thereto.

Cases where no tax is to be collected

(i)	No TCS by the authorized dealer on an amount in respect of which the sum has been collected by the seller.
(ii)	No TCS, if the buyer is liable to deduct tax at source under any other provision of the Act and has deducted such tax.
(iii)	No TCS, if the buyer is the Central Government, a State Government, an embassy, a High Commission, a legation, a commission, a consulate, the trade representation of a foreign State, a local authority[9] or any other person notified by the Central Government, subject to fulfillment of conditions stipulated thereunder. Accordingly, the Central Government has, vide Notification No. 99/2022, dated 17.08.2022, notified that the provisions of section 206C(1G) would not be applicable to a person (being a buyer) who is a non-resident in terms of section 6 and who does not have a permanent establishment in India.

Meaning of certain terms

Term	Meaning
Authorised dealer	A person authorised by the RBI to deal in foreign exchange or foreign security. [Clause (i) of *Explanation* to section 206C(1G)]
Overseas tour program package	Any tour package which offers visit to a country/(ies) or territory/(ies) outside India. It includes expenses for travel or hotel stay or boarding or lodging or any other expenditure of similar nature or in relation thereto. [Clause (ii) of *Explanation* to section 206C(1G)]

[9] as defined in Explanation to section 10(20)

(V) Sale of goods of value exceeding ₹ 50 lakhs [Section 206C(1H)]

(a) As per section 206C(1H), tax is also required to be collected by a seller, who receives any amount as consideration for sale of goods of the value or aggregate of such value exceeding ₹ 50 lakhs in a previous year [other than exported goods or goods covered under sub-sections (1)/(1F)/(1G)].

TCS on Sale of Goods @ 0.1% of consideration in excess of ₹ 50 lakhs

(b) Tax is to be collected at source @0.1% u/s 206C(1H) of the sale consideration exceeding ₹ 50 lakhs, at the time of receipt of consideration.

(c) Tax is, however, not required to be collected if the buyer is liable to deduct tax at source under any other provision of the Act on the goods purchased by him from the seller and has deducted such tax.

At the time of receipt

(d) Tax shall be collected **at the time of receipt** of such amount under section 206C(1H).

(e) Meaning of certain terms

	Term	Meaning
(ii)	**Buyer**	A person who purchases any goods but does **not** include – (A) the Central Government, a State Government, an embassy, a High Commission, legation, commission, consulate and the trade representation of a foreign State, or (B) a local authority; or *(C)* a person importing goods into India or any other person as the Central Government may, by notification in the Official Gazette, specify for this purpose, subject to stipulated conditions. [Clause (a) of Explanation to section 206C(1H)]
(iii)	**Seller**	A person whose total sales, gross receipts or turnover from the business carried on by him exceed ₹ 10 crores during the financial year immediately preceding the financial year in which sale of goods is carried out. However, seller does not include a person as notified by the Central Government for this purpose, subject to fulfillment of conditions stipulated [Clause (b) of *Explanation* to section 206C(1H)]

(f) Power of the CBDT to issue guidelines

In case any difficulty arises to give effect to, *inter alia,* the provisions of section 206C(1H), the CBDT is empowered to issue guidelines, with the approval of the Central Government, for the purpose of removing the difficulty.

Every guideline issued by the CBDT shall be laid before each House of Parliament, and shall be binding on the income-tax authorities and on the person liable to collect the sum.

In exercise of the power to issue guidelines, the CBDT has, with the approval of Central Government, vide **Circular no. 17/2020 dated 29.9.2020,** issued the following guidelines for removing certain difficulties-

1. Applicability on transactions carried through various Exchanges:

In order to remove practical difficulties in implementing section 206C(1H) in case of certain exchanges and clearing corporations, it has been provided that section 206C(1H) shall **not be applicable** in relation to-

- transactions in securities and commodities which are traded through recognized stock exchanges or cleared and settled by the recognized clearing corporation, including recognized stock exchanges or recognized clearing corporation located in the International Financial Service Centre;
- transactions in electricity, renewable energy certificates and energy saving certificates traded through power exchanges registered in accordance with Regulation 21 of the CERC (Central Electricity Regulatory Commission).

2. Applicability on sale of Motor vehicle:

The provisions of section 206C(1F) apply to the sale of motor vehicle of the value exceeding ₹ 10 lakhs. Section 206C(1H) excludes from its applicability goods covered under section 206C(1F). It may be noted that the scope of sections 206C(1H) and (1F) are different. While section 206C(1F) is based on a single sale of motor vehicle, section 206C(1H) is for receipt above ₹ 50 lakhs. Hence, in order to remove the difficulty that whether all motor vehicles are excluded from the applicability of section 206C(1H), it is clarified that,-

- Receipt of sale consideration from a dealer would be subjected to TCS under section 206C(1H), if such sales are not subjected to TCS under section 206C(1F)

- In case of sale to consumer, receipt of sale consideration for sale of motor vehicle of the value of ₹ 10 lakhs or less to a buyer would be subjected to TCS under section 206C(1H), if the receipt of sale consideration for such vehicles during the previous year exceeds ₹ 50 lakhs during the previous year.
- In case of sale to consumer, receipt of sale consideration for sale of motor vehicle of the value exceeding ₹ 10 lakhs would not be subjected to TCS under section 206C(1H) if such sales are subjected to TCS under section 206C(1F).

3. Adjustment for sale return, discount or indirect taxes:

TCS on GST also

It is been clarified that no adjustment on account of sale return or discount or indirect taxes including GST is required to be made for collection of tax under section 206C(1H) since the collection is made with reference to receipt of amount of sale consideration.

4. Fuel supplied to non-resident airlines at airports in India:

It is provided that the provisions of section 206C(1H) shall **not** apply on the sale consideration received for fuel supplied to non-resident airlines at airports in India.

Clarification relating to cross application of section 194-O, section 206C(1H) and section 194Q

The CBDT has, vide **Circular no. 13/2021 dated 30.6.2021 and Circular No. 20/2021 dated 25.11.2021**, provide clarifications on cross application of section 194-O, section 206C(1H) and Section 194Q-

A. Cross application of section 194-O, section 206C(1H) and section 194Q

Clarification of how section 194-O, section 206C(1H) and section 194Q apply on the same transaction.

Under section 194-O(3), a transaction in respect of which tax has been deducted by the e-commerce operator under sub-section (1), or which is not liable to deduction under sub-section (2), shall **not** be liable to tax deduction at source under any other provision of Chapter XVII of the Act. Under the second proviso to section 206C(1H), provisions of this sub-section shall not apply, if the buyer is liable to deduct tax at source under any other provisions of this Act on the goods purchased by him from the seller and has deducted such tax.

E-commerce operator

Under section 194Q(5), the provisions of this section would **not** apply to a transaction on which -

(i) tax is deductible under any of the provisions of this Act; and

(ii) tax is collectible under the provisions of section 206C, other than a transaction on which section 206C(1H) applies

After conjoint reading of all these provisions, it is clarified that:

(i) If tax has been deducted by the e-commerce operator on a transaction u/s 194-O [including transactions on which tax is not deducted on account of section 194-O(2)], that transaction shall not be subjected to tax deduction u/s 194Q.

(ii) Though section 206C(1H) provides exemption from TCS if the buyer has deducted tax at source on goods purchased by him, to remove difficulties, it is clarified that this exemption would also cover a situation where, instead of the buyer, the e-commerce operator has deducted tax at source on that transaction of sale of goods by seller to buyer through e-commerce operator.

(iii) If a transaction is both within the purview of section 194-O as well as section 194Q, tax is required to be deducted u/s 194-O and not u/s 194Q.

(iv) Similarly, if a transaction is both within the purview of section 194-O as well as section 206C(1H), tax is required to be deducted u/s 194-O. The transaction shall come out of the purview of section 206C(1H) after tax has been deducted by the e-commerce operator on that transaction. Once the e-commerce operator has deducted the tax on a transaction, the seller is not required to collect the tax u/s 206C(1H) on the same transaction. It is clarified that here primary responsibility is on e-commerce operator to deduct the tax u/s 194-O and that responsibility cannot be condoned if the seller has collected the tax u/s 206C(1H).

(v) If a transaction is both within the purview of section 194Q as well as section 206C(1H), then, tax is required to be deducted u/s 194Q. The transaction shall come out of the purview of section 206C(1H) after tax has been deducted by the buyer on that transaction. Once the buyer has deducted the tax on a transaction, the seller is not required to collect the tax u/s 206C(1H) on the same transaction. However, if, for any reason, tax has been collected by the seller u/s 206C(1H), before the buyer could deduct tax u/s 194Q on the same transaction, such transaction would not be subjected to

Section 194Q

tax deduction again by the buyer. This concession is provided to remove difficulty, since tax rate of deduction and collection are same in section 194Q and section 206C(1H).

B. Applicability of section 194Q in cases where exemption has been provided under section 206C(1A)

Section 194Q does not apply in respect of transactions where tax is collectible u/s 206C [except the sale of goods under section 206C(1H)]. Section 206C(1H) requires collection of tax at source in respect of sale of goods other than goods that have been covered u/s 206C(1)/ (1F)/(1G).

In accordance with section 206C(1A), tax is not required to be collected in the case of a resident buyer who furnishes declaration to the effect that the goods u/s 206C(1) are to be utilised for the purposes of manufacturing, processing or producing articles or things or for the purposes of generation of power and not for trading purposes.

In case of goods which are covered u/s 206C(1) but exempted u/s 206C(1A), tax would not be collectible u/s 206C(1)/(1H).

It is clarified that the provisions of section 194Q will apply in such cases covered under section 206C(1A) and the buyer is to be liable to deduct tax u/s 194Q, if the conditions specified therein are fulfilled.

(2) Higher rate of TCS for non-furnishers of PAN [Section 206CC]

(i) The provisions of section 206CC require tax collection at the higher of the following two rates, in case of failure by the person paying any sum or amount on which tax is collectible at source (collectee) to furnish PAN **[PAN or Aadhar number in case of section 206C(1H)]** to the person responsible for collecting tax at source (collector) -

Higher TCS for non-furnishing of PAN

- at twice the rate specified in the relevant provision of the Act
- at 5% [1%, in case tax is required to be collected at source u/s 206C(1H)].

The higher rate of TCS leviable for non-furnishing of PAN should not exceed 20%.

(ii) Tax would be collectible at the rates mentioned above also in case where the person furnishes a declaration under section 206C(1A) but does not furnish his PAN.

(iii) Both the collectee and collector have to compulsorily quote the PAN of the collectee in all correspondence, bills, vouchers and other documents exchanged between them.

(iv) If the PAN provided to the collector is invalid or it does not belong to the collectee, it shall be deemed that the collectee has not furnished his PAN to the collector. Accordingly, tax would be collectible at the rate specified in (i) above.

(v) The provisions of section 206CC does **not** apply to a non-resident who does not have a permanent establishment in India.

Non-applicability

(3) Higher rate of TCS for non-filers of income-tax return [Section 206CCA]

(i) Section 206CCA requires tax to be collected at source under the provisions of this Chapter on any sum or amount received by a person **from a specified person**, at higher of the following rates –

(a) at twice the rate specified in the relevant provision of the Act;

(b) at 5%

The higher rate of TCS leviable for non-filers of income-tax return should not exceed 20%.

(ii) In case the provisions of section 206CC are also applicable to the specified person, in addition to the provisions of section 206CCA, then, tax is required to be collected at higher of the two rates provided in section 206CC and section 206CCA.

Higher TCS for non-filers of ROI

(iii) **Meaning of "specified person"** – A person who has not furnished

- the return of income for the assessment year relevant to the previous year immediately preceding the financial year in which tax is required to be collected, for which the time limit for furnishing the return of income under section 139(1) has expired and
- the aggregate of tax deducted at source and tax collected at source, in his case, is ₹ 50,000 or more in the said previous year

However, the specified person does **not** include

- a non-resident who does not have a permanent establishment in India or;
- a person who is not required to furnish return of income and who is notified by the Central Government. ***Accordingly, the Central Government has, vide***

Notification no. 46/2024 dated 27.5.2024, excluded RBI from the list of specified person.

For example, if tax collection is required in January, 2025, the same would be collected at the higher rate under section 206CCA, if return of income of the buyer for A.Y. 2024-25 has not been filed and aggregate of TDS/TCS in the case of buyer is ₹ 50,000 or more in P.Y. 2023-24.

ILLUSTRATION 20

Mr. Gupta, a resident Indian, is in retail business and his turnover for F.Y.2023-24 was ₹12 crores. He regularly purchases goods from another resident, Mr. Agarwal, a wholesaler, and the aggregate payments during the F.Y.2024-25 was ₹95 lakh (₹20 lakh on 1.6.2024, ₹25 lakh on 12.8.2024, ₹22 lakh on 23.11.2024 and ₹28 lakh on 25.3.2025). Assume that the said amounts were credited to Mr. Agarwal's account in the books of Mr. Gupta on the same date. Mr. Agarwal's turnover for F.Y.2023-24 was ₹15 crores.

(i) Based on the above facts, examine the TDS/TCS implications, if any, under the Income-tax Act, 1961.

(ii) Would your answer be different if Mr. Gupta's turnover for F.Y.2023-24 was ₹8 crores, with all other facts remaining the same?

(iii) Would your answer to (i) and (ii) change, if PAN has not been furnished by the buyer or seller, as required?

SOLUTION

(i) Since Mr. Gupta's turnover for F.Y. 2023-24 exceeds ₹ 10 crores, and payments made by him to Mr. Agarwal, a resident seller exceed ₹ 50 lakhs in the P.Y. 2024-25, he is liable to deduct tax @ 0.1% of ₹ 45 lakhs (being the sum exceeding ₹ 50 lakhs) in the following manner –

No tax is to be deducted u/s 194Q on the payments made on 1.6.2024 and 12.8.2024, since the aggregate payments till that date i.e., ₹ 45 lakhs, has not exceeded the threshold of ₹ 50 lakhs.

Tax of ₹ 1,700 [i.e., 0.1% of ₹ 17 lakhs (₹ 22 lakh – ₹ 5 lakhs, being the balance unexhausted threshold limit)] has to be deducted u/s 194Q from the payment/ credit of ₹ 22 lakh on 23.11.2024.

Tax of ₹ 2,800 (i.e., 0.1% of ₹ 28 lakhs) has to be deducted u/s 194Q from the payment/ credit of ₹ 28 lakhs on 25.3.2025.

Note – In this case, since both section 194Q and 206C(1H) applies, tax has to be deducted u/s 194Q.

(ii) If Mr. Gupta's turnover for the F.Y.2023-24 was only ₹ 8 crores, TDS provisions under section 194Q would not be attracted. However, TCS provisions under section 206C(1H) would be attracted in the hands of Mr. Agarwal, since his turnover exceeds ₹ 10 crores in the F.Y.2023-24 and his receipts from Mr. Gupta exceed ₹ 50 lakhs.

No tax is to be collected u/s 206C(1H) on 1.6.2024 and 12.8.2024, since the aggregate receipts till that date i.e., ₹ 45 lakhs, has not exceeded the threshold of ₹ 50 lakhs.

Tax of ₹ 1,700 [i.e., 0.1% of ₹ 17 lakh (₹ 22 lakh – ₹ 5 lakhs, being the balance unexhausted threshold limits] has to be collected u/s 206C(1H) on 23.11.2024.

Tax of ₹ 2,800 (i.e., 0.1% of ₹ 28 lakhs) has to be collected u/s 206C(1H) on 25.3.2025.

(iii) In case (i), if PAN is not furnished by Mr. Agarwal to Mr. Gupta, then, Mr. Gupta has to deduct tax @5%, instead of 0.1%. Accordingly, tax of ₹ 85,000 (i.e., 5% of ₹ 17 lakhs) and ₹ 1,40,000 (5% of ₹ 28 lakhs) has to be deducted by Mr. Gupta u/s 194Q on 23.11.2024 and 25.3.2025, respectively.

In case (ii), if PAN is not furnished by Mr. Gupta to Mr. Agarwal, then, Mr. Agarwal has to collect tax@1% instead of 0.1%. Accordingly, tax of ₹ 17,000 (i.e., 1% of ₹ 17 lakhs) and ₹ 28,000 (1% of ₹ 28 lakhs) has to be collected by Mr. Agarwal u/s 206C(1H) on 23.11.2024 and 25.3.2025, respectively.

(4) TCS to be paid within prescribed time [Section 206C(3)]

Deposit of TCS

Any amount collected under this section shall be paid within the prescribed time to the credit of the Central Government or as the Board directs.

Time limit for paying tax collected to the credit of the Central Government [Rule 37CA]

	Person collecting sums in accordance with section 206C	Circumstance		Period within which such sum should be paid to the credit of the Central Government
(1)	An office of the Government	(i)	where the tax is paid without production of an income-tax challan	on the same day
		(ii)	where tax is paid accompanied by an income-tax challan	on or before 7 days from the end of the month in which the collection is made

(2)	Collectors other than an office of the Government		within one week from the last day of the month in which the collection is made

(5) Statement of TCS to be prepared and delivered within prescribed time

(i) A person collecting tax in accordance with the provisions of the section is vested with the responsibility of preparing such statements for such periods as may be prescribed after paying the tax collected to the credit of the Central Government within the prescribed time.

(ii) The statement should be delivered or caused to be delivered to the prescribed income-tax authority, i.e., DGIT (Systems) or the person authorised by such authority.

(iii) The statement should be in the prescribed form [Form No.27EQ] and verified in the prescribed manner.

(iv) The statement should set forth the prescribed particulars and should be filed within such time as may be prescribed.

Due dates for furnishing statement of TCS [Rule 31AA]

	Quarter ending	Due Date
I	30th June	15th July
II	30th September	15th October
III	31st December	15th January
IV	31st March	15th May

(6) Enabling provision for improving the reporting of payment of TCS made through book entry and making the existing mechanism enforceable [Section 206C(3A)]

Where the tax collected has been paid without the production of a challan, the PAO/TO/CDDO or any other person, by whatever name called, who is responsible for crediting such sum to the credit of the Central Government, shall furnish a statement in the prescribed form [Form No.24G] for the prescribed period to the agency authorised by the Principal Director of Income-tax (Systems) in respect of tax collected by the collectors and reported to him. Such statement has to be furnished within the prescribed time by verifying the same in the prescribed manner and setting forth prescribed particulars.

Relevant Rule	Period to which statement relates	Prescribed Time
37CA(3A)(a)	Where the statement relates to the month of March	On or before 30th April
37CA(3A)(b)	In any other case	On or before 15 days from the end of the relevant month

Such statement has to be furnished in the following manner:

(a) electronically under digital signature; or

(b) electronically along with verification of the statement in Form No.27A or verified through an electronic process

in accordance with the procedures, formats and standards for the purpose of furnishing and verification of the statements specified by the Principal DGIT (Systems)

Penalty: Failure to furnish such statement would attracted penalty under section 272A(2) of ₹ 500 for every day during which default continues.

(7) Enabling provision for filing correction statement of TCS [Section 206C(3B)]

The person collecting tax at source who is required to prepare statements to be delivered to DGIT (Systems) / NSDL after paying the tax collected to the credit of the Central Government, may also deliver to the said authority, a correction statement for rectification of any mistake or to add, delete or update the information furnished in the statement so delivered in the specified form and verified in the specified manner.

W.e.f. 1.4.2025, the collector cannot submit a correction statement after the expiry of six years from the end of the financial year in which the original statement referred to in proviso to section 206C(3) is delivered.

(8) Credit for TCS [Section 206C(4)]

Any amount collected in accordance with the provisions of this section and paid to the credit of the Central Government shall be deemed to be payment of tax on behalf of the person from whom the amount has been collected and credit shall be given to such person ***or any other person eligible for credit [w.e.f. 1.1.2025]*** for the amount so collected in a particular assessment year. The CBDT may prescribe the rules based on which credit shall be given to such person for the amount so collected in a particular assessment year.

Rule	Case	Manner of allowing credit
Rule 37-I(2)(i)	Where tax has been collected at source and paid to the Central Government	Credit for TCS shall be given for the A.Y. for which the income is assessable to tax.
Rule 37-I(2)(ii)	Where tax has been collected at source and paid to the Central Government and the lease or license is relatable to more than one year	Credit for TCS shall be allowed across those years to which the lease or license relates in the same proportion

For the purposes of section 206C(1F)/ (1G)/ (1H), credit for tax collected at source shall be given to the person from whose account tax is collected and paid to the Central Government account for the assessment year relevant to the previous year in which such tax collection is made.

Income of the collectee assessable in the hands of any person other than the collectee [W.e.f. 16.10.2024]

Where under any provisions of the Act, the income of the collectee is assessable in the hands of any person other than the collectee, the credit for the TCS, shall be given to such other person and not to the collectee.

However, the collectee has to file a declaration with the collector and the collector shall report the tax collection in the name of the other person in the information relating to collection of tax.

The declaration filed by the collectee shall contain the name, address, PAN of the person to whom credit for the tax collectible at source is to be given, the amount of payment in relation to which credit is to be given and reasons for giving credit to such person.

The collector shall issue the certificate for collection of tax at source under section 206C(3), in the name of the person in whose name credit is shown in the information relating to collection of tax and shall keep the declaration in his safe custody.

(9) Furnishing of Certificate of TCS within prescribed time [Section 206C(5)]

(i) Every person collecting tax in accordance with the provisions of this section shall, within such period as may be prescribed from the date of debit or receipt of the amount, furnish to the buyer or licensee or lessee to whose account such

amount is debited or from whom such payment is received, a certificate to the effect that tax has been collected specifying the sum so collected, the rate at which the tax has been collected and such other particulars as may be prescribed.

(ii) Certificate of tax collected at source under section 206C(5) in Form No.27D shall be furnished by the collector within 15 days from the due date for furnishing the quarterly statement of TCS under Rule 31AA [Rule 37D].

(iii) The prescribed income-tax authority or the person authorized by such authority have now been vested with the responsibility to prepare and deliver a statement in the prescribed form specifying the amount of tax collected and such other particulars as may be prescribed, within the prescribed time after the end of each financial year beginning on or after 1.4.2008 [Proviso to sub-section (5)].

(10) Consequences of failure to collect tax at source

(i) **Personal liability to pay tax collectible at source [Section 206C(6)]** - A person who is responsible for collecting the tax in accordance with the provisions of this section shall be liable to pay the tax to the credit of the Central Government, even if he has failed to collect the tax

(ii) **Deemed assessee-in-default for failure to collect tax [Section 206C(6A)]** - Any person responsible for collecting tax shall be deemed to be an assessee in default in respect of the tax if such person -

(1) does not collect the whole or any part of the tax or

(2) fails to pay such tax after having collected the tax

(iii) **Deeming provision not applicable if tax is paid by buyer/licensee/lessee [First Proviso to section 206C(6A)]** - Any person responsible for collecting tax at source in accordance with the provisions of sub-section (1) and sub-section (1C) would not be deemed to be an assessee-in-default for failure to collect tax on the amount received from a buyer or licensee or lessee or on the amount debited to the account of the buyer or licensee or lessee, if such buyer or licensee or lessee has furnished his return of income under section 139, taking into account such amount for computing income and paid the tax due on the income declared by him in such return of income. Further, the person should also furnish a certificate to this effect from an accountant in the prescribed form.

(iv) **Levy of penalty for failure to collect and pay tax [Second proviso to section 206C(6A)]** - No penalty shall be charged under section 221 from such person unless the Assessing Officer is satisfied that the person has without good and sufficient reasons failed to collect and pay the tax.

(v) **Interest payable for failure to collect and pay tax within the prescribed time [Section 206C(7)]** - If the person responsible for collecting tax does not collect the tax or after collecting the tax fails to pay it as required under this section, he shall be liable to pay simple interest at the rate of 1% p.m. or part thereof on the amount of such tax from the date on which such tax was collectible to the date on which the tax was actually paid and such interest shall be paid before furnishing the quarterly statement for each quarter in accordance with the provisions of section 206C(3).

To align the rate of simple interest for late deposit of TCS to Government account with the provisions of section 201(1A), it is provided that, w.e.f. 1.4.2025, such person is liable to pay

- *interest at the rate of 1% p.m. or part thereof on the amount of such tax from the date on which such tax was collectible to the date on which such tax is collected; and*
- *interest at the rate of 1.5% p.m. or part thereof on the amount of such tax from the date on which such tax was collected to the date on which such tax is actually paid.*

In such cases where a person is not deemed to be an assessee-in-default on account of the tax being paid by the buyer/licensee/lessee, interest shall be payable by the collector from the date on which tax was collectible to the date of furnishing return of income by such buyer or licensee or lessee.

However, where an order is made by the Assessing Officer for assesse-in-default, the interest shall be paid by the person in accordance with such order.

(vi) ***Time limit for issuing an order to treat a tax collector as assessee-in-default [Section 206C(7A)]-*** *With effect from 1.4.2025, no order under section 206C(6A) deeming a person to be an assessee-in-default for failure to collect the whole or any part of the tax from any person, shall be passed at any time after the expiry of -*

- *6 years from the end of financial year in which tax was collectable; or*

- *2 years from the end of the financial year in which the TCS correction statement is delivered,*

whichever is later.

(vii) **Tax not collected to be a charge upon all assets of the collector [Section 206C(8)]** - Where the tax has not been paid as aforesaid, after it is collected, the amount of tax together with the amount of simple interest thereon referred to in sub-section (7) shall be a charge upon all the assets of the person responsible for collecting tax.

(11) Other Provisions [Section 206C(9)/(10)/(11)/(12)]

(i) **Certificate for collection of tax at lower rate [Section 206C(9)]** - The Assessing Officer can issue certificate for collection of tax at a lower rate than those specified in sub-section (1)/(1C). Such certificate shall be issued on an application made by the buyer or licensee or lessee in this behalf.

To facilitate ease of doing business and to provide an option to seek a lower collection certificate so as to reduce compliance burden on the assessee, section 206C(1H) has been included within the scope of section 206C(9) with effect from 1.10.2024.

(ii) **Tax to be collected at the rate specified in the certificate [Section 206C(10)]** -The person responsible for collecting tax shall collect the same at the rate specified in such certificate until such certificate is cancelled by the Assessing Officer.

(iii) **CBDT empowered to make rules relating to grant of certificates [Section 206C(11)]** – The CBDT is empowered to make rules specifying the cases in which and the circumstances under which an application may be made for the grant of such certificate and the conditions subject to which certificate may be granted.

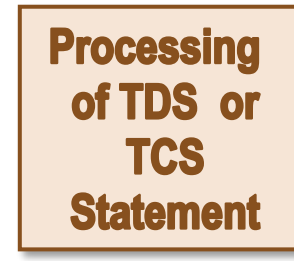
(iv) ***Government to notify certain persons or class of persons as exempt from TCS or TCS at lower rate [Section 206C(12)] -*** *With effect from 01-10-2024, no collection of tax shall be made or that collection of tax shall be made at such lower rate in respect of specified transaction, from such person or class of persons, including institution, association or body or class of institutions, associations or bodies, as may be notified by the Central Government. Accordingly, the Central Government has,* ***vide Notification no. 115/2024 dated 16.10.2024*** *specified that no collection of tax shall be made under section 206C(1F) on any payment received from the Reserve Bank of India.*

13.8 PROCESSING OF TDS /TCS STATEMENTS [SECTION 200A/ SECTION 206CB]

(1) Section 200A facilitates processing of TDS statements and section 206CB deals with processing of statements of tax collected at source.

(2) The manner of processing a statement of tax deduction at source/tax collection at source or a correction statement made by a person deducting/collecting, is as follows -

(a) **Permissible adjustments** - the sums deductible/collectible shall be computed after making the following adjustments -



(i) any arithmetical error in the statement;

(ii) an incorrect claim, apparent from any information in the statement (i.e., a claim, on the basis of an entry, in the statement -

(1) of an item, which is inconsistent with another entry of the same or some other item in such statement;

(2) in respect of rate of deduction/collection of tax at source, where such rate is not in accordance with the provisions of the Income-tax Act, 1961).

(b) **Interest** – The interest, if any, shall be computed on the basis of the sums deductible/collectible as computed in the statement;

(c) **Fee** - The fee, if any, shall be computed in accordance with the provisions of section 234E.

Section 234E: A fee of ₹ 200 for every day would be levied under section 234E for late furnishing of TDS/TCS statement from the due date of furnishing of TDS/TCS statement to the date of furnishing of TDS/TCS statement. However, the total amount of fee shall not exceed the total amount of tax deductible/tax collectible and such fee has to be paid before delivering the TDS/TCS statement.

(d) **Determination of sum payable by, or the amount of refund due to, the collector** – Such sum shall be determined after adjustment of such interest and fee against any amount paid under section 200 or section 201 or section 234E or under section 206C or section 234E and any amount paid otherwise by way of tax or interest or fee;

(e) **Intimation** - An intimation shall be prepared or generated and sent to the deductor/collector specifying the sum determined to be payable by, or the amount of refund due to, him; and

(f) **Grant of refund** - The amount of refund due to the deductor/collector in pursuance of such determination shall be granted to the deductor/collector:

However, no intimation shall be sent after the expiry of the period of **one year** from the end of the financial year in which the statement is filed.

No intimation after 1 year

(3) The CBDT is empowered to make a scheme for centralised processing of statements of tax deducted/collected at source to expeditiously determine the tax payable by, or the refund due to, the deductor/collector, as required under section 200A or section 206CB(1), as the case may be.

(4) *Section 200A provides for the manner in which statement of TDS or a correction statement made by a person deducting any sum under section 200 is processed. There are statements, such as Form No. 26QF which is filed by an Exchange wherein the deductee is filing details of the tax. Accordingly, to widen the ambit of section 200A, the CBDT is, w.e.f. 1.4.2025, further empowered to make a scheme for processing of statements made by any other person, not being a deductor.*

13.9 ADVANCE PAYMENT OF TAX [SECTION 207 TO 219]

13.9.1 Liability for payment of advance tax

(1) Tax shall be payable in advance during any financial year, in accordance with the provisions of sections 208 to 219, in respect of an assessee's current income, i.e., the total income of the assessee which would be chargeable to tax for the assessment year immediately following that financial year [Section 207].

(2) Under section 208, an obligation to pay advance tax arises in every case where the advance tax payable is ₹ 10,000 or more.

Adavnce tax where tax is ₹ 10,000 or more

Note - *An assessee who is liable to pay advance tax of less than ₹10,000 will not be saddled with interest under sections 234B and 234C for defaults in payment of advance tax. However, the consequences under section 234A regarding interest for belated filing of return would be attracted.*

(3) In case of senior citizens who have passive source of income like interest, rent, etc., the requirement of payment of advance tax causes genuine compliance hardship. Therefore, in order to reduce the compliance burden on such senior citizens, exemption from payment of advance tax has been provided to a resident individual -

(i) not having any income chargeable under the head "Profits and gains of business or profession"; and

(ii) of the age of 60 years or more.

Such senior citizens need not pay advance tax and are allowed to discharge their tax liability (other than TDS) by payment of self-assessment tax.

13.9.2 Computation of advance tax

(1) An assessee has to estimate his current income and pay advance tax thereon. He need not submit any estimate or statement of income to the Assessing Officer, except where he has been served with notice by the Assessing Officer.

(2) Where an obligation to pay advance tax has arisen, the assessee shall himself compute the advance tax payable on his current income at the rates in force in the financial year and deposit the same, whether or not he has been earlier assessed to tax.

(3) In the case of a person who has been already assessed by way of a regular assessment in respect of the total income of any previous year, the Assessing Officer, if he is of the opinion that such person is liable to pay advance tax, can serve an order under section 210(3) requiring the assessee to pay advance tax.

(4) For this purpose, the total income of the latest previous year in respect of which the assessee has been assessed by way of regular assessment or the total income returned by the assessee in any return of income for any subsequent previous year, whichever is higher, shall be taken as the basis for computation of advance tax payable.

(5) The above order can be served by the Assessing Officer at any time during the financial year but not later than the last date of February.

(6) If, after sending the above notice, but before 1st March of the financial year, the assessee furnishes a return relating to any later previous year or an assessment is completed in respect of a later return of income, the Assessing Officer may amend the order for payment of advance tax on the basis of the computation of the income so returned or assessed.

(7) If the assessee feels that his own estimate of advance tax payable would be less than the one sent by the Assessing Officer, he can file an estimate of his current income and advance tax payable thereon.

(8) Where the advance tax payable on the assessee's estimation is higher than the tax computed by the Assessing Officer, then, the advance tax shall be paid based upon such higher amount.

(9) In all cases, the tax calculated shall be reduced by the amount of tax deductible or collectible at source.

No reduction of 'tax deductible but not deducted' or 'tax collectible but not collected' while computing advance tax liability

(i) As per the provisions of section 209, the amount of advance tax payable by a person is computed by reducing the amount of income-tax which would be deductible at source during the financial year from any income which has been taken into account in computing the total income.

(ii) Some courts have opined that in case where the payer pays any amount (on which tax is deductible at source) without deduction of tax at source, the payee shall not be liable to pay advance tax to the extent tax is deductible from such amount.

(iii) With a view to make such a person (payee) liable to pay advance tax, the proviso to section 209(1)(d) provides that the amount of tax deductible at source but not so deducted by the payer shall not be reduced from the income tax liability of the payee for determining his liability to pay advance tax.

(iv) In effect, only if tax has actually been deducted at source, the same can be reduced for computing advance tax liability of the payee. Tax deductible but not so deducted cannot be reduced for computing advance tax liability of the payee.

(v) Similarly, only if tax has actually been collected at source, the same can be reduced for computing advance tax liability of the buyer or licensee or lessee. Tax collectible but not so collected cannot be reduced for computing advance tax liability of the buyer or licensee or lessee.

(10) The amount of advance tax payable by an assessee in the financial year calculated by -

(i) the assessee himself based on his estimation of current income; or

(ii) the Assessing Officer as a result of an order under section 210(3) or amended order under section 210(4)

is subject to the provisions of section 209(2), as per which the net agricultural income has to be considered for the purpose of computing advance tax.

13.9.3 Instalments of advance tax and due dates

(1) Common advance tax payment schedule for both corporates and non-corporates [other than an assessee who declares profits and gains in accordance with section 44AD(1) or section 44ADA(1)]:

Due date of instalment	Amount payable
On or before 15th June	Not less than 15% of advance tax liability
On or before 15th September	Not less than 45% of advance tax liability, as reduced by the amount, if any, paid in the earlier instalment.
On or before 15th December	Not less than 75% of advance tax liability, as reduced by the amount or amounts, if any, paid in the earlier instalment or instalments.
On or before 15th March	The whole amount of advance tax liability as reduced by the amount or amounts, if any, paid in the earlier instalment or instalments.

Note - Any amount paid by way of advance tax on or before 31st March shall also be treated as advance tax paid during each financial year ending on 31st March.

(2) Eligible assessee computing profits on presumptive basis under section 44AD(1) or section 44ADA(1) to pay advance tax by 15th March

An eligible assessee, opting for computation of profits or gains of business on presumptive basis in respect of eligible business referred to in section 44AD(1) or for computation of profits or gains of profession on presumptive basis in respect of eligible profession referred to in section 44ADA(1), shall be required to pay advance tax of the whole amount in one instalment on or before 15th March of the financial year.

However, any amount paid by way of advance tax on or before 31st March shall also be treated as advance tax paid during each financial year ending on 31st March.

(3) Where advance tax is payable by virtue of the notice of demand issued under section 156 by the Assessing Officer, the whole or the appropriate part of the advance tax specified in such notice shall be payable on or before each of such due dates as fall after the date of service of notice of demand.

(4) Where the assessee does not pay any instalment by the due date, he shall be deemed to be an assessee in default in respect of such instalment.

13.9.4 Credit for advance tax [Section 219]

Any sum, other than interest or penalty, paid by or recovered from an assessee as advance tax, is treated as a payment of tax in respect of the income of the previous year and credit thereof shall be given in the regular assessment.

13.10 INTEREST CHARGEABLE IN CERTAIN CASES

13.10.1 Interest for defaults in furnishing return of income [Section 234A]

(1) **Rate and Period for calculation of interest** - Where the return of income for any assessment year under section 139(1) or section 139(4) or section 139(8A) or in response to a notice under section 142(1), is furnished after the due date or is not furnished, the assessee shall be liable to pay simple interest at the rate of 1% for every month or part of a month comprised in the period commencing on the day immediately following the due date and,

(a) where the return is furnished after the due date, ending on that date of furnishing the return; and

(b) where no return has been furnished, ending on the date of completion of assessment under section 144.

The interest payable under section 234A shall be reduced by the interest, if any, paid under section 140A towards interest chargeable under this section.

Note - *'Due date' means the date specified in section 139(1) as applicable in the case of the assessee.*

(2) **Amount on which interest is payable** - The amount on which interest will be payable will be the amount of the tax on the total income as determined under section 143(1) or on regular assessment, as reduced by the amount of -

(i) advance tax, if any, paid ;

(ii) any tax deducted or collected at source;

(iii) any relief of tax allowed under section 89;

(iv) any relief of tax allowed under section 90 or 90A;

(v) any deduction of tax allowed under section 91;

(vi) any tax credit allowed to be set-off in accordance with the provisions of section 115JAA or section 115JD.

Notes:

(i) The tax on total income as determined under section 143(1) would not include additional income-tax, if any, payable under section 140B or under section 143.

(ii) Tax on the total income determined under regular assessment would not include the additional income-tax payable under section 140B.

(iii) Where in relation to an assessment year an assessment is made for the first time under section 147, the assessment so made shall be regarded as regular assessment for the purposes of this section.

(3) **Computation of interest where return is furnished after the time period specified in notice under section 148** - Where the return of income for any assessment year, required by a notice under section 148 issued after the determination of income under section 143(1) or after completion of assessment under section 143(3) or section 144 or section 147, is furnished after the expiry of the time allowed under such notice, or is not furnished, the assessee shall be liable to pay simple interest at the rate of 1% for every month or part of a month comprised in the period commencing on the date immediately following the expiry of the time allowed as aforesaid and ending on the following dates specified in column (3) below:

	Case	Ending date
(i)	where the return is furnished after the expiry of the time aforesaid	on the date of furnishing the return
(ii)	where no return has been furnished	on the date of completion of the reassessment or re-computation under section 147

(4) Amount on which interest is payable - The amount on which the above interest is payable is the amount by which the tax on the total income determined on the basis of such reassessment or re-computation exceeds the tax on the total income determined under section 143(1) or on the basis of the earlier assessment aforesaid.

(5) Consequence where interest is increased or reduced subsequently as a result of rectification, appeal, revision, etc. - Where as a result of an order of rectification or appellate order or an order of revision, the interest payable is reduced or increased, the Assessing Officer shall proceed as follows:

	Case	Ending date
(i)	Where the interest is increased	The Assessing Officer shall serve on the assessee a notice of demand in the prescribed form specifying the sum payable and such demand notice shall be a notice under section 156.
(ii)	Where interest is reduced	The excess paid shall be refunded

(6) Interest under section 234A not chargeable on self-assessment tax paid before the due date of filing of return of income [*Circular No. 2/2015, dated 10-2-2015*]

The Hon'ble Supreme Court has, in the case of *CIT vs Prannoy Roy (2009) 309 ITR 231,* held that interest under section 234A on default of furnishing return of income shall be payable only on the amount of tax that has not been deposited before the due date of filing of the -tax return for the relevant assessment year.

No interest

Accordingly, the CBDT has clarified that **no** interest under section 234A shall be charged on self-assessment tax paid by the assessee on or before the due date of filing of return.

13.10.2 Interest for non-payment or short-payment of advance tax [Section 234B]

(1) **Rate and period of interest**: Interest under section 234B would be attracted where an assessee, who is liable to pay advance tax, fails to pay such tax or the advance tax paid is less than 90% of assessed tax. Accordingly, interest would be leviable at the rate of 1% for every month or for part of month for the following period, if the advance tax paid falls short of 90% of the 'assessed tax'.

Interest @1% p.m. or part of a month

Period commencing from:	and	Period ending on:		
the 1st April of the following F.Y.		(i)	Where regular assessment is not made	The date of determination of total income u/s 143(1)
		(ii)	Where regular assessment is made	The date of regular assessment
Amount on which interest is payable:				
(i)	Where no advance tax is paid			Assessed tax
(ii)	Where advance tax paid falls short of 90% of assessed tax			Assessed tax **minus** Advance tax paid

(2) **Meaning of the term 'assessed tax':** The tax on the total income determined under section 143(1) or on regular assessment as reduced by the amount of -

(i) any tax deducted or collected at source on any income which is taken into account for calculating the total income;

(ii) any relief of tax allowed under section 89;

(iii) any relief of tax allowed under section 90 or 90A;

(iv) any deduction of tax allowed under section 91;

(v) any tax credit allowed to be set-off in accordance with the provisions of section 115JAA or section 115JD.

***Notes**:*

(i) An assessment made for the first time under section 147 shall be deemed to be regular assessment.

(ii) Tax on total income as determined under section 143(1) would not include the additional income-tax, if any, payable under section 140B or section 143.

(iii) Tax on the total income determined under such regular assessment would not include the additional income-tax payable under section 140B.

(3) **Interest paid on self-assessment**: Where, before the date of determination of total income under section 143(1) or completion of regular assessment, tax is paid by the assessee under section 140A or otherwise, interest shall be calculated up to the date on which the tax is so paid and reduced by the interest paid under section 140A towards interest under section 234B.

Thereafter, interest shall be calculated @1% on the amount by which the tax paid under section 140A together with the advance tax paid falls short of the assessed tax.

(4) **Where total income is increased on reassessment under section 147:** As per section 234B(3), where the total income is increased on reassessment under section 147, the assessee shall be liable for interest @1% for every month or part of a month on the amount of the increase in tax on total income as a consequence of reassessment or recomputation [Tax on total income determined on the basis of reassessment or recomputation (–) Tax on total income determined under section 143(1) or on the basis of regular assessment].

Period for which interest is payable

Period commencing from:		Period ending on:
the 1st April next following the financial year	**and**	the date of reassessment or recomputation under section 147.

(5) **Consequence where interest payable is increased or reduced subsequently as a result of rectification, appeal, revision etc.** - Where as a result of an order of rectification or an appellate order or an order of revision, the interest payable is reduced or increased, the Assessing Officer shall proceed as follows:

	Case	Ending date
(i)	Where the interest is increased	The Assessing Officer shall serve on the assessee a notice of demand in the prescribed form specifying the sum payable and such demand notice shall be a notice under section 156.
(ii)	Where interest is reduced	The excess paid shall be refunded

13.10.3 Interest for deferment of advance tax [Section 234C]

(1) Manner of computation of interest under section 234C for deferment of advance tax by corporate and non-corporate assessees:

In case an assessee, other than **an assessee who declares profits and gains in accordance with the provisions of section 44AD(1) or section 44ADA(1)**, who is liable to pay advance tax under section 208 has failed to pay such tax or the advance tax paid by such assessee on its current income on or before the dates specified in column (1) is less than the specified percentage [given in column (2)] of tax due on returned income, then simple interest @1% per month for the period specified in column (4) on the amount of shortfall, as per column (3) is leviable under section 234C.

Interest on deferment of advance tax @1% p.m. or part of a month

Specified date	Specified%	Shortfall in advance tax	Period
(1)	(2)	(3)	(4)
15th June	15%	15% of tax due on returned income (-) advance tax paid up to 15th June	3 months
15th September	45%	45% of tax due on returned income (-) advance tax paid up to 15th September	3 months
15th December	75%	75% of tax due on returned income (-) advance tax paid up to 15th December	3 months
15th March	100%	100% of tax due on returned income (-) advance tax paid up to 15th March	1 month

Note *– However, if the advance tax paid by the assessee on the current income, on or before 15th June or 15th September, is not less than 12% or, 36% of the tax due on the returned income, respectively, then, the assessee shall not be liable to pay any interest on the amount of the shortfall on those dates.*

(2) **Computation of interest under section 234C in case of an assessee who declares profits and gains in accordance with the provisions of section 44AD(1) or section 44ADA(1):**

In case an assessee, who declares profits and gains in accordance with the section 44AD(1) or section 44ADA(1), as the case may be, who is liable to pay advance tax under section 208 has failed to pay such tax or the advance tax paid by the assessee on its current income on or before 15th March is less than the tax due on the returned income, then, the assessee shall be liable to pay simple interest at the rate of 1% on the amount of the shortfall from the tax due on the returned income.

(3) **Non-applicability of interest under section 234C in certain cases:**

Interest under section 234C shall not be leviable in respect of any shortfall in payment of tax due on returned income, where such shortfall is on account of under-estimate or failure to estimate –

(i) the amount of capital gains;

(ii) income of nature referred to in section 2(24)(ix) i.e., winnings from lotteries, crossword puzzles etc.;

(iii) income under the head "Profits and gains of business or profession" in cases where the income accrues or arises under the said head for the first time;

(iv) the amount of dividend income u/s 2(22)(a)/(b)/(c)/(d)/(f)

However, the assessee should have paid the whole of the amount of tax payable in respect of such income referred to in (i), (ii), (iii) or (iv), as the case may be, had such income been a part of the total income, as part of the remaining instalments of advance tax which are due or where no such instalments are due, by 31st March of the financial year.

(4) **Tax due on the returned income:** means the tax chargeable on the total income declared in the return of income furnished by the assessee for the assessment year immediately following the financial year in which the advance tax is paid or payable, as reduced by the amount of –

(i) any tax deductible or collectible at source on any income which is taken into account for calculating the total income;

(ii) any relief of tax allowed under section 89;

(iii) any relief of tax allowed under section 90 or 90A;

(iv) any deduction of tax allowed under section 91;

(v) any tax credit allowed to be set-off in accordance with the provisions of section 115JAA or section 115JD.

13.10.4 Interest on excess refund granted at the time of summary assessment [Section 234D]

(1) **Applicability**: Where a regular assessment under section 143(3) or section 144 is made, any tax or interest paid under section 143(1) shall be deemed to have been paid towards such regular assessment and if no refund is due on regular assessment or the amount refunded under section 143(1) exceeds the amount refundable on regular assessment, the whole or the excess amount so refunded is deemed to be tax payable by the assessee. In order to charge interest for the period during which the refund amount has been utilised by the assessee, section 234D levies interest on excess refund granted at the time of summary assessment.

Interest on refund @ ½% p.m. or part of a month

(2) **Rate and period of interest**: Where any refund is granted to the assessee under section 143(1) and no refund is due on regular assessment or the amount refunded under section 143(1) exceeds the amount refundable on regular assessment, then, the assessee shall be liable to pay simple interest at the rate of ½% on the whole or the excess amount so refunded for every month or part of the month from the date of grant of the refund to the date of such regular assessment.

Note - An assessment made for the first time under section 147 shall be regarded as regular assessment for the purpose of this section.

(3) **Reduction of interest**: The interest chargeable under sub-section (1) shall be reduced, where, as a consequence to the order passed due to rectification, appeal, revisions etc. under sections 154/155/250/254/260/262/263/264, the amount of refund granted under section 143(1) is held to be correctly allowed.

13.10.5 Fee/ penalty for default in furnishing TDS/ TCS Statements

(1) **Quantum of fee**: A fee of ₹ 200 for every day would be levied under section 234E for late furnishing of TDS/ TCS statement

Fee/penalty

from the due date of furnishing of TDS/ TCS statement to the date of furnishing of TDS/ TCS statement. However, the total amount of fee shall not exceed the total amount of tax deductible/collectible and such fee has to be paid before delivering the TDS/ TCS statement.

(2) **Penalty [Section 271H]**: In addition to the said fee, a penalty ranging from a minimum of ₹ 10,000 to a maximum of ₹ 1,00,000 shall also be levied under section 271H for not furnishing TDS/ TCS statements within the prescribed time or furnishing incorrect information in the said statements in respect of tax deducted or collected at source.

(3) **Fee and penalty where TDS/ TCS statement is furnished after one year**: Since late furnishing of TDS/ TCS statements would attract levy of fees under section 234E, no penalty under section 271H shall be levied for delay in furnishing of TDS/ TCS statement, if the TDS/ TCS statement is furnished within one year of the prescribed due date after payment of tax deducted or collected along with applicable interest and fee. However, if the delay is beyond the period of one year, both fee under section 234E and penalty under section 271H would be leviable.

W.e.f. 1.4.2025, the time limit of one year for furnishing TDS/ TCS statement for non-applicability of penalty under section 271H is reduced to one month.

13.11 COLLECTION AND RECOVERY OF TAX - OTHER METHODS

13.11.1 Payment of tax and defaults by the assessee [Section 220]

(1) Under section 220(1), any amount specified as payable in a notice of demand under section 156 shall be paid within thirty days of the service of notice at the place and to the person mentioned in the notice. On an application made by the assessee before the expiry of the due date of thirty days, the Assessing Officer may extend the time for payment or allow payment by instalments, subject to such conditions as he may think fit to impose in the circumstances of the case.

The Assessing Officer may with the previous approval of the Joint Commissioner, direct that the sum specified in the notice of demand shall be paid within such period being a period less than the period of thirty days as may be specified by him in the notice of demand, if he has any reason to believe that it will be detrimental to revenue if the full period of thirty days aforesaid is allowed.

(2) If the amount specified in the notice is not paid within the period, the assessee shall be liable to pay interest at 1% for every month or part of a month comprised in the period commencing from the day immediately following the end of the period mentioned in section 220(1) and ending with the day on which the amount is paid. This is provided for in section 220(2).

Interest@1% p.m. or part of a month

(3) The first proviso to section 220(2) states that where, as a result of an order under sections 154/155/250/254/260/262/264, the amount on which interest payable under this section had been reduced, the interest shall be reduced accordingly and the excess interest paid, if any, shall be refunded.

(4) The liability of the assessee to pay interest is based on the theory of continuity of the proceedings and the doctrine of relation back.

(5) Further, the second proviso to section 220(2) provides that if, as a result of an order under the sections specified in the first proviso to section 220(2), the amount of interest payable was reduced, and thereafter, as a result of another order under any of the sections given in the first proviso or section 263, the interest payable was increased, the assessee would be liable to pay interest under section 220(2) from the day immediately following the end of the period mentioned in the first notice of demand referred to in section 220(1) till the date on which the amount is paid.

(6) Accordingly, section 220(1A) provides that where any notice of demand has been served upon an assessee and any appeal or other proceeding, as the case may be, is filed or initiated in respect of the amount specified in the said notice of demand, then such demand shall be deemed to be valid till the disposal of appeal by the last appellate authority or disposal of proceedings, as the case may be, and any such notice of demand shall have effect as provided in section 3 of the Taxation Laws (Continuation and Validation of Recovery Proceedings) Act, 1964 [See Note below]

Notice of Demand valid till disposal of

Note - Section 3 of the Taxation Laws (Continuation and Validation of Recovery Proceedings) Act, 1964

Continuation and validation of certain proceedings

(1) Where any notice of demand in respect of any Government dues is served upon an assessee by a Taxing Authority under any scheduled Act, and any appeal or other proceeding is filed or taken in respect of such Government dues, then,-

(a) where such Government dues are enhanced in such appeal or proceeding, the Taxing Authority shall serve upon the assessee another notice of demand only in respect of the amount by which such Government dues are enhanced and any proceeding in relation to such Government dues as are covered by the notice or notices of demand served upon him before the disposal of such appeal or proceeding may, without the service of any fresh notice of demand, be continued from the stage at which such proceedings stood immediately before such disposal;

(b) where such Government dues are reduced in such appeal or proceeding,-

(i) it shall not be necessary for the Taxing Authority to serve upon the assessee a fresh notice of demand;

(ii) the Taxing Authority shall give intimation of the fact of such reduction to the assessee. Further, where a certificate has been issued to the Tax Recovery Officer for the recovery of such amount, intimation of the fact of reduction shall also be given to him;

(iii) any proceedings initiated on the basis of the notice or notices of demand served upon the assessee before the disposal of such appeal or proceeding may be continued in relation to the amount so reduced from the stage at which such proceedings stood immediately before such disposal;

(c) no proceedings in relation to such Government dues (including the imposition of penalty or charging of interest) shall be invalid by reason only that no fresh notice of demand was served upon the assessee after the disposal of such appeal or proceeding or that such Government dues have been enhanced or reduced in such appeal or proceeding.

(2) No fresh notice of demand shall be necessary in any case where the amount of Government dues is not varied as a result of any order passed in any appeal or other proceeding under any scheduled Act.

(3) The provisions of this section shall have effect notwithstanding any judgment, decree or order of any court, tribunal or other authority.

ILLUSTRATION 21

The Assessing Officer issued a notice of demand under section 156 to Mr. X on 1.10.2024 for payment of ₹ 15 lakhs towards his income-tax liability for the A.Y.2023-24, requiring him to pay the said amount within 30 days.

(a) Is he required to issue fresh notice of demand and if so, for what amount, in the following two cases (each case has to be considered independently) –

(i) If the tax demand is reduced to ₹ 12 lakhs by the Commissioner (Appeals) by issue of order under section 250;

(ii) If the tax demand is increased to ₹ 20 lakhs by the Appellate Tribunal, by issue of an order under section 254.

(b) How would the interest liability under section 220(2) be calculated if the tax demand is reduced to ₹ 12 lakhs by the Commissioner (Appeals) by issue of order under section 250 and subsequently increased to ₹ 15 lakhs by the Appellate Tribunal by way of issue of order under section 254?

SOLUTION

(a) (i) No fresh notice of demand is required to be served on Mr. X. The Assessing Officer is only required to give an intimation of the fact of reduction of demand to ₹ 12 lakhs to Mr. X. The proceedings initiated on the basis of the original notice of demand may be continued in relation to the reduced amount of ₹ 12 lakhs from the stage at which such proceedings stood immediately before disposal of appeal.

(ii) A fresh notice of demand has to be given only in respect of ₹ 5 lakhs, being the amount of enhancement. Any proceedings in relation to ₹ 15 lakhs covered by the original notice of demand served upon Mr. X may be continued from the stage at which such proceedings stood immediately before disposal of appeal.

(b) The interest under section 220(2) has to be paid on ₹ 15 lakhs @1% per month or part of the month comprised in the period commencing from 1.11.2024 and ending with the date on which the amount is paid, assuming that Mr. X has not paid any interest so far.

(7) **Reduction or waiver of interest payable under section 220(2)** - Section 220(2A) empowers the Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner for reduction or waiver of any interest payable under section 220(2).

Accordingly, w.e.f. 4.11.2024, the CBDT has, vide Circular no. 15/2024, dated 4.11.2024, for the proper administration of the Act, specified the monetary limits for reduction or waiver of interest:

S.No.	Income-tax Authority	Monetary limits for reduction or waiver of interest
1	Principal Commissioner or Commissioner of Income-tax	Upto ₹ 50 lakhs
2	Chief Commissioner of Income-tax	Above ₹ 50 lakhs to ₹ 1.5 crores
3	Principal Chief Commissioner of Icome-tax	Above ₹ 1.5 crores

The powers of reduction or waiver of the interest paid or payable under section 220(2) in respect of any income-tax authority shall continue if he is satisfied that:

(i) payment of such amount has caused or would cause genuine hardship to the assessee;

(ii) default in the payment of the amount on which interest was made payable under the said sub-section was due to circumstances beyond the control of the assessee; and

(iii) the assessee has co-operated in any enquiry relating to the assessment or any proceeding for the recovery of any amount due from him.

The order accepting or rejecting the application of the assessee, either in full or in part, shall be passed **within a period of twelve months from the end of the month in which the application is received**.

Further, no order rejecting the application, either in full or in part, shall be passed unless the assessee has been given an opportunity of being heard.

(8) **Interest under section 220(2) not leviable where interest is charged u/s 201(1A) or section 206C(7)** -

Since the intimation generated after processing the TDS statement under section 200A(1) would be deemed as a notice of demand under section 156, consequently, interest under section 220 would be attracted for failure to pay the tax specified in the intimation. However, interest under section 201(1A) is leviable for non-payment of tax specified in the intimation. Therefore, it has been provided that in cases where interest is charged for any period under section 201(1A) on the tax specified in the intimation under section 200A, then, interest under section 220(2) would not be levied on the same amount for the same period.

Likewise, since the intimation generated after processing of TCS statement shall be deemed as a notice of demand under section 156, failure to pay the tax specified in the intimation shall attract a levy of interest as per the provisions of section 220(2). Section 206C(7) also provides for levy of interest for non-payment of tax specified in the intimation to be issued. In order to remove the possibility of charging interest on the same amount for the same period of default both under section 206C(7) and section 220(2), sub-section (2C) of section 220 specifically provides that **where interest is charged for any period under section 206C(7) on the amount of tax specified in the intimation issued under 206CB(1), no interest shall be charged under section 220(2)** on the same amount for the same period.

Intimation deemed as notice of demand

13.11.2 Penalty payable [Section 221]

(1) **Penalty for default in payment of tax -** Where an assessee is in default in payment of tax including advance tax and interest payable thereon, the Assessing Officer shall impose a penalty which, in cases of continuing default, may be increased from time to time. However, the total penalty should not exceed the tax in arrears. The Assessing Officer should give the assessee a reasonable opportunity of being heard before levying such a penalty.

Penalty not to exceed tax arrears

No penalty shall be levied on the assessee for default in payment of tax in cases where he proves to the satisfaction of the Assessing Officer that the default was for good and sufficient reasons.

(2) **Payment of tax before levy of penalty not to absolve the assessee from penalty** - The *Explanation* to section 221(1) provides that an assessee would not cease to be liable to pay any penalty for his default or delay in payment of the tax merely by reason of the fact that before the date of levy of such penalty, the tax which was in arrears had actually been paid by him.

Thus, wherever there is a delay on the part of the assessee, he would be liable to penalty even though by the time the Assessing Officer initiates action for the levy of penalty, the amount of tax in arrears is actually paid.

Pay tax before filing appeal

An order imposing penalty is appealable and the assessee's right of appeal subject to the condition that he must first pay the tax or penalty; the assessee should first pay the tax before filing the appeal.

(3) **Circumstance when penalty levied will be cancelled** – If, as a consequence of any final order, the amount of tax, with respect to the default in the payment of which the penalty was levied, has been wholly reduced, the penalty levied shall be cancelled and the amount of penalty paid shall be refunded.

13.11.3 Certificate to Tax Recovery Officer (TRO) [Section 222]

(1) **TRO to draw up statement specifying amount of arrears due from an assessee-in-default [Section 222(1)]** - When an assessee is in default or is deemed to be in default in making a payment of tax, the TRO may draw up under his signature a statement in the prescribed form and specifying the amount of arrears due from the assessee and shall proceed to recover from such assessee the amount specified in the certificate by one of more of the modes mentioned below, in accordance with the Second Schedule.

(a) Attachment and sale of the assessee's movable property.

(b) Attachment and sale of assessee's immovable properties.

(c) Arrest of the assessee and his detention in prison.

(d) Appointing a receiver for the management of the assessee's movable and immovable properties.

(2) **Property to include property transferred to spouse/minor child/son's wife/son's minor child for inadequate consideration [*Explanation* to section 222(1)]** - For the purpose of this section, the assessee's movable or immovable property shall include any property which has been transferred directly or indirectly by the assessee to his spouse or minor child or son's wife or son's minor child otherwise than for adequate consideration and which is held by any of the persons aforesaid. So far as the movable or immovable property so transferred to his minor child or his son's minor child is concerned, they shall, even after the date of attainment of majority by such minor child or son's minor child, continue to be included in the assessee's movable or immovable property for recovering any arrears from the assessee in respect of any period prior to such date.

(3) The TRO may take action under sub-section (1), notwithstanding that proceedings or recovery of the arrears by any special mode have been taken.

13.11.4 Tax Recovery Officer (TRO) by whom recovery is to be effected [Section 223]

(1) **TRO competent to take action under section 222**: The TRO competent to take action under section 222 shall be the TRO within whose jurisdiction:

Jurisdictional TRO

(i) the assessee carries on business or profession.

(ii) the principal place of his business or profession is situated.

(iii) the assessee resides or any movable or immovable property of the assessee is situated.

(2) **Assignment of jurisdiction**: The jurisdiction is assigned either by the CBDT or by the Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner who is authorised on this behalf by the CBDT under section 120.

(3) **Procedure where an assessee has property within the jurisdiction of more than one TRO**: In such a case, if the TRO by whom the certificate is drawn up is not able to recover the entire amount by the sale of the property within his jurisdiction or is of the opinion that, for the purpose of expediting or securing the recovery of the whole or any part of the amount under this Chapter, it is necessary so to do, he may send the certificate to a TRO within whose jurisdiction the assessee has property. Thereupon, that TRO shall proceed to recover the amount as if the certificate was drawn up by him.

13.11.5 Validity of certificate and cancellation and amendment thereof [Section 224]

(1) The assessee cannot dispute the correctness of any certificate drawn up by the TRO on any ground whatsoever.

(2) However, the TRO is empowered to cancel the certificate if, for any reason, he thinks it necessary so to do, or to correct any clerical or arithmetical mistake therein.

13.11.6 Stay of proceedings in pursuance of certificate and amendment or cancellation thereof [Section 225]

(1) **TRO empowered to grant time for payment of tax:** It shall be lawful for the TRO to grant time for the payment of any tax and when he does so he shall stay proceedings for the recovery of such tax until the expiry of the time so granted.

Grant Time

(2) **TRO empowered to stay proceedings where demand is reduced in appeal but subject matter of further proceedings:** Where as a result of appeal, the demand is reduced but the order is the subject matter of further proceedings, the TRO shall stay the recovery of such part of the amount specified in the certificate as pertains to such deduction for the period in which an appeal or other proceedings remains pending.

(3) **TRO empowered to modify or cancel certificate where demand is reduced on appeal**: Where a certificate has been drawn up and subsequently, as a result of appellate order, the amount is reduced, the TRO shall modify the certificate or cancel it if it is necessary, when the order which was the subject matter of appeal or other proceeding becomes final and conclusive.

13.11.7 Other modes of recovery [Section 226 & 227]

(1) Recovery of tax where a certificate has/has not been drawn up under section 222:

	Whether Certificate has been drawn up under section 222?	Income-tax authority empowered to recover taxes by one or more of the modes specified in section 226
(i)	No	Assessing Officer
(ii)	Yes	TRO, without prejudice to the modes of recovery specified in section 222

Note *- This section enumerates the various modes of recovery by the Assessing Officer and TRO. Students may refer to the section in the Bare Act for details.*

(2) Non-validity of claim in regard to any property where notice is issued: Any claim in regard to any property in relation to which a notice under this section is issued, shall be void as against any demand contained therein.

(3) Consequences where the person on whom notice is served objects on oath: Where a person, on whom a notice (garnishee order) under this section has been served, objects on oath that the amount demanded from him is not due to the assessee or that he does not hold any money for or on account of the assessee, he cannot be compelled by the Assessing Officer to make the payment. However, if it is later on found that such a statement made by him was false, he would personally become liable to pay the amount to the Assessing Officer or TRO to the extent of his own liability to the assessee or to the extent of the assessee's liability, whichever is less.

Such personal liability would arise even in cases where the person in receipt of a notice from the Assessing Officer or TRO, makes a payment in disregard of the notice served on him.

(4) **Recovery of tax dues from money in custody of a Court or Receiver by distraint and sale of movable property**: Moneys belonging to the assessee-in-default which are in the custody of a Court or Receiver are also liable for attachment. Further, on being authorised by the Principal Chief Commissioner/Chief Commissioner/Principal Commissioner/ Commissioner, the Assessing Officer or the TRO is also empowered, by general or special order to recover any arrears of tax due by distraint and sale of movable property as laid down in the Third Schedule. For details, students may refer to the Third Schedule in the Act.

(5) **Recovery through State Government**: In addition, tax may be recovered through the State Government if the recovery of tax in any area has been entrusted to it under the Constitution. In such a case, the State Government may direct that the tax shall be recovered in respect of any particular area together with the municipal taxes or local rates, if any, by the municipality or local authority [Section 227].

13.11.8 Recovery of tax in pursuance of agreements with foreign countries [Section 228A]

(1) Section 228A provides for the procedure of recovery of tax in pursuance of an agreement entered into by the Central Government with the Government of any country outside India or any authority under that Government.

Recovery of tax from a resident or person having property in India

(2) Where the Government of the foreign country or any authority under that Government sends a certificate to the CBDT for the recovery of any tax due under that law from a resident, or a person having any property in India, the CBDT may forward such certificate to any TRO having jurisdiction over the resident, or within whose jurisdiction such property is situated.

(3) The TRO shall proceed to recover the amount specified in the certificate in the manner in which he would proceed to recover the amount specified in a certificate drawn up by him under section 222.

(4) Thereafter, the TRO has to remit any sum so recovered to the CBDT after deducting the expenses in connection with the recovery proceedings.

(5) Where an assessee is in default or is deemed to be in default in making a payment of tax, the TRO may, if the assessee is a resident of a country (being a country with which the Central Government has entered into an agreement for the recovery of income-tax under the Income-tax Act, 1961 and the corresponding law in force in that country) or has any property in that country, forward to the CBDT a certificate drawn up by him under section 222 and the CBDT may take such action thereon as it may deem appropriate having regard to the terms of the agreement with such country.

13.11.9 Tax Clearance Certificate [Section 230]

(1) Undertaking to be furnished by a person not domiciled in India visiting India in connection with business, profession or employment [Section 230(1)]

(i) No person, who is not domiciled in India and who has come to India in connection with business, profession or employment; and who has income derived from any source in India, shall leave the territory of India by land, sea or air unless he furnishes to the prescribed authority an undertaking in the prescribed form.

(ii) The said undertaking should be furnished from the employer of the said person or through whom such person is in receipt of the income.

(iii) The undertaking should be to the effect that tax payable by such person who is not domiciled in India shall be paid by the employer or the person through whom any income is receivable by the first-mentioned person.

Undertaking from person not domiciled in India

(iv) The prescribed authority shall, on receipt of the undertaking, immediately give to such person a no objection certificate, for leaving India.

(v) However, the provisions contained in sub-section (1) shall not apply to a person who is not domiciled in India but visits India as a foreign tourist or for any other purpose not connected with business, profession or employment.

(2) Furnishing of PAN by person domiciled in India at the time of departure [Section 230(1A)]

(i) Every person, who is domiciled in India at the time of his departure, shall furnish, to the income-tax authority or such other authority as may be prescribed, his PAN allotted to him under section 139A, the purpose of his visit and the estimated period of his stay outside India.

Furnishing of PAN at the time of departure

(ii) In case, no such PAN has been allotted to him, or his total income is not chargeable to income-tax or he is not required to obtain a PAN under the Income-tax Act, 1961, a certificate in the prescribed form shall be furnished to the income-tax authority or such other authority, as may be prescribed.

(iii) However, where an income-tax authority opines that there exist circumstances which render an Indian domiciled to obtain a certificate under this section, such person shall not leave the territory of India by land, sea or air unless -

(a) he obtains a certificate from the income-tax authority stating that he has no liabilities under the Income-tax Act, 1961 *or the Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act, 2015*, or

(b) that satisfactory arrangements have been made for the payment of all or any of such taxes which are or may become payable by that person [First proviso to sub-section (1A)]

(iv) No income-tax authority shall make it necessary for any person who is domiciled in India to obtain a certificate under this section unless he records the reasons therefor and obtains the prior approval of the Principal Chief Commissioner or Chief Commissioner of Income-tax.

(3) Personal liability of owner or charterer of ship or aircraft carrying such persons [Section 230(2) & (3)]

If the owner or charterer of any ship or aircraft carrying persons from any place in India to any place outside India allows any of the above-mentioned persons to travel by such ship or aircraft without first satisfying that such person is in possession of a certificate as required, he shall be personally liable to pay the whole or any part of the tax payable by such person as the Assessing Officer, may determine. In such a case, the owner or charterer shall be deemed to be an assessee in default for such sum and recovery shall be made in the manner as if it were an arrear of tax.

***Note** - The expressions "owner" and "charterer" include any representative, agent or employee empowered by the owner or charterer to allow persons to travel by the ship or aircraft.*

(4) Power to make Rules [Section 230(4)]

The CBDT is empowered to make rules for carrying out the provisions of this section.

13.11.10 Faceless collection and recovery of tax [Section 231]

Section 231 empowered the Central Government to notify scheme for faceless collection and recovery of tax for eliminating physical interface.

(1) **Faceless scheme [Section 231(1)]** - The Central Government is empowered to make a scheme [faceless collection and recovery of tax scheme] by notification in the Official Gazette for the purpose of:

a. issuing certificate for deduction of income-tax at any lower rates or no deduction of income-tax under section 197 or

b. deeming a person to be an assessee-in-default under section 201(1) or section 206C(6A) or

c. issuance of certificate for lower collection of tax under 206C(9) or

d. passing of order or amended order under section 210(3)/(4) or

Faceless Collection and recovery of tax

e. reduction or waiver of the amount of interest paid or payable by an assessee u/s 220(2A); or

f. extending the time for payment or allowing payment by instalment u/s 220(3); or

g. treating the assessee as not being in default u/s 220(6) or u/s 220(7); or

h. levy of penalty u/s 221; or

i. drawing of certificate by the Tax Recovery Officer u/s 222; or

j. jurisdiction of Tax Recovery Officer u/s 223 or

k. stay of proceedings in pursuance of certificate and amendment or cancellation thereof by the Tax Recovery Officer u/s 225 or

l. other modes of recovery u/s 226 or

m. issuance of tax clearance certificate u/s 230

so as to impart greater efficiency, transparency and accountability by:

(i) eliminating the interface between the income-tax authority and the assessee or any person to the extent technologically feasible

(ii) optimising utilisation of the resources through economies of scale and functional specialisation;

(iii) introducing a team-based issuance of certificate for deduction or collection of income-tax at lower rate, or for no deduction, or for deeming a person to be an assessee-in-default, or for passing of an order or amended order, or extending the time for payment, or allowing payment by instalment, or reduction or waiver of interest, or for treating the assessee as not being in default, or for levy of penalty or for drawing of certificate or stay of proceedings in pursuance of certificate and amendment or cancellation thereof, by, or jurisdiction of, Tax Recovery Officer or other modes of recovery or issuance of tax clearance certificate, with dynamic jurisdiction.

(2) **Applicability or non-applicability of other provisions of the Act [Section 231(2)]** - The Central Government may, for the purpose of giving effect to the scheme, by notification in the

Official Gazette, direct that any provision of this Act shall not apply or shall apply with such exception, modification and adaptations as specified in the notification.

No such direction can, however, be issued by the Central Government after 31st March, 2022.

(3) **Notification issued above to be laid before each House of Parliament [Section 231(3)]** - Every such notification issued by the Central Government either under sub section (1) or (2) of the section 231 has to be laid before each House of Parliament as soon as possible.

13.11.11 Recovery by suit or under other law [Section 232]

Section 232 provides that the Assessing Officer or the Government can have recourse to the other modes of recovery under any other law for the time being in force, over the various modes specified above to recover the tax dues under the Act, in the same way as other debts due to the Government. It shall also be lawful for the Assessing Officer or the Government to take recourse to any other law or file a suit in any manner for the recovery of the arrears due from the assessee.

13.12 REFUNDS

(1) Eligibility [Section 237]

(i) An assessee is entitled to claim a refund of tax if the tax actually paid (and not merely payable) by him or on his behalf or treated as paid by him or on his behalf for any assessment year exceeds the amount of tax with which he is properly chargeable under the Act for that year.

(ii) This may usually arise as a result of excess deduction of tax at source from salaries, dividends, interest, to or as a result of excess payment of advance tax or when the tax originally paid on assessment is reduced on appeal, revision, rectification or reference.

(2) Persons entitled to claim refund in certain cases [Section 238]

(i) Generally, a claim for a refund can be made only by the person on whose account the tax was already paid.

(ii) However, in cases where the income of one person is included in the total income of another person under sections 60 to 65, the latter person alone is entitled to claim the refund.

(iii) If any person is not able to claim or receive the refund due to him on account of his death,

incapacity, insolvency, dissolution, liquidation, etc., his legal representative or trustee or guardian or receiver, as the case may be, is entitled to claim or receive the refund on behalf of such person or his estate.

(3) Claim for refund [Section 239]

In order to simplify the procedure for a claim of refund, it has been provided that every claim for refund should be made by furnishing a return in accordance with the provisions of section 139.

(4) Refund for denying liability to deduct tax under section 195 [Section 239A]:

(i) Application for refund of tax - This section provides that where under an agreement or other arrangement, in writing, the tax deductible on any income, other than interest, under section 195 is to be borne by the person by whom the income is payable, and such person having paid such tax to the credit of the Central Government, claims that no tax was required to be deducted on such income, he may file an application before the Assessing Officer for a refund of such tax in prescribed form and manner.

(ii) Time limit for filing application - Such application may be filed within 30 days from the date of payment of such tax.

(iii) Passing of order by Assessing Officer - The Assessing Officer has to, by an order in writing, allow or reject the application. However, no application would be rejected unless an opportunity of being heard has been given to the applicant. The Assessing Officer, may, before passing an order make such inquiry as he considers necessary.

(iv) Time limit for passing order - The order has to be passed within 6 months from the end of the month in which application for refund is received.

(5) Refund on appeal etc. [Section 240]

(i) Where refund becomes due to the assessee as a result of an order passed in appeal or any other proceeding under the Income-tax Act, 1961, he need not make an application to claim the same.

(ii) In such a case, the Assessing Officer is bound to pass an order of refund without waiting for the application from the assessee.

(iii) Where, by the order aforesaid, an assessment is set aside or cancelled and an order of fresh assessment is directed to be made, the refund shall become due only on the making of such fresh assessment.

(iv) Where the assessment is annulled, the refund shall become due only of the amount

of tax paid in excess of the tax chargeable on the total income returned by the assessee.

(6) Correctness of assessment not to be questioned [Section 242]

(i) While making a claim for refund, an assessee cannot question the correctness of any assessment or other matter decided which has become final and conclusive or ask for a review of the same.

(ii) The assessee shall not be entitled to any relief on such claim except for a refund of tax wrongly paid or paid in excess.

(7) Interest on Refunds [Section 244A]

(i) **Applicability and Rate**: Interest at 0.5% for every month or part of a month shall be payable on tax or penalty becoming refundable on account of excess payment of advance tax, tax deducted at source or collected at source and other tax or penalty becoming refundable.

Interest @ 0.5% p.m. or part of a month

(ii) **Period of interest**: Interest @0.5% for every month or part of a month for the period specified in the following table for each of the cases mentioned in column (2) hereunder–

	Case		Period for grant of interest on refund	
			Beginning from	Ending with
(1)	(2)		(3)	(4)
(a)	Where the refund is out of TCS u/s 206C or paid by way of advance tax or treated as paid u/s 199, during the financial year immediately preceding the A.Y.			
	(1)	Where the return is filed on or before the due date u/s 139(1)	1st April of the assessment year	Date of grant of refund
	(2)	Where the return is filed after the due date	the date of filing of return	
(b)	Where the refund is out of self-assessment tax paid u/s 140A		Date of furnishing return of income or payment of tax, whichever is later	Date of grant of refund

(c)	In any other case	Date of payment of tax or penalty	Date of grant of refund
Note *– The assessee can claim interest on refund due also in pursuance of determination of total income u/s 143(1) or on regular assessment. However, no interest shall be payable if the amount of refund due is less than 10% of the tax determined u/s 143(1) or on regular assessment, in case of (a) and (b) above.*			

(iii) **Additional interest payable on refund arising out of fresh assessment order giving effect to appellate or revisionary order**: Where a refund arises as a result of giving effect to an order under section 250/254/260/262/263/264, wholly or partly, otherwise than by making a fresh assessment or reassessment, the assessee shall be entitled to receive, in addition to the interest payable under section 244A(1), an additional interest on such refund amount calculated at the rate of 3% p.a., for the period beginning from the date following the date of expiry of the time allowed under section 153(5) to the date on which the refund is granted.

However, if proceedings for assessment or reassessment are pending in respect of an assessee, the period beginning from the date on which such refund is withheld by the Assessing Officer and ending with the date on which such assessment or reassessment is made, will be excluded for computing additional interest payable.

From 1.10.2024, section 244A is amended to provide that additional interest will not be payable for the period beginning from the date on which such refund is withheld by the Assessing Officer and ending with the date upto which such refund is withheld.

Further, in cases where extension is granted by the Principal Commissioner or Commissioner by invoking proviso to section 153(5), the period of additional interest, if any, shall begin from the expiry of such extended period.

Circumstance	Period beginning from[10]
Where a refund arises as a result of giving effect to an order under section 250/254/260/262/263/264, wholly or partly, otherwise than by making a fresh assessment or reassessment or resh order u/s 92CA	From the expiry of 3 months from the end of the month in which the order u/s 250/254/260/262 is received by PCC/CC/PC/CIT, or order u/s 263 or 264 is passed, by the PC/CIT.
Where extension is granted by the Principal Commissioner or Commissioner by invoking proviso to section 153(5)	From the expiry of 9 months from the end of the month in which the order u/s 250/254/260/262 is received by

[10]Period for which assessee would be entitled to receive additional interest on refund

	PCC/CC/PC/CIT, or order u/s 263 or 264 is passed, by the PC/CIT.
Where the order of rectification, appeal or revision requires verification of any issue by way of submission of any document by the assessee or any other person or where an opportunity of being heard is to be provided to the assessee	From the expiry of 9 months from the end of the F.Y. in which order u/s 254 is received by the PCC/CC/PC/CIT or order u/s 263 or 264 is passed by the PC/CIT.

(iv) **Interest on refund payable to deductor [Section 244A(1B)]**: Interest @0.5% for every month or part of a month for the period specified in the following table for each of the cases mentioned in column (1) hereunder –

Case		Period for grant of interest on refund	
		Beginning from	Ending with
(1)		(2)	(3)
Where the refund of any amount becomes due to the deductor in respect of any amount paid to the credit of the Central Government under Chapter XVII-B			
(1)	Where refund arises on account of giving effect to an order u/s 250/254/260/262	Date on which tax is paid	Date of grant of refund
(2)	In any other case	Date on which claim for refund is made in prescribed form	

(v) **Consequence where delay in granting refund is attributable to the assessee or the deductor [Section 244A(2)]** : Where there is a delay in granting refund and the reasons for such delay are attributable to the assessee or the deductor, as the case may be, either wholly or in part, the period of the delay so attributable to the assessee shall be excluded from the period for which interest is payable. In case any question arises as to the period of delay attributable to the assessee, it shall be decided by the Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner.

(vi) **Increase or reduction of interest of refund as a result of assessment/ rectification/ appellate/ revisionary order [Section 244A(3)]**

(a) Where as a result of an order under sections 143(3)/144/147/154/155/ 250/254/260/262/263/264, the amount on which interest payable under this

section has been increased or reduced, the interest shall be increased or reduced accordingly.

(b) If the interest is reduced, the Assessing Officer has to serve a notice of demand on the assessee in the prescribed form specifying the amount of excess interest paid and require him to pay such amount.

(c) Such notice of demand shall be deemed to be notice under section 156 and the provisions of the Act shall accordingly apply.

(vii) **Interest under section 244A is income of the P.Y. in which it is allowed**

Interest allowed under section 244A is the income of the previous year in which it is allowed and should be declared in the return of income furnished in the assessment year relevant to the previous year.

(viii) **Payment of interest on refund under section 244A of excess TDS deposited under section 195 [Circular No.11/2016 dated 26.4.2016]**

The procedure for refund of tax deducted at source under section 195 to the person deducting the tax is set out in CBDT *Circular No.7/2007 dated 23.10.2007*. *Circular No.7/2007* states that no interest under section 244A is admissible on refunds to be granted in accordance with the circular or on the refunds already granted in accordance with *Circular No.769* or *Circular No.790 dated 20.4.2000*.

The issue of eligibility for interest on refund of excess TDS to a tax deductor has been a subject matter of controversy and litigation. The Supreme Court of India, in *Tata Chemical Limited, Civil Appeal No. 6301 of 2011 vide order dated 26.02.2014,* held that the refund due and payable to the assessee is debt-owed and payable by the Revenue. The State, having received the money without right and having retained and used it, is bound to make the party good, just as an individual would be under like circumstances. The obligation to refund money received and retained without right implies and carries with it the right to interest."

In view of the above judgment of the Apex Court, it is settled that if a resident deductor is entitled for the refund of tax deposited under section 195, then, it has to be refunded with interest under section 244A from the date of payment of such tax.

(8) Set off of refunds against tax remaining payable or withholding of refund [Section 245]

(i) **Set-off of refunds against any sum payable**: Where a refund becomes due or is found to be due to any person, the Assessing Officer or Commissioner or Principal Commissioner or Chief Commissioner or Principal Chief Commissioner, as the case may be, may, in lieu of payment of the refund, **set-off the amount to be refunded** or any part of that amount, **against the sum**, if any, remaining payable by the person to whom the refund is due, **after giving an intimation in writing** to such person of the action proposed to be taken.

(ii) **Withholding of refund:** Where a part of the refund is set-off as stated above or where no such amount is set-off, and refund becomes due to a person, and the Assessing Officer, having regard to the fact that **proceedings for assessment or reassessment are pending in the case of such person,** he may, for reasons to be recorded in writing and with the previous approval of the Principal Commissioner or the Commissioner, as the case may be, **withhold the refund up to the date on which such assessment or reassessment is made.**

W.e.f. 1.10.2024, the period of withholding of the refund has been extended up to sixty days from the date on which such assessment or reassessment is made.

13.13 PENAL CONSEQUENCES FOR FAILURE TO DEDUCT OR COLLECT OR PAY TAX AT SOURCE

The following penal consequences would be attracted for failure to deduct or collect or pay tax at source:

Section	Nature of Default	Penalty Leviable/	Rigorous imprisonment	Remarks
271C	Failure to deduct the whole or any part of tax at source as per Chapter XVII-B	A sum equal to the amount of tax which he failed to deduct	-	Penalty imposable by the Joint Commissioner.

276B	Failure to pay to the credit of the Central Government, tax deducted at source under Chapter XVII-B *However, w.e.f. 1.10.2024, if the payment has been made to the credit of the Central Government on or before the time prescribed for filing the statement under section 200(3), no prosecution would be attracted.*		3 months to 7 years **(+) fine [See Note below]**	No limit specified with respect to fine
271C & 276B	Failure to pay or ensure payment of whole or any part thereof in cases where the consideration/ benefit/ perquisite, winnings as the case may be, is wholly or partly in kind and the tax deductor has to ensure that tax to be deducted has	A sum equal to the amount of tax which such person has failed to pay or ensure payment of	3 months to 7 years **(+) fine [See Note below]**	No limit specified with respect to fine

	been paid as required - by the proviso to section 194B [Winnings from lottery or crossword puzzle]; or - the first proviso to section 194R(1) [on benefits and perquisites in respect of business or profession] or - the proviso to section 194S(1) [on transfer of virtual digital assets] or - as per section 194BA(2) [winning from online]			
271CA	Failure to collect the whole or any part of the tax as required by or under the provisions of Chapter XVII-BB	A sum equal to the amount of tax which he failed to collect.	-	Penalty imposable by the Joint Commissioner.
276BB	Failure to pay to the Central Government tax collected under section 206C	-	3 months to 7 years (**+) fine**	No limit specified with respect to fine

278A	Second and subsequent offences under section 276B & 276BB		6 months to 7 years for every subsequent offence **(+) fine**	No limit specified with respect to fine

Section 278AA provides that where a reasonable cause for the failure is proved, punishment shall not be imposed for offences *inter alia* specified in sections 276B and 276BB.

Note - *The CBDT has, vide Circular No. 24/2019 dated 9.9.2019, in the exercise of the powers under section 119, listed out the offences covered under Chapter XXII of the Income-tax Act, 1961 in respect of which prosecution proceedings shall be launched by Approving Authority being the Sanctioning Authority where the quantum of offences exceed the prescribed monetary threshold.*

Accordingly, in case of failure to pay TDS under section 276B or failure to pay TCS u/s 276BB, no prosecution will be processed if the TDS/TCS amount does not exceed ₹ 25 lakhs and the delay in deposit is less than 60 days. However, for these offences, in exceptional cases like habitual defaulters, based on particular facts and circumstances of each case, prosecution may be initiated only with the previous administrative approval of the Collegium of two CCIT/DGIT rank officers, though the amount involved does not exceed the threshold limit of ₹ 25 lakhs. Students may read the detailed circular available at the following link –

https://incometaxindia.gov.in/communications/circular/circular-24-2019-11-09-2019.pdf

SIGNIFICANT SELECT CASES

S. No.	Case Law	
1.	***ITC Ltd v. CIT (2016) 384 ITR 14 (SC)***	
	Issue	**Analysis & Decision**
	Whether "tips" received by the hotel-company from its customers (who made payment through credit card) and distributed to the employees would fall within the meaning of "Salaries" to attract tax deduction at source u/s 192?	Section 15 applies when an employee has a vested right to claim any salary from an employer or former employer. However, in the case on hand, there is no vested right on the part of the employee to claim any amount of tips from the employer, since tips are purely voluntary amounts that may or may not be paid by customers for services rendered. **The amount of tips paid by the employer to the employees had no reference to the contract of employment at all.** Tips were received by the employer in a fiduciary capacity as trustee for payments that were received from customers, which they disbursed to their employees for service rendered to the customer. There was, therefore, no reference to the contract of employment when these amounts were paid by the employer to the employee. Therefore, **the tips received by the employees could not be regarded as "profits in lieu of salary" in terms of section 17(3).** The payment by the employer of tips collected from the customers to the employees would not be a payment made "by or on behalf of" an employer. Such payments would be outside the purview of section 15(b) of the Act. **The person who paid the tip was the customer and not the employer.** Even though the amounts were with the employer he had no title to the money and it was held in a fiduciary capacity as trustee for and on behalf of the employees. Therefore, in such a case, **no liability to deduct tax at source u/s 192 arises**, and hence, the assessee company cannot be treated as an assessee in default for non-deduction of tax at source from the amount of tips collected and distributed to its employees.

2.	***Japan Airlines Co. Ltd. v. CIT / CIT v. Singapore Airlines Ltd. (2015) 377 ITR 372 (SC)***	
	Issue	**Analysis & Decision**
	Are landing and parking charges paid by an airline company to Airports Authority of India in the nature of rent to attract tax deduction at source u/s 194-I?	The charges which are fixed by the AAI for landing and take-off services as well as for parking of aircrafts are not for the "use of the land". These charges are for services and facilities offered in connection with the aircraft operation at the airport which include providing of air traffic services, ground safety services, aeronautical communication facilities, installation and maintenance of navigational aids and meteorological services at the airport. Hence, **the charges are not for use of the land *per se* and, therefore, it cannot be treated as "rent" within the meaning of section 194-I.**
3.	***CIT v. Ahmedabad Stamp Vendors Association (2012) 348 ITR 378 (SC)***	
	Issue	**Analysis & Decision**
	Can discount given to stamp vendors on purchase of stamp papers be treated as 'commission or brokerage' to attract the provisions for tax deduction u/s 194H?	Although the Government has imposed a number of restrictions on the licensed stamp vendors regarding the manner of carrying on the business, the stamp vendors are required to purchase the stamp papers on payment of price less discount on "principal to principal" basis and there is no "contract of agency" at any point of time. The definition of "commission or brokerage" under clause (i) of the *Explanation* to section 194H indicates that the payment should be received, directly or indirectly, by a person acting on behalf of another person, *inter alia*, for services in the course of buying or selling goods. Therefore, the element of agency is required in case of all services and transactions contemplated by the definition of "commission or brokerage" under *Explanation (i)* to section 194H. **When the licensed stamp vendors take delivery of stamp papers on payment of full price less discount and they sell such stamp papers to the retail customers, neither of the two activities (namely, buying from the Government and selling to the customers) can be termed as service in the course of buying and selling of goods. The discount on**

<table>
<tr><td></td><td></td><td>purchase of stamp papers, therefore, does not fall within the expression “commission or brokerage” to attract the provisions of tax deduction at source u/s 194H.</td></tr>
<tr><td rowspan="2">4.</td><td colspan="2">CIT v. Kotak Securities Ltd (2016) 383 ITR 1 (SC)</td></tr>
<tr><td>Issue</td><td>Analysis & Decision</td></tr>
<tr><td></td><td>Would transaction charges paid by the members of the stock exchange for availing fully automated online trading facility, being a facility provided by the stock exchange to all its members, constitute fees for technical services to attract the provisions of tax deduction at source u/s 194J?</td><td>The assessee company was engaged in the business of share broking, depositories, mobilisation of deposits and marketing public issues. Being a member of the BSE, it made payment to the Stock Exchange by way of transaction charges in respect of a fully automated online trading facility and other facilities.
• The services provided by the stock exchange are available to all members in respect of every transaction that is entered into. There is nothing special, exclusive or customized in the service that is rendered by the stock exchange.
• A member who wants to conduct his daily business in the stock exchange has no option but to avail such services. Each and every transaction by a member involves the use of such services provided by the stock exchange for which the member is required to pay transaction charges based on the transaction value besides charges for the membership of the stock exchange.
• Technical services like managerial and consultancy service are in the nature of specialised services made available by the service provider to cater to the special needs of the customer-user as may be felt necessary. It is the above feature that would distinguish or identify a service provider from a facility offered.
The service provided by the BSE for which transaction charges are paid failed to satisfy the test of specialized, exclusive and individual requirements of the user or the consumer who may approach the service provider for such assistance or service.</td></tr>
</table>

		Therefore, the **transaction charges paid to BSE by its members are not for technical services but are in the nature of payments made for facilities provided by the stock exchange. Such payments would, therefore, not attract the provisions of tax deduction at source u/s 194J.**
5.	***UCO Bank v. Dy. CIT (2014) 369 ITR 335 (Del)***	
	Issue	**Analysis & Decision**
	Is section 194A applicable in respect of interest on fixed deposits in the name of Registrar General of High Court?	The expression "payee" u/s 194A would mean the recipient of income whose account is maintained by the person paying interest. **The Registrar General is neither recipient of the amount credited to his account nor to interest accruing thereon. Therefore, he cannot be considered as a 'payee' for the purposes of section 194A.** In the absence of a payee, the machinery provisions for deduction of tax to his credit are ineffective. **The credit by the bank in the name of the Registrar General would, thus, not attract the provisions of section 194A.** ***Note*** *- The CBDT has accepted the aforesaid judgment and accordingly, vide Circular No.23/2015 dated 28.12.2015, clarified that interest on FD ₹ made in the name of Registrar General of the Court or the depositor of the fund on the directions of the Court, will not be subject to TDS till the matter is decided by the Court. However, once the Court decides the ownership of the money lying in the fixed deposit, the provisions of section 194A will apply to the recipient of the income.*
6.	***Indus Towers Ltd v. CIT (2014) 364 ITR 114 (Del)***	
	Issue	**Analysis & Decision**
	Is payment made for the use of passive infrastructure facility such as mobile towers be subject to tax deduction u/s 194C or 194-I?	The assessee owned a network of telecom towers and infrastructure services which were let out to major telecom operators in the country. The infrastructure was given for the use of mobile operators. The towers were the neutral platform, and without them, the mobile operators could not operate. Each mobile operator has to carry out this activity, by necessarily renting premises and installing the same equipment. **The dominant**

		intention was the use of equipment or plant or machinery i.e., the passive infrastructure, and the use of premises was only incidental. Hence, tax has to be deducted@2% as per section 194-I(a), the rate applicable for payment made for use of plant and machinery.
7.	***CIT v. Senior Manager, SBI (2012) 206 Taxman 607 (All.)***	
	Issue	**Analysis & Decision**
	In respect of a co-owned property, would the threshold limit mentioned in section 194-I for non-deduction of tax at source apply for each co-owner separately or is it to be considered for the complete amount of rent paid to attract liability to deduct tax at source?	Since the share of each co-owner is definite and ascertainable, they cannot be assessed as an association of persons as per section 26. The income from such property is to be assessed in the individual hands of the co-owners. Therefore, it is not necessary that there should be a physical division of the property by metes and bounds to attract the provisions of section 26. In this case, since the payment of rent is made to each co-owner by way of separate cheque and their share is definite, the threshold limit mentioned in section 194-I has to be seen separately for each co-owner.
8.	***CIT (TDS) v. Shree Mahalaxmi Transport Co. (2011) 339 ITR 484 (Guj.)***	
	Issue	**Analysis & Decision**
	Can the payment made by an assessee engaged in transportation of building material and transportation of goods to contractors for hiring dumpers, be treated as rent for machinery or equipment to attract provisions of tax deduction at source u/s 194-I?	Since the assessee had given contracts to the parties for the transportation of goods and not for renting out machinery and equipment, such payments could not be termed as rent paid for the use of machinery. The provisions of section 194-I would, therefore, not be applicable. **The transactions being in the nature of contracts for shifting of goods from one place to another, would be covered under works contracts, thereby attracting the provisions of section 194C.**
9.	***CIT v. V.S. Dempo & Co P Ltd (2016) 381 ITR 303 (Bom) (FB)***	
	Issue	**Analysis & Decision**
	Is tax is required to be deducted u/s 195 on the	Since section 172, dealing with the shipping business of non-residents contains a non-obstante clause and

	demurrage charges paid to a foreign shipping company which is governed by section 172 for the purpose of levy and recovery of tax?	applies both for the purpose of the levy and recovery of tax in the case of any ship carrying passengers etc., belonging to or chartered by a non-resident and shipping at a port in India, **there would be no obligation on the payer-assessee to deduct the tax at source u/s 195 on payment of demurrage charges to the non-resident shipping company**.
10.	***Sun Outsourcing Solutions Private Limited v. CIT (Appeals) (2018) 407 ITR 480 (T&AP)***	
	Issue	**Analysis & Decision**
	Is interest u/s 201(1A) attracted even in a case where non-deduction of tax at source was under a *bona fide* belief that tax was not deductible and the default was not wilful?	The assessee is a private limited company engaged in the business of software development with its office in Hyderabad and branch office in London. In the course of executing software projects in the U.K., the assessee had deputed some employees from Hyderabad to London. The assessee did not deduct tax at source on the allowances paid to the staff deputed to the U. K. **Since the company had failed to deduct tax on the payments made to its employees, being Indian residents deputed to work in the U.K., section 201(1A) is automatically attracted; even if such non-deduction was due to the *bona fide* belief that tax is not deductible in such case, the company is, nevertheless, liable to pay interest u/s 201(1A).**
11.	***Director, Prasar Bharati v. CIT [2018] 403 ITR 161 (SC)***	
	Issue	**Analysis & Decision**
	Are the provisions of tax deduction at source under section 194H attracted in respect of amount retained by accredited advertising agencies out of remittance of sale proceeds of "airtime" purchased from Doordarshan and sold to customers?	The assessee, Prasar Bharati Doordarshan Kendra, functions under the Ministry of Information and Broadcasting, Government of India and runs the television channel called Doordarshan. For the purpose of telecasting advertisements of consumer companies on its channel, the assessee entered into agreements with advertising agencies, on the basis of the application made by such agencies to the assessee for gaining "accredited status". The agencies were to give minimum annual business of ₹ 6 lakhs to the assessee in a financial year and furnish bank guarantee for a sum of ₹ 3 lakhs. The agreement provided that the accredited

		agencies would retain 15% by way of commission out of the amount collected from customers and paid to the assessee. The agencies were to retain the commission earned and not to part with the same either directly or indirectly to any other person. In the relevant assessment years, the agencies retained ₹ 4.87 crores towards commission as per the terms of the agreement. The definition of "commission or brokerage" under section 194H is inclusive and covers any payment received or receivable directly or indirectly by a person acting on behalf of another person for the services rendered. The agreement itself uses the expression "commission" in all relevant clauses. The payment clause is free of ambiguity and the terms of the agreement indicate that both parties intended that the amount to be paid/retained is in the nature of commission. It is for this reason that the parties used the expression "commission" in the agreement. The relationship in question was a pure agency arrangement because the agency acted on behalf of the assessee and the actions of the agency were binding on the assessee. Moreover, the agreement itself contained a clause for deduction of tax at source on trade discount. Thus, the amount retained by the accredited advertising agencies is commission and consequently, the provisions of tax deduction at source under Section 194H are attracted. Consequently, for failure to deduct tax at source under section 194H, the assessee would be treated as an assessee-in-default. ***Note*** *- It may be noted that the CBDT has, vide Circular No.5/2016 dated 29.2.2016, clarified that TDS under section 194H is not attracted on retentions by an advertising agency (for booking or procuring of or canvassing for advertisements) from payments remitted to television channels/newspaper companies. The CBDT has issued this clarification on the basis of the Allahabad High Court ruling in Jagran Prakashan Ltd.'s case and Delhi High Court ruling in Living Media Ltd.'s case that the relationship between the media company*

		and advertising agency is that of a "principal to principal". However, the Supreme Court, in this case, has distinguished from the Allahabad High Court ruling, on the basis of the fact that an agreement has been entered into by Doordarshan with the accredited agencies specifically appointing them as agents; and the agreement also contains a specific clause for deduction of tax at source on trade discount, which is in the nature of commission. Accordingly, the Supreme Court held that the relationship between Doordarshan and its accredited agencies is that of a principal and agent, consequent to which TDS provisions under section 194H would get attracted in respect of retentions by accredited advertising agencies from payments remitted to Doordarshan. Therefore, the applicability or otherwise of the CBDT Circular will depend on the facts of the specific case.
12.	***Bharti Cellular Ltd. vs. ACIT [2024] 462 ITR 247 (SC)***	
	Issue	**Relevant provision of law, analysis and decision**
	Are cellular mobile telephone service providers required to deduct tax at source under section 194H on the difference between the discounted price at which it sold start-up kits and recharge vouchers to franchisees or distributors and the sale price at which these products were subsequently sold by the franchisees or distributors?	**Analysis and Decision:** The obligation to deduct tax at source in terms of section 194H arises when the legal relationship of principal and agent is established. Agency is a triangular relationship between the principal, agent and the third party. To decide whether a contracting party acts for himself as an independent contractor (and not as an agent), it needs to be examined whether in the course of work, he intends to make profits for himself, or is entitled to receive pre-arranged remuneration. If the party is concerned about acting for himself and making the maximum profits possible, he is usually regarded as a buyer, or an independent contractor and not as an agent of the principal. The legal position of a distributor is generally regarded as different from that of an agent. The distributor buys goods on his account and sells them in his territory. The profit made is the margin of difference between the purchase price and the sale price. Unlike an agent, he does not act as a communicator or creator of a

		relationship between the principal and a third party. Based on perusal of agreement between assessee and distributors / franchisee, the franchisee/distributor paid the discounted price regardless of, and even before, the pre-paid products being sold and transferred to the retailers or the actual consumer. The franchisee/distributor was free to sell the prepaid products at any price below the price printed on the pack. The franchisee/distributor determined his profits/ income. Section 194H fixes the liability to deduct tax at source on the 'person responsible to pay' and the liability to deduct tax at source arises when the income is credited or paid by the person responsible for paying. The expression "direct or indirect" used in Explanation (i) to section 194H is meant to ensure that "the person responsible for paying" does not dodge the obligation to deduct tax at source, even when the payment is indirectly made by the principal-payer to the agent-payee. However, deduction of tax at source in terms of section 194H is not to be extended and widened in ambit to apply to true/genuine business transactions, where the assessee is not the person responsible for paying or crediting income. In the present case, the assessee neither pays nor credit any income to the person with whom he has contracted. The assessee is not privy to the transactions between distributors/franchisees and third parties. It is, therefore, impossible for the assessee to deduct tax at source and comply with section 194H, on the difference between the total/sum consideration received by the distributors/franchisees from third parties and the amount paid by the distributors/ franchisees to them. Accordingly, the Apex Court held that the contractual obligations of the franchises or distributors did not reflect a fiduciary character of the relationship, or the business being done on the Principal's account. Hence, section 194H is not applicable to the facts and circumstances of this case and the assessee would not be under a legal obligation to deduct tax at source on the income/profit

		component in the payments received by the distributors/ franchisees from the third parties/customers, or while selling/transferring the pre-paid coupons or starter-kits to the distributors.
13.	***DIT (International Taxation) v. Wizcraft International Entertainment (P) Ltd (2014) 364 ITR 227 (Bom)***	
	Issue	**Analysis & Decision**
	Is payment made to an overseas agent, who did not perform any service in India, liable for tax deduction at source?	The assessee, an event management company, engaged the services of an agent to bring artistes to India. The assessee-company paid commission to overseas agent. The assessee-company did not deduct tax at source on the commission paid to the agent. With regard to the payment of commission, the agent did not act as a performing artist or entertainer. He was concerned only with the services rendered outside India. Thus, the income of the agent did not arise from the personal activities in the contracting state of an entertainer or artist. He only contacted the artists and negotiated with them for performance in India in terms of the authority given by the assessee. Hence, the commission paid to the overseas agent was not liable to tax in India. Consequently, there was no obligation for deducting tax at source at the time of making payment to the overseas agent.
14.	***BDR Finvest Pvt. Ltd. v. DCIT [2024] 462 ITR 141 (Delhi)***	
	Issue	**Facts, Relevant provision of law, analysis and decision**
	Is the deductee entitled to claim credit for tax deducted at source (TDS) if the amount of TDS is not reflected in Form 26AS because the deductor has not deposited it with the Government?	The assessee received interest income from "Ninex" (Deductor). In the return of income filed for the relevant year, assessee offered the entire interest income and claimed the credit for tax deducted at source (TDS) by the said deductor. TDS credit was not allowed by the department, pursuant to intimation issued u/s 143(1) and application filed under section 154 was also rejected for the reason that TDS credit is not reflected in Form 26AS and

		consequently, the said tax was recovered from the assessee itself. The High Court referring the Delhi High Court ruling in case of *Sanjay Sudan v. Asst. CIT [2023] 452 ITR 107* emphasized that deduction of taxes at source is one of the methods of collecting tax. The tax deducted at source is part of the assessee's income and therefore, the gross amount is included in the total income and offered to tax. It is on this premise that the tax deducted at source would have to be treated as tax paid on behalf of the assessee. Section 205 provides for restriction against direct demand on assessee to the extent to which tax has been deducted from that income. Thus, no recovery of TDS can be made from the deductee. The amount retained against remittance made by the payer is nothing but tax which the assessee/deductee has offered for tax by grossing up the remittance. If credit is not given, the Department would end up doing indirectly what they cannot do directly i.e., that recover tax directly from the deductee. Accordingly, the High Court held that section 199 cannot come in the way of the deductee in case deductor failed to deposit the TDS. Therefore, the deductee should be given credit for TDS though it was not reflected in form 26AS and no recovery towards TDS could be made from the assessee in terms of the provisions of section 205. The assessee had followed the regime put in place in the Act for collecting tax albeit, through an agent (deductor) of the Government. The recovery proceedings could only be initiated against the deductor as the deductor, an agent for collecting tax had failed to deposit the tax with the Government.
15.	***CIT (International Taxation) v. Air India Ltd. [2023] 456 ITR 139 (SC)***	
	Issue	**Facts, Analysis and Decision**
	Can the provisions of section 206AA, which prescribe a higher rate of	**Facts of the case:** Assessee had taken an engine on lease under an agreement with a foreign company (lessor), a tax resident of the Netherlands, having no

	tax deduction at source in case of non-furnishing of PAN, override the Double Taxation Avoidance Agreement (DTAA) that specify a lower rate of tax?	permanent establishment (PE) in India. The foreign company also does not have PAN in India. The assessee company deducted tax at source @ 10% on lease rental as per provisions contained under DTAA between India and the Netherlands. However, revenue contended that in the absence of furnishing of PAN, the assessee was under an obligation to deduct tax at a higher rate of 20% following the provisions of section 206AA. **Analysis and Decision:** The High Court noted that section 90(2) provides that the provisions of the DTAAs would override the provisions of the Act in cases where the provisions of DTAAs are more beneficial to the assessee. Even the charging sections 4 and 5 of the Act, which deal with the principle of ascertainment of total income under the Act, are also subordinate to the principle enshrined in section 90(2). Thus, in so far as the applicability of the scope/rate of taxation with respect to the impugned payments made to the non-residents is concerned, no fault can be found with the rate of taxation invoked by the assessee based on the DTAAs, which prescribed for a beneficial rate of taxation. The provisions of tax withholding, i.e., section 195 of the Act, would apply only to sums that are otherwise chargeable to tax under the Act. The provisions of DTAAs, along with sections 4, 5, 9, 90 & 91 of the Act, are relevant while applying the provisions of tax deduction at source. Therefore, section 206AA of the Act cannot be understood to override charging sections 4 and 5 of the Act. Accordingly, the High Court upheld the Tribunal's ruling which held that where the tax has been deducted on the strength of the beneficial provisions of DTAAs, the provisions of section 206AA cannot be invoked to insist on the tax deduction @ 20%, having regard to the overriding nature of the provisions of section 90(2). The Supreme Court upheld the decision of the High Court, resulting in the dismissal of the SLP filed by the Revenue.

16.	***CIT v. Priya Blue Industries (P) Ltd (2016) 381 ITR 210 (Guj)***	
	Issue	**Analysis & Decision**
	Can items of finished products from ship breaking activity which are usable as such be treated as "Scrap" to attract provisions for tax collection at source under section 206C?	The assessee-company, engaged in ship breaking activity, sold old and used plates, wood etc. The assessee did not collect tax at source on the sale of certain items, viz. old and used plates; non-excisable (exempted) goods like wood etc. The products obtained from the ship breaking activity were finished products which constituted a sizable chunk of production done by the ship breakers. Such products though commercially known as 'scrap' were definitely not "waste and scrap". For the purpose of collection of tax at source u/s 206C, the 'waste and scrap' must be from manufacture or mechanical working of material which is *definitely not usable as such because of breakage, cutting up, wear and other reasons.* However, in this case, these items were usable as such and, therefore, do not fall within the definition of "scrap" as given in clause (b) of *Explanation* to section 206C(1).
17.	***Pioneer Overseas Corporation USA (India Branch) v. CIT (International Taxation) (2022) 449 ITR 186 (SC)***	
	Issue	**Analysis & Decision**
	Is pendency of dispute resolution under MAP a valid ground for a waiver of interest under section 220(2A)?	**Relevant provision of law**: Section 220(2) provides for levy of simple interest@1% for every month or part of a month comprised in the period commencing from the day immediately following the 30 days period specified in section 220(1) (from service of notice of demand under section 156) and ending on the day on which the amount is paid. Section 220(2A) provides for reduction or waiver of interest payable under section 220(2), if the PCC/CC/PC/Commissioner is satisfied that payment of such amount has caused or would cause genuine hardship to the assessee, default in payment of amount specified in notice of demand was due to circumstances beyond the control of the assessee and the assessee has co-operated in any enquiry relating to the assessment or any proceeding for the recovery of any amount due from him.

		Facts of the case: The assessee applied for waiver of interest under section 220(2A) on the ground that the dispute was pending for resolution under the mutual agreement procedure under the Double Taxation Avoidance Agreement between India and the United States of America, which subsequently culminated in the year 2012 and the liability to pay the tax arose thereafter. The Commissioner, however, rejected the assessee's application. The same was confirmed by the High Court. **Decision:** The Supreme Court observed that merely raising the dispute before any authority cannot be a ground not to levy the interest and/or waiver of interest under section 220(2A). Otherwise, each and every assessee may raise a dispute and thereafter, may contend that since the litigation was *bona fide*, no interest is leviable. It is required to be noted that under section 220(2), the levy of simple interest on non-payment of the tax at 1 per cent. per annum is, as such, mandatory. **Note** – It may be noted that under section 220(2A), the Commissioner may reduce or waive the interest payable by an assessee on the ground of genuine hardship. In this case, the assessee is a part of a global conglomerate which had in the earlier year $ 37.96 billion in net sales and $ 6.253 billion as operating profit, cannot be an irrelevant factor in considering whether any 'genuine hardship' was undergone by the petitioner. Further, in comparison to the profitability of the petitioner over the years, the amount paid by it towards interest under section 220(2) was merely $ 0.004 billion (approx.). In the circumstances, the Commissioner of Income-tax concluded that no 'genuine hardship' can be said to have been caused to the petitioner on account of payment of interest.
18.	***Singapore Airlines Ltd/ KLM Royal Dutch Airlines v. CIT/ British Airways Plc v. CIT(TDS) [2022] 49 ITR 203 (SC)***	
	Issue	**Analysis & Decision**
	Would the additional income (supplementary commission) earned by a travel agent over and above the minimum fare fixed by the airlines be also	**Facts of the case:** Within the aviation industry, the base fare for air tickets was set by the International Air Transport Association (IATA) with discretion provided to airlines to sell their tickets for a net fare lower than the base fare, but not higher. The air carriers were also required to provide a

	subjected to tax deduction at source under section 194H besides the standard commission on base fare?	fare list to the Director General of Civil Aviation (DGCA) for approval. The prices that were rubber stamped by the DGCA may be equivalent to or lower than the base fare set by the IATA. • Simultaneously, the IATA would provide blank tickets to the travel agents acting on behalf of the airlines to market and sell the travel tickets. The arrangement between the airlines and the travel agents would be governed by Passenger Sales Agency Agreements ("PSA"). The PSA set the conditions under which the travel agents carry out the aforementioned sale of flight tickets, along with other ancillary services, and the remuneration they are entitled to for these activities. • Once these tickets were sold, a fixed per cent commission designated by the IATA would, be paid to the travel agent for its services as "standard commission" based on base fare set by the IATA. This would be independent of the net fare quoted by the air carriers themselves. The standard commission is subjected to TDS under section 194H. The details of the amounts at which the tickets were sold would be transmitted by the travel agents to an organization known as the Billing and Settlement Plan ("BSP"), which functions under the aegis of the IATA. The BSP stores a plethora of financial information, including the net amount payable to the aviation companies, discounts, and commission payable to the agents. • Within this framework, the airlines would have no control over the actual fare at which the travel agents would sell the tickets. The additional amount that the travel agents charged over and above the net fare that was quoted by the airline would be retained by the agent as its own income. This auxiliary amount charged on top of the net fare was portrayed on the BSP as a "supplementary commission" in the hands of the travel agent. The airline companies had failed to deduct tax at source on the supplementary commission amounts earned by the travel agent. They were declared “assessees-in-default” under

		section 201 and subject to payment of interest under section 201(1A). Penalty proceedings were directed to be initiated against the airlines under section 271C. • **Relevant provision of the Income-tax Act, 1961:** *Explanation* (i) to section 194H defines the expression 'commission or brokerage'. It is an inclusive definition and includes therein any payment received or receivable, directly or indirectly, by a person acting on behalf of another person for services rendered (not being professional services) or for any services in the course of buying or selling of goods or in relation to any transaction relating to assets, valuable article or thing, not being securities. • **Analysis and Conclusion:** • Section 194H does not distinguish between direct and indirect payments. Both fall within the meaning of "commission" under clause (i) of the *Explanation* thereto. Therefore, if the ambit of section 194H is viewed in an expansive manner, TDS would be attracted even on an indirect payment stemming from the consumer. • Section 194H is to be read with section 182 of the Contract Act, 1872. If a relationship between two parties as culled out from their intentions as manifested in the terms of the contract between them indicates the existence of a principal-agent relationship as defined under section 182 of the Contract Act, the definition of "commission" under section 194H stands attracted, and the requirement to deduct tax at source arises. • The Apex Court noted that the tickets remained the property of the airline. There was no transfer in terms of the title in the tickets and they remained the property of the airline company throughout the transaction. Every action taken by the travel agents is on behalf of the air carriers and the services they provide is with express prior authorization. The terms of the PSA also indicated that the actions of the agents in procuring customers was done on behalf of the airlines and not independently.

		• Accordingly, the Apex Court concluded that the contract is one of agency that does not distinguish in terms of stages of the transaction involved in selling flight tickets. The fact that the travel agent had discretion to set an actual fare above the net fare had no effect on the nature of the relationship between the parties. The accretion of the supplementary commission to the travel agents was an accessory to the actual principal-agent relationship under the PSA agreement. • Apart from this, the PSA agreement set out that any payments collected by an agent pursuant to sale of air transportation and ancillary services were held in a fiduciary capacity for the carrier until a proper accounting was made. Notwithstanding the lack of control over the actual fare, the contract definitively stated that "all monies" received by the agent were held as the property of the air carrier until they were recorded on the billing and settlement plan and properly gauged. The billing and settlement plan demarcated "supplementary commission" under a separate heading. • Hence, once the IATA made the payment of the accumulated amounts shown on the billing and settlement plan, it would be feasible for the assessees, being the airlines to deduct tax at source on this additional income earned by the agent. • Further, as regards penalty under section 271C, the Apex Court stated that there were contradictory pronouncements by different High Courts, which clearly highlighted the genuine and bona fide legal conundrum that was raised by the prospect of section 194H being applied to the supplementary commission. Hence, there was clearly an arguable and "nascent" legal issue that required resolution by the Supreme Court. Thus, there was "reasonable cause" for the air carriers not to have deducted tax at source at the relevant period. Thus, penalty proceedings against the airlines under section 271C were to be quashed. • As regards applicability of interest u/s 201(1A), if the recipient of income on which tax has not been deducted at source, even though it was liable to

such deduction as per the provisions of the Income-tax Act, 1961, has already included that amount in its income and paid taxes on the same, the assessee can no longer be proceeded against for recovery of the short fall in TDS. However, it would be open to the Revenue to seek payment of interest u/s 201(1A) for the period between the date of default in deduction of tax at source and the date on which the recipient actually paid income-tax on the amount for which there had been a shortfall in such deduction.

- ***Notes –*** *An illustration showing how additional income arises in the hands of travel agent is given hereunder -*

Base fare for Wingfly Airline, Delhi (Set by the IATA)	***Net fare (Set by the airline)***	***Actual fare (Set by the travel agent)***	***Standard commission (7% of the base fare)***	***Supplement-ary commission (Actual fare – net fare)***
₹1 lakh	*₹,000*	*₹0,000*	*7% of ₹1 lakh = ₹7,000*	*₹ 80,000 (-) 60,000 = ₹20,000*
Seiling price	*Income of the assessee (Airline)*	*₹ 20,000 left after payment of net fare to the assessee*	*Income of the travel agent*	*Additional Income of the travel agent*
Applying the rationale of the Apex Court in the above case, TDS u/s 194H is required to be deducted both on the standard commission of ₹7,000 and on the supplementary commission of ₹ 20,000.				

TEST YOUR KNOWLEDGE

QUESTIONS

1. *Mr. Madhusudan is regular in deducting tax at source and depositing the same. In respect of the quarter ended 31st December, 2024, a sum of ₹ 80,000 was deducted at source from the contractors. The statement of tax deducted at source under section 200 was filed on 23rd March, 2025 for the quarter ended 31.12.2024.*

   (i) Is there any delay on the part of Mr. Madhusudan in filing the statement of TDS?

   (ii) If the answer to (i) above is in the affirmative, how much amount can be levied on Mr. Madhusudan for such default under section 234E?

   (iii) Is there any remedy available to him for reduction/waiver of the levy?

2. *Smt. Vijaya, proprietor of Lakshmi Enterprises, made a turnover of ₹ 210 lakhs during the previous year 2023-24. Her turnover for the year ended 31-3-2025 was ₹ 90 lakhs.*

   Decide whether provisions relating to deduction of tax at source are attracted for the following payments made during the financial year 2024-25:

   (i) Purchase commission paid to one agent ₹ 25,000 on 13.6.2024 towards purchases made during the year.

   (ii) Payments to Civil engineer of ₹ 5,00,000 on 23rd August, 2024 for construction of residential house for self-use.

3. *What is the rate at which the tax is either to be deducted or collected under the provisions of the Act in the following cases?*

   (i) A partnership firm making sales of timber in September 2024 which was procured and obtained under a forest lease.

   (ii) A nationalized bank receiving professional services from a registered society made provision on 31-03-2025 of an amount of ₹ 25 lakh against the service charges bills to be received.

4. *Examine the liability for tax deduction at source in the following cases for the A.Y.2025-26:*

   (i) Wings Ltd. has paid amount of ₹ 15 lakhs during the year ended 31-3-2025 to Airports Authority of India towards landing and parking charges.

(ii) *Ramesh gave a building on sub-lease to Mac Ltd. with effect from 1-7-2024 on a rent of ₹ 20,000 per month. The company also took on hire machinery from Ramesh with effect from 1-11-2024 on hire charges of ₹ 15,000 per month. The rent of building and hire charges of machinery for the year 2024-25 were credited by the company to the account of Ramesh in its books of account on 31-3-2025.*

(iii) *₹ 2,45,000 paid to Mr. X on 01-02-2025 by Karnataka State Government on compulsory acquisition of his urban land. What would be your answer if the land is agricultural land?*

5. *"Come Air Ltd." has paid a sum of ₹ 12 lakhs during the year ended 31-3-2025 to the Airports Authority of India towards landing and parking charges. The company has deducted tax at source @2% under section 194C on the said payment and remitted the tax deducted within the prescribed time. The Assessing Officer contended that landing and parking charges were levied for use of the land of the airport and hence, the payment was in the nature of rent attracting TDS @10% under section 194-I. Discuss the correctness or otherwise of the contention of the Assessing Officer.*

6. *Mr. Harish, Vice President of ABC Bank, sold his house property in Chennai as well as his rural agricultural land for a consideration of ₹ 60 lakh and ₹ 15 lakh, respectively, to Mr. Suresh, a retail trader of garments, on 10.10.2024. Mr. Harish had purchased the house property and rural agricultural land in December 2022 for ₹ 40 lakh and ₹ 10 lakh, respectively. The stamp duty value on the date of transfer, i.e., 10.10.2024, is ₹ 85 lakh and ₹ 20 lakh for the house property and rural agricultural land, respectively.*

(a) *Determine the tax implications in the hands of Mr. Harish and Mr. Suresh, if the date of agreement for sale of house property and rural agricultural land is 1.7.2024 and the stamp duty value on the said date was ₹ 75 lakh and ₹ 15 lakh, respectively. On the said date, Mr. Suresh made payment of ₹ 5 lakh by way of an account payee cheque to Mr. Harish for purchase of house property.*

(b) *Would your answer be different if Mr. Harish is a property dealer and sold the house property in the course of his business?*

7. *Siddharth Hospitals Pvt. Ltd. has recently been accorded recognition by several insurance companies to admit and treat patients on cashless hospitalization basis. Payment to the assessee hospital will be made by Third Party Administrators (TPA) who will process the claims of the patients admitted and make payments to the various hospitals including the assessee. All TPAs are corporate entities. The assessee wants to know whether the TPAs are bound to deduct tax at source under section 194J or under section 194C. Examine.*

8. *Examine in the context of provisions contained in Chapter XVII-B of the Act and also work out the amount of tax to be deducted by the payer of income in the following cases:*

   (i) *Payment of ₹ 5 lakh made by JCP & Co. to Pingu Events Co. Ltd. on 4th September, 2024 for organizing a debate competition on the subject "Preservation of Rural Heritage of Rajasthan".*

   (ii) *KD, a part-time director of DAF Pvt. Ltd., was paid an amount of ₹ 2,25,000 as fees which was actually in the nature of commission on sales for the period 1.7.2024 to 30.9.2024.*

9. *Examine the applicability of the provisions relating to deduction of tax at source in the following transactions:*

   (i) *Max Limited pays ₹ 1,02,000 to Mini Limited, a resident contractor who, under the contract dated 15th October, 2024, manufactures a product according to the specification of Max Limited by using materials purchased from Max Limited.*

   (ii) *A company operating a television channel makes payment of ₹ 5 lakh to a former Indian cricketer on 10th March, 2025 for making running commentary of a one-day cricket match.*

10. *Examine in the following cases, the obligation of the person paying the income in respect of tax deduction at source:*

   (i) *MNO Ltd., the employer, credited salary due for the month of March 2025 amounting to ₹ 9,40,000 to the account of Q, an employee, in its books of account on 31.3.2025. Q has not intimated his intended tax regime.*

   (ii) *T, an individual whose total sales in business during the year ended 31.3.2024 was ₹ 2.20 crores, paid ₹ 9 lakh by cheque on 1.1.2025 to a contractor (an individual), for construction of his factory building. No amount was credited earlier to the account of the contractor in the books of T.*

   (iii) *BCD Ltd. credited ₹ 28,000 towards fees for professional services and ₹ 27,000 towards fees for technical services to the account of HG in its books of account on 6.10.2024. The total sum of ₹ 55,000 was paid by cheque to HG on 18.12.2024.*

11. *Examine the liability for tax deduction at source in the following cases for the assessment year 2025-26:*

   (i) *Mr. Anand has been running a sole proprietary business with turnover of ₹ 202 lakhs*

for the A.Y.2024-25. He pays a monthly rent of ₹ 15,000 for the office premises to Mr. R, the owner of building and an individual. Besides, he also pays service charges of ₹ 6,000 per month to Mr. R towards the use of furniture, fixtures and vacant land appurtenant thereto.

(ii) By virtue of an agreement with a nationalised bank, a catering organisation receives a sum of ₹ 50,000 per month towards supply of food, water, snacks, etc., during office hours to the employees of the bank.

(iii) An Indian company pays gross salary, including allowances and monetary perquisites amounting to ₹ 7,30,000 to its General Manager (aged 45 years). Besides, the company provides non-monetary perquisites to him whose value is estimated at ₹ 1,20,000. General manager has not given any declaration regarding opting out of section 115BAC.

12. The following issues arise in connection with the deduction of tax at source under Chapter XVII-B. Examine the liability for tax deduction in these cases:

(a) An employee of the Central Government receives arrears of salary for the earlier 3 years. He enquires whether he is liable for deduction of tax on the entire amount during the current year.

(b) ₹ 10 lakh is payable by a T.V. Channel on 1.9.2024 as prize money to the winner of a quiz programme, "Who will be a Millionaire".

(c) State Bank of India pays ₹ 50,000 per month as rent to the Central Government for a building in which one of its branches is situated.

(d) ₹ 80,000 is payable by a television company to a cameraman on 6th January, 2025 for shooting of a documentary film.

(e) ₹ 22,000 is payable by the Maharashtra State Government on 2.7.2024 as commission to one of its agents on the sale of lottery tickets.

(f) A Turf Club awards a jack-pot of ₹ 5 lakh to the winner of one of its races on 1.2.2025.

13. Examine and compute the liability for deduction of tax at source, if any, in the cases stated hereunder, for the financial year ended 31st March, 2025:

(i) On 20.6.2024, Mr. X, a resident, made three separate transactions for acquiring house property at Mumbai from Mr. Y for a consideration of ₹ 90 lakhs, an urban plot in Kolkata from Mr. C for a sum of ₹ 49,50,000 and rural agricultural land from Mr. D for

a consideration of ₹ 60 lakhs. Stamp duty value of house property, plot and rural agricultural land is ₹ 95 lakhs, ₹ 48 lakhs and ₹ 65 lakhs, respectively.

(ii) On 17.6.2024, a commission of ₹ 50,000 was retained by the consignee 'ABC Packaging Ltd.' and not remitted to the consignor 'XYZ Developers', while remitting the sale consideration. Examine the obligation of the consignor to deduct tax at source.

(iii) Raj (aged 35 years) is working with AB Ltd. He is entitled to a salary of ₹ 85,000 per month w.e.f. 1.4.2024. He has a house property which is self-occupied. He paid an interest of ₹ 1,95,000 on loan, during the previous year 2024-25. The loan was taken for construction of house. He has notified his employer AB Ltd. that there will be a loss of ₹ 1,95,000 in respect of this house property for financial year ended 31.3.2025. Raj declared that he has exercised option to shift out of default regime of section 115BAC.

14. "Tax Recovery Officer, can recover the arrear demands from the assessee in default out of sale proceeds of the property attached after making a proclamation". How can such a proclamation be made under the Act? Is there any time limit for sale of the attached immovable property? Discuss.

ANSWERS

1. (i) Yes, there has been a delay on the part of Mr. Madhusudan in filing the statement of TDS.

As per section 200(3) read with Rule 31A, the statement of tax deducted at source for the quarter ended 31st December, 2024 has to be filed on or before 31st January, 2025. However, the same was filed only on 23rd March, 2025. Hence, there has been delay of 52 days on the part of Mr. Madhusudan in filing the statement of TDS.

(ii) As per section 234E of the Income-tax Act, 1961, where a person fails to file deliver or cause to be delivered the statement of tax deducted at source within the prescribed time, then, he shall be liable to pay, by way of fee, a sum of ₹ 200 for every day during which the failure continues.

The amount of fee shall not, however, exceed the amount of tax deductible.

In this case, since Mr. Madhusudhan has delayed filing the statement of TDS by 52 days, he would be liable to pay a fee of ₹ 10,400 (₹ 200 x 52 days) under section 234E. The said fee does not exceed the tax deductible (₹ 80,000, in this case).

(iii) Under section 119, the CBDT is empowered to issue general or special orders, whether by way of relaxation of any of the provisions of sections 139, 143, 144, 147, etc. or otherwise, in respect of any class of incomes or class of cases. The CBDT may issue such order(s) from time to time, if it considers expedient to do so, for the purpose of proper and efficient management of the work of assessment and collection of revenue. Section 234E is included in the list of sections in respect of which the CBDT is empowered to issue order for relaxation of the provisions of the Act.

Hence, the remedy available to Mr. Madhusudhan is that he can file an application to the CBDT under section 119 and seek a waiver/reduction of the penalty levied/leviable under section 234E.

2. Since Smt. Vijaya's turnover from business was ₹ 210 lakhs in the immediately preceding financial year (i.e., F.Y.2023-24), she is liable to deduct tax at source in the P.Y.2024-25, irrespective of her turnover being only ₹ 90 lakhs in the F.Y.2024-25.

(i) Tax @5% has to be deducted under section 194H in respect of purchase commission of ₹ 25,000 to an agent for purchases made during the year, since the same exceeds the threshold limit of ₹ 15,000 for non-deduction of tax at source thereunder.

(ii) Tax has to be deducted under section 194C in case of payment to resident contractors. The rate of tax is 1% if the payee is an individual or HUF and 2% in case of payees, other than individuals and HUFs.

However, as per section 194C(4), no individual or HUF shall be liable to deduct income tax on the sum credited or paid to the account of the contractor where such sum is credited or paid exclusively for personal purposes of such individual or any member of the HUF. In such case, the provisions of section 194M would be attracted if the aggregate payment to the contractor exceeds ₹ 50 lakhs.

In this case, since Smt. Vijaya, an individual, makes payment of ₹ 5 lakh to a civil engineer for the construction of residential house for self-use, she is not liable to deduct tax at source either under section 194C or under section 194M from such sum.

3. **(i)** As per section 206C(1), tax has to be collected at source@2.5% by the partnership firm, being a seller, at the time of debiting of the amount payable by the buyer to the account of the buyer or at the time of receipt of such amount, whichever is earlier.

(ii) Tax has to be deducted at source@10% under section 194J, by the nationalized bank at the time of credit of fees for professional services to the account of the registered society (i.e., on 31.3.2025), even though payment is to be made after that date.

4. **(i)** **TDS on landing and parking charges:** The landing and parking charges which are fixed by the Airports Authority of India are not merely for the "use of the land". These charges are also for services and facilities offered in connection with the aircraft operation at the airport, which include providing of air traffic services, ground safety services, aeronautical communication facilities, installation and maintenance of navigational aids and meteorological services at the airport *[Japan Airlines Co. Ltd. v. CIT / CIT v. Singapore Airlines Ltd. (2015) 377 ITR 372 (SC)]*. Thus, tax is **not** deductible under section 194-I, which provides deduction of tax for payment in the nature of rent.

Hence, tax is deductible @2% under section 194C by the airline company, Wings Ltd., on payment of ₹ 15 lacs made towards landing and parking charges to the Airports Authority of India for the previous year 2024-25.

(ii) **TDS on rent for building and machinery:** Tax is deductible on rent under section 194-I, if the aggregate amount of rental income paid or credited to a person exceeds ₹ 2,40,000. Rent includes payment for use of, *inter alia*, building and machinery. Tax is deductible at the time of credit of such income to the payee or at the time of payment, whichever is earlier.

The aggregate payment made by Mac Ltd. to Ramesh towards rent in P.Y.2024-25 is ₹ 2,55,000 (i.e., ₹ 1,80,000 for building and ₹ 75,000 for machinery). Hence, Mac Ltd. has to deduct tax @10% on rent for building and tax @2% on rent for machinery, credited to the account of Ramesh on 31.3.2025.

(iii) **TDS on compensation for compulsory acquisition:** Tax is deductible at source @2% under section 194LA, where payment is made to a resident as compensation or enhanced compensation on compulsory acquisition of any immovable property (other than agricultural land).

However, no tax deduction is required if the aggregate payments in a year do not exceed ₹ 2,50,000.

Therefore, no tax is required to be deducted at source on payment of ₹ 2,45,000 to Mr. X, since the aggregate payment does not exceed ₹ 2,50,000.

If the land is agricultural land, no tax would be deductible under section 194LA, irrespective of the amount of compensation.

5. The issue as to whether the charges fixed by the Airport Authority of India (AAI) for landing and take-off facilities and parking facilities for the aircraft are for the “use of the land” by the

airline company came up before the Supreme Court in *Japan Airlines Co. Ltd. v. CIT / CIT v. Singapore Airlines Ltd. (2015) 377 ITR 372*.

The Supreme Court observed that the charges which are fixed by the AAI for landing and take-off services as well as for parking of aircrafts are not for the "use of the land". These charges are for services and facilities offered in connection with the aircraft operation at the airport, which include providing of air traffic services, ground safety services, aeronautical communication facilities, installation and maintenance of navigational aids and meteorological services at the airport.

There are various international protocols which mandate all authorities manning and managing these airports to construct the airport of desired standards, which are stipulated in the protocols. The services that are required to be provided by these authorities, like AAI, are aimed at passengers' safety as well as safe landing and parking of aircraft. Therefore, the services are not restricted to merely permitting "use of the land" of airport. On the contrary, it encompasses all the facilities that are to be compulsorily offered by the AAI in tune with the requirements of the protocol.

The Supreme Court observed that the charges levied on air-traffic include landing charges, lighting charges, approach and aerodrome control charges, aircraft parking charges, aerobridge charges, hangar charges, passenger service charges, cargo charges, etc. Thus, when the airlines pay for these charges, treating such charges as charges for "use of the land" would be tantamount to adopting a totally simplistic approach which is far away from reality.

The Supreme Court opined that the substance behind such charges has to be considered, and when the issue is viewed from this angle, keeping the larger picture in mind, it becomes very clear that the charges are not for use of the land *per se* and, therefore, it cannot be treated as "rent" within the meaning of section 194-I. The Supreme Court, thus, concurred with the view taken by the Madras High Court in *Singapore Airlines* case and overruled the view taken by the Delhi High Court in *United Airlines/Japan Airlines* case.

Applying the rationale of the Supreme Court ruling to the facts of this case, the contention of the Assessing Officer that landing and parking charges are levied for the use of the land of airport and, hence, the charges are in the nature of rent to attract the provisions of tax deduction at source under section 194-I is ***not*** correct.

6. (a) Tax implications on sale of rural agricultural land and house property representing a capital asset in the hands of Mr. Harish, a salaried employee

(i)	**Tax implications in the hands of Mr. Harish, a salaried employee**
	Since rural agricultural land is not a capital asset, the gains arising on sale of such land is not taxable in the hands of Mr. Harish. However, capital gains would arise on the sale of house property, being a capital asset. As per section 50C(1), the stamp duty value of house property on the date of agreement (i.e., ₹ 75 lakh) would be deemed to be the full value of consideration arising on transfer of property. Therefore, ₹ 35 lakh (i.e., ₹ 75 lakh – ₹ 40 lakh, being the purchase price) would be taxable as **short-term capital gains** in the A.Y.2025-26. It may be noted that as the date of the agreement is different from the date of registration and part of the consideration was received on or before the date of agreement by way of account payee cheque, the stamp duty value on the date of agreement is to be adopted as the deemed sale consideration.
(ii)	**Tax implications in the hands of the buyer – Mr. Suresh, a retail trader**
	The house property purchased would be a capital asset in the hands of Mr. Suresh, who is a retail trader of garments. The provisions of section 56(2)(x) are attracted in the hands of Mr. Suresh who has acquired the immovable property, being a capital asset, for inadequate consideration. For the purpose of section 56(2)(x), Mr. Suresh can take the stamp duty value on the date of agreement instead of the date of registration since he has paid a part of the consideration by account payee cheque on the date of agreement. Therefore, ₹ **15 lakh,** being the difference between the stamp duty value of the property **on the date of agreement** (i.e., ₹ 75 lakh) and the actual consideration (i.e., ₹ 60 lakh) would be taxable as per section 56(2)(x) under the head "**Income from other sources**" in the hands of Mr. Suresh, since such difference exceeds the higher of ₹ 50,000 or 10% of consideration. As rural agricultural land is not a capital asset, the provisions of section 56(2)(x) are not attracted in respect of acquisition of agricultural land for inadequate consideration, since the definition of "property" under section 56(2)(x) includes only **capital assets** specified thereunder.

(b) Tax implications on sale of house property representing stock-in-trade in the hands of Mr. Harish, a property dealer:

(i)	**Tax implications in the hands of Mr. Harish**
	If Mr. Harish is a property dealer who has sold the house property in the course of his business, the provisions of section 43CA would be attracted, since the house property represents his stock-in-trade and he has transferred the same for a consideration less than the stamp duty value. For the purpose of section 43CA, Mr. Harish can take the stamp duty value on the date of agreement instead of the date of registration, since he has received part of the sale consideration by an account payee cheque on the date of agreement and it exceeds 110% of consideration. Therefore, **₹ 35 lakh**, being the difference between the stamp duty value on the date of agreement (i.e., ₹ 75 lakh) and the purchase price (i.e., ₹ 40 lakh), would be chargeable as **business income** in the hands of Mr. Harish.
(ii)	**Taxability in the hands of Mr. Suresh**
	There would be no difference in the taxability in the hands of Mr. Suresh, whether Mr. Harish is a property dealer or a salaried employee. Therefore, the provisions of section 56(2)(x) would be attracted in the hands of Mr. Suresh who has received house property, being a capital asset, for inadequate consideration.

7. This issue has been clarified by the CBDT *Circular No.8/2009 dated 24.11.2009*. As per provisions of section 194J(1), any person, who is responsible for paying to a resident any sum by way of fees for professional services, shall, at the time of credit of such sum to the account of the payee or at the time of payment thereof in cash or by issue of a cheque or draft or by any other mode, whichever is earlier, deduct an amount equal to 10% of such sum as TDS.

Further, as per clause (a) of *Explanation* to section 194J "professional services" includes services rendered by a person in the course of carrying on medical profession.

The services rendered by hospitals to various patients are primarily medical services and therefore, **the provisions of section 194J are applicable on payments made by TPAs to hospitals,** etc. Further, for invoking provisions of section 194J, there is no stipulation that the professional services have to be necessarily rendered to the person who makes payment to the hospital. Therefore, TPAs who are making payment on behalf of insurance companies to hospitals for settlement of medical/ insurance claims, etc. under various schemes, including Cashless Schemes, are liable to deduct tax at source under section 194J on all such payments to hospitals, etc.

In view of the above, all such transactions between TPAs and hospitals would fall within the ambit of provisions of section 194J.

8. **(i)** The services of Event Managers in relation to sports activities alone have been notified by the CBDT as "professional services" for the purpose of section 194J. In this case, payment of ₹ 5 lakh was made to an event management company for organization of a debate competition. Hence, the provisions of section 194J are not attracted.

However, TDS provisions under section 194C relating to contract payments would be attracted and consequently, tax has to be deducted @2% under section 194C. The tax deductible under section 194C would be ₹ 10,000, being 2% of ₹ 5 lakh.

(ii) Section 194J provides for deduction of tax at source @10% on any remuneration or fees or commission, by whatever name called, paid to a director, which is not in the nature of salary in respect of which tax is deductible at source under section 192.

Hence, tax is to be deducted at source under section 194J @10% by DAF Pvt. Ltd. on the commission of ₹ 2,25,000 paid to KD, a part-time director. The tax deductible under section 194J would be ₹ 22,500, being 10% of ₹ 2,25,000.

9. **(i)** The definition of "work" under section 194C includes manufacturing or supplying a product according to the requirement or specification of a customer by using material purchased from such customer or its associate. In the instant case, Mini Limited manufactures the product as per the specification given by Max Limited **by using the raw materials purchased from Max Limited**. **Therefore, it falls within the definition of "work"** under section 194C. Consequently, tax is to be deducted on the invoice value, excluding the value of material purchased from such customer if such value is mentioned separately in the invoice. If the material component is not mentioned separately in the invoice, tax is to be deducted on the whole of the invoice value.

(ii) Provisions for deduction of tax at source under section 194J are attracted in respect of payment of fees for professional services, if the amount of such fees exceeds ₹ 30,000 in the relevant financial year. The service rendered by a commentator in relation to sports activities has been notified by the CBDT as a professional service for the purposes of section 194J vide its *Notification No. 88 dated 21st August, 2008.* Therefore, tax is required to be deducted @10% from the fee of ₹ 5 lakhs payable to the former cricketer.

10. **(i)** Section 192 requires deduction of tax from salary at the time of payment. Thus, the employer is not required to deduct tax at source when salary has not been paid but is merely credited to the account of the employee in its books of account. MNO Ltd., therefore, is not required to deduct tax at source in respect of the salary merely credited to the account of employee Q which is not paid.

If salary has been paid during the year to Q, then, MNO Ltd., a deductor, being an employer, shall seek information from each of its employees having income under section 192 regarding their intended tax regime, and each such employee shall intimate the same to the deductor, being his employer, regarding his intended tax regime for each year and upon intimation, the deductor shall compute his total income, and deduct tax at source thereon according to the option exercised.

If intimation is not made by the employee, it shall be presumed that the employee continues to be in the default tax regime and has not exercised the option to opt out of the new tax regime. Accordingly, in such a case, MNO Ltd. shall deduct tax at source, on income under section 192, in accordance with the rates provided under section 115BAC(1A).

(ii) An individual who has total sales, gross receipts or turnover from the business carried on by him exceeding ₹ 1 crore in the immediately preceding financial year, i.e., F.Y. 2023-24, is liable to deduct tax at source under section 194C for the financial year 2024-25 in respect of the payment made to contractor exceeding ₹ 30,000 in a single contract and ₹ 1,00,000 in aggregate of contracts during the financial year. Since, turnover of the individual T is ₹ 2.20 crores in the financial year 2023-24 and as the payment during financial year 2024-25 to the contractor has exceeded the limits prescribed in section 194C, tax has to be deducted under section 194C.

The rate of tax deduction is 1% as the contractor is an individual.

(iii) The limit of ₹ 30,000 for non-deduction of tax under section 194J would apply separately for fees for professional services and fees for technical services. This means that if a person has rendered services falling under both the categories, tax need not be deducted if the fee for each category does not exceed ₹ 30,000 even though the aggregate of the amounts credited to the account of such person or paid to him for both the categories of services exceed ₹ 30,000. Therefore, BCD Ltd. is not required to deduct tax at source in respect of the fees either at the time of credit or at the time of payment.

11. **(i)** Where the payer is an individual or HUF whose total sales, gross receipts or turnover from the business carried on by him exceed ₹ 1 crore during the financial year immediately preceding financial year in which such rent was credited or paid, is liable to deduct tax at source. Since the turnover from business of Mr. Anand was ₹ 202 lakhs for the F.Y. 2023-24, he is liable to deduct tax at source under section 194-I in respect of rental payments during the financial year 2024-25.

Accordingly, Mr. Anand is liable to deduct tax at source under section 194-I on the rental payments made. Section 194-I provides that rent includes any payment, by whatever name called, for the use of land or building together with furniture, fittings, etc. Therefore, in the given case, apart from the monthly rent of ₹ 15,000 p.m., service charge of ₹ 6,000 p.m. for use of furniture and fixtures would also attract TDS under section 194-I. Since the aggregate rental payments of ₹ 2,52,000 to Mr. R during the financial year 2024-25 exceeds ₹ 2,40,000, Mr. Anand is liable to deduct tax at source @10% under section 194-I from rent paid to Mr. R.

(ii) The definition of "work" under *Explanation* to section 194C includes catering services and therefore, TDS provisions under section 194C are attracted in respect of payments to a caterer. As the payment exceeds ₹ 30,000, the nationalised bank is required to deduct tax at source at 2% on the payments made to catering organisation. If the catering organization is an individual or HUF, then, the tax deduction shall be made @1%

(iii)

	₹
Gross salary, allowances and monetary perquisites	7,30,000
Non-Monetary perquisites	1,20,000
	8,50,000
Less: Standard deduction under section 16(ia)	75,000
	7,75,000
Tax Liability	28,600
Average rate of tax (₹ 28,600 / ₹ 7,75,000 × 100)	3.69%

The company can deduct ₹ 28,600 at source from the salary of the General Manager at the time of payment.

Alternatively, the company can pay tax on non-monetary perquisites as under –

Tax on non-monetary perquisites =3.69% of ₹ 1,20,000 = ₹ 4,428

Balance to be deducted from salary = ₹ 24,172

If the company pays a tax of ₹ 4,428 on non-monetary perquisites, the same is not a deductible expenditure as per section 40(a)(v). The amount of tax paid towards non-monetary perquisite by the employer, however, is not chargeable to tax in the hands of the employee as per section 10(10CC).

12. **(a)** As per section 192, tax is deductible at source by any person who is responsible for paying any income chargeable under the head 'Salaries'. However, as per sub-section (2A) of said section, the employee will be entitled to relief u/s 89 and consequently, he will be required to furnish to the person responsible for making the payment, such particulars in the prescribed form (i.e., Form No.10E). The person responsible for making the payment shall compute the relief and take into account the same while deducting tax at source from salary.

(b) Under section 194B, the person responsible for paying by way of winnings from any card game and other game in an amount exceeding ₹ 10,000 shall, at the time of payment, deduct income-tax at 30%. Therefore, tax of ₹ 3 lakh has to be deducted at source from the prize money of ₹ 10 lakh payable to the winner.

(c) Section 194-I, which governs the deduction of tax at source on payment of rent, exceeding ₹ 2,40,000 p.a., is applicable to all taxable entities except individuals and HUFs, whose total sales, gross receipts or turnover from the business or profession carried on by him does not exceed ₹ 1 crore in case of business and ₹ 50 lakhs in case of profession during the financial year immediately preceding financial year in which such rent was credited or paid, is liable to deduct tax at source. Section 196, however, provides an exemption in respect of payments made to the Government from the application of the provisions of tax deduction at source.

Therefore, no tax is required to be deducted at source by the State Bank of India from rental payments to the Government.

(d) If the cameraman is an employee of the T.V. company, the provisions of section 192 will apply. However, if he is a professional, TDS provisions under section 194J will apply. Tax at 10% will have to be deducted at the time of credit of ₹ 80,000 or on its payment, whichever is earlier.

(e) Under section 194G, the person responsible for paying to any person, stocking, distributing, purchasing or selling lottery tickets shall at the time of credit of the commission or payment thereof, whichever is earlier, amounting to more than ₹ 15,000, deduct income-tax at source @5%.

Accordingly, tax @5% under section 194G amounting to ₹ 1,100 has to be deducted from the commission payment of ₹ 22,000 to the agent of the State Government.

(f) The TDS on payment by way of winnings from horse race is governed by section 194BB. Under this section, the person responsible for payment shall, at the time of payment, deduct tax at source @ 30%, if the payment exceeds ₹10,000.

Accordingly, tax @30% amounting to ₹ 1,50,000 has to be deducted from the winnings of ₹ 5 lakh payable to the winner of the race.

13. Liability for deduction of tax at source

	Reasoning	Amount of TDS (₹)
(i)	Since the consideration and stamp duty value for transfer of house property in Mumbai both are not less than ₹ 50 lakhs, Mr. X, being the transferee, is required to deduct tax @1% under section 194-IA on ₹ 95 lakhs, being higher of stamp duty value and the amount of consideration for transfer of property, at the time of credit to the transferor account or payment, whichever is earlier.	95,000
	Mr. X is not required to deduct tax as source under section 194-IA from the consideration of ₹ 49,50,000 paid to Mr. C for transfer of urban plot, since the consideration and stamp duty value, both are less than ₹ 50 lakhs.	Nil
	Mr. X is also not required to deduct tax at source under section 194-IA for transfer of rural agricultural land, since the same is specifically excluded from the scope of immovable property for the purpose of tax deduction under section 194-IA.	Nil
	Note - *Section 194-IA requires every transferee responsible for paying any sum as consideration for transfer of immovable property (land, other than agricultural land, or building or part of building) to deduct tax, at the rate of 1% of higher of consideration and stamp duty value, at the time of credit of such sum to the account of the resident transferor or at the time of payment of such consideration to the resident transferor, whichever is earlier. However, no tax is required to be deducted where the consideration for transfer of an immovable property and stamp duty value of such property, both are less than ₹ 50 lakhs.*	

(ii)	Section 194H requires deduction of tax at source @5% from commission and brokerage payments to a resident. However, no tax is to be deducted at source where the amount of such payment does not exceed ₹ 15,000. In the given case, 'ABC Packaging Ltd.', the consignee, has not remitted the commission of ₹ 50,000 to the consignor 'XYZ Developers' while remitting the sales consideration. Since the retention of commission by the consignee/agent amounts to constructive payment of the same to him by the consignor/principal, deduction of tax at source is required to be made from the amount of commission *[CBDT Circular No.619 dated 4/12/1991].* Therefore, XYZ Developers has to deduct tax at source on ₹ 50,000 at the rate of 5%.		2,500
(iii)	Section 192 provides that tax is required to be deducted on the payment made as salaries. Tax is to be deducted on the estimated income at the rates specified under section 115BAC(1A) or at the average of income tax computed on the basis of the rates in force for the financial year in which payment is made in case the employee submitted a declaration of opt out of the default regime under section 115BAC. The employee may declare details of his other incomes (including loss under the head "Income from house property" but not any other loss) to his employer. In this case, since Mr. Raj has submitted a declaration of opt out of section 115BAC and also notified his employer AB Ltd. of loss from self-occupied house property, the employer has to take the same into consideration for deduction of tax at source. Therefore, AB Ltd. is required to deduct tax at source on the salary of ₹ 85,000 per month paid to Mr. Raj, in the following manner:		
	Income under the head salaries (₹ 85,000 x 12)	10,20,000	
	Less: Standard deduction under section 16(ia)	50,000	
		9,70,000	
	Income under the head "house property"	(1,95,000)	
	Gross total income	7,75,000	
	Less: Deduction under Chapter VI-A	Nil	
	Total Income	7,75,000	
	Tax on ₹ 7,75,000	67,500	
	Add: Health and Education cess@4%	2,700	
	Tax to be deducted at source	**70,200**	**70,200**

14. Manner of making a proclamation

Movable Property [Rules 38 & 39 of Schedule II to the Income-tax Act, 1961]

Where the Tax Recovery Officer orders sale of movable property, he should issue a proclamation in the language of the district of the intended sale, specifying the time and place of sale and whether the sale is subject to confirmation or not.

The proclamation should be made by the beat of drum or other customary mode, -

(a) in the case of property attached by actual seizure –

(i) in the village in which the property was seized, or, if the property was seized in a town or city, then, in the locality in which it was seized; and

(ii) at such other places as the Tax Recovery Officer may direct;

(b) in the case of property attached otherwise than by actual seizure, in such places, if any, as the Tax Recovery Officer may direct.

A copy of the proclamation should also be affixed in a conspicuous part of the office of the Tax Recovery Officer.

Immovable Property [Rule 54 of Schedule II to the Income-tax Act, 1961]

The Tax Recovery Officer shall make a proclamation for the sale of immovable property at some place on or near such property by beat of drum or other customary mode. A copy of the proclamation shall be affixed on a conspicuous part of the property and also upon a conspicuous part of the office of the Tax Recovery Officer.

Where the Tax Recovery Officer directs, such proclamation shall also be published in the Official Gazette or in a local newspaper or in both, and the cost of such publication shall be deemed to be cost of the sale.

Where the property to be sold is divided into lots for the purpose of being sold separately, then it is not necessary to make a separate proclamation for each lot of property, unless, in the opinion of the Tax Recovery Officer, proper notice of sale cannot otherwise be given.

Time limit for the sale of attached immovable property [Rule 68B of Schedule II to the Income-tax Act, 1961]

The sale of immovable property attached has to be made on or before the expiry of 7 years from the end of the financial year in which the order giving rise to a demand of any tax, interest, fine, penalty or any other sum, for the recovery of which the immovable property has been attached,

- has become conclusive under the provisions of section 245-I (where the order of settlement under section 245D(4) is deemed to be conclusive as to the matters stated therein) or
- has become final in terms of the provisions of Chapter XX (Appeals and Revision).

However, the CBDT may, for reasons to be recorded in writing, extend the aforesaid period for a further period not exceeding 3 years.