

ADVANCE TAX, TAX DEDUCTION AT SOURCE AND INTRODUCTION TO TAX COLLECTION AT SOURCE



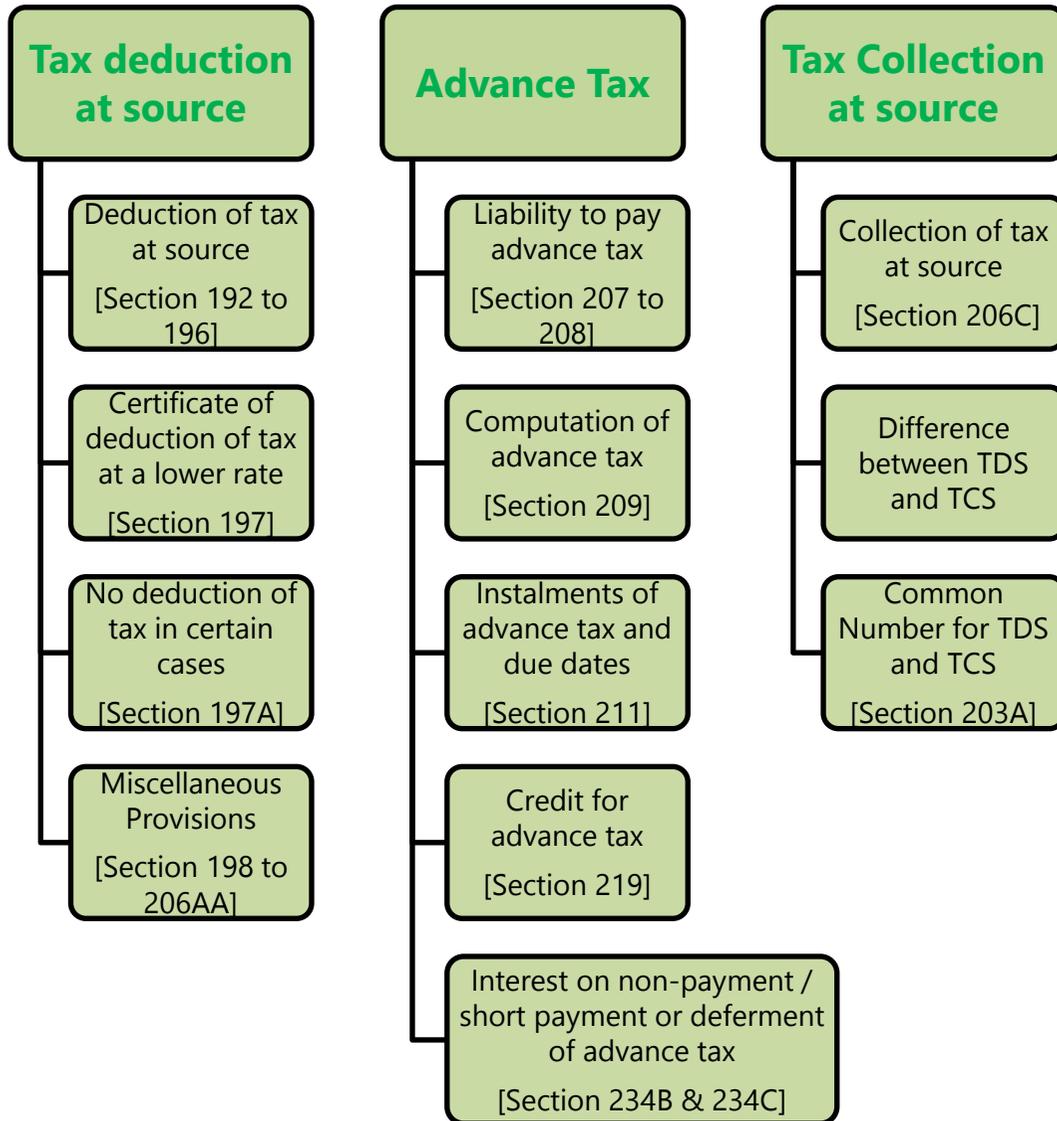
LEARNING OUTCOMES

After studying this chapter, you would be able to–

- ❑ appreciate the modes of recovery of income-tax from an assessee;
- ❑ comprehend and apply the provisions governing deduction of tax at source from certain specified income and payments;
- ❑ examine whether tax is deductible in a particular case(s) considering the provisions of the relevant section;

- ❑ compute the tax deductible at source in respect of a particular case(s);
- ❑ identify the cases where tax is not required to be deducted at source and the conditions to be satisfied for this purpose;
- ❑ comprehend and appreciate the duty of the person deducting tax;
- ❑ examine the consequences of failure to deduct tax at source or make payment of the tax deducted at source;
- ❑ identify the “persons responsible for paying” tax deducted at source;
- ❑ appreciate when the liability to pay advance tax arises;
- ❑ compute advance tax liability and the schedule of instalments for payment of advance tax;
- ❑ compute interest for non-payment or short-payment of advance tax;
- ❑ compute interest for deferment of advance tax;
- ❑ comprehend the concept of tax collection at source and appreciate when tax is collectible at source;
- ❑ appreciate the difference between tax deduction at source and tax collection at source.

CHAPTER OVERVIEW





1. DEDUCTION OF TAX 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. 2019-20 is taxable in the A.Y. 2020-21. 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

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, *inter alia*, TDS, TCS, **relief of tax claimed under section 89, tax credit claimed to be set off in accordance with the provisions of section 115JD** and advance tax.



2. DIRECT PAYMENT [SECTION 191]

Section 191 provides that in the following cases, tax is payable by the assessee directly –

- (1) in the case of income in respect of which tax is not required to be deducted at source; and
- (2) income in respect of which tax is liable to be deducted but is not actually deducted.

In view of these provisions of section 191, the proceedings for recovery of tax necessarily had to be taken against the assessee whose tax was liable to be deducted, but not deducted.

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

- (1) who is required to deduct tax at source; or
- (2) an employer paying tax on non-monetary perquisites under section 192(1A),

does not deduct the whole or part of the tax, or after deducting fails to pay such tax deducted, 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.

3. DEDUCTION OF TAX AT SOURCE

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 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. Therefore, 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) 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.
- (iv) 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.

- (v) 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(1), where eligible.
- (vi) 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:
 - (a) particulars of such other income and particulars of any tax deducted under any other provision;
 - (b) loss, if any, under the head 'Income from house property'.

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

- (vii) It is also provided that except in cases where loss from house property has been adjusted against salary income, the tax deductible from salary should not be reduced as a consequence of making the above adjustments.

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

Sub-section (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

Sub-section (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).

Rule 26C requires furnishing of evidence of the following claims by an employee 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 tax deduction of tax 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.

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 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 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 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 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%.

(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.

(5) Deduction at maximum marginal rate in case of non-submission of PAN

Any person entitled to receive any amount on which tax is deductible under this section has to furnish his PAN to the person responsible for deducting such tax. In case he fails to do so, tax would be deductible at the maximum marginal rate.

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) 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 non-corporate resident assesseees.

(3) 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.

(4) 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.
- (viii) on any debentures (whether listed or not listed on a recognized stock exchange) 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) on any security issued by a company, where such security is in dematerialised form and is listed on a recognised stock exchange in India in accordance with the Securities Contracts (Regulation) Act, 1956 and the rules made thereunder.

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

This section deals with the scheme of deduction of tax at source from interest other than interest on securities. The main provisions are the following:

(1) Applicability of TDS under section 194A

This section applies only to interest, other than "interest on securities", credited or paid by assessee 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 the monetary limits of ₹ 1 crore and ₹ 50 lakhs, respectively, under section 44AB 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 account of 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.

The CBDT has, vide *Circular No.3/2010 dated 2.3.2010*, given a 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. It has been 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 non-corporate resident assesseees 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** in respect of interest paid on –

- (i) time deposits with a banking company;
- (ii) time deposits with a co-operative society engaged in banking business; and
- (iii) deposits with post office under notified schemes.

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.

In the case of income credited or paid in respect of time deposits with a banking company or a co-operative bank or a public company with

the main object of providing long-term finance for construction or purchase of houses in India for residential purposes, the threshold limit for deduction of tax at source (i.e., ₹ 50,000, ₹ **40,000** or ₹ 5,000, as the case may be) shall be computed with reference to the income credited or paid by a branch of the banking company or the co-operative society or the public company.

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) 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;
- (d) Interest paid or credited in respect of deposits under any scheme framed by the Central Government and notified by it in this behalf;
- (e) Interest income credited or paid in respect of deposits (other than time deposits made on or after 1.7.1995) with
 - (i) a bank to which the Banking Regulation Act, 1949 applies; or
 - (ii) a co-operative society engaged in carrying on the business of banking.
- (f) Interest credited or paid in respect of 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.
- (g) Interest income credited or paid by the Central Government under any provisions of the Income-tax Act, 1961, the Estate Duty Act or the Companies (Profits) Surtax Act.
- (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 public sector company or scheduled bank in relation to a zero coupon bond issued on or after 1.6.2005.

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

No tax to be deducted at source under section 194A, in case of Senior Citizens if the aggregate amount of interest does not exceed ₹ 50,000 [Notification No. 6/2018, dated 6-12-2018]

As per the third proviso to section 194A(3), no tax is required to be deducted at source in the case of senior citizens where the amount of interest or the aggregate of the amount of interest credited or paid during the financial year by a banking company, co-operative society engaged in banking business or post office does not exceed ₹ 50,000. However, it has come to the notice of the CBDT, that, some tax deductors/banks are making tax deductions even when the amount of interest does not exceed ₹ 50,000.

Under Rule 31A(5) of the Income-tax Rules, 1962, the DGIT (Systems) is authorized to specify the procedures, formats and standards for the purposes of furnishing and verification of the statements or claim for refund and shall be responsible for the

day-to-day administration in relation to furnishing and verification of the statements or claim for refund in the manner so specified.

Accordingly, the Principal Director General of Income-tax (Systems) has, in exercise of the powers delegated by the CBDT under Rule 31A(5), clarified that no tax deduction at source under section 194A shall be made in the case of senior citizens where the amount of such income or the aggregate of the amounts of such income credited or paid during the financial year does not exceed ₹50,000.

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.

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.

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 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 1

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

- (i) *On 1.10.2019, Mr. Harish made a six-month fixed deposit of ₹ 10 lakh@9% p.a. with ABC Co-operative Bank. The fixed deposit matures on 31.3.2020.*
- (ii) *On 1.6.2019, Mr. Ganesh made three nine month fixed deposits of ₹ 3 lakh each, carrying interest@9% with Dwarka Branch, Janakpuri Branch and Rohini Branch of XYZ Bank, a bank which has adopted CBS. The fixed deposits mature on 28.2.2020.*
- (iii) *On 1.4.2019, Mr. Rajesh started a 1 year recurring deposit of ₹ 80,000 per month@8% p.a. with PQR Bank. The recurring deposit matures on 31.3.2020.*

SOLUTION

- (i) ABC Co-operative Bank has to deduct tax at source@10% on the interest of ₹ 45,000 ($9\% \times ₹ 10 \text{ lakh} \times \frac{1}{2}$) 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% under section 194A, since the aggregate interest on fixed deposit with the three branches of the bank is ₹ 60,750 [$3,00,000 \times 3 \times 9\% \times 9/12$], 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% under section 194A.
- (iii) Tax has to be deducted under section 194A by PQR Bank on the interest of ₹ 41,600 falling due on recurring deposit on 31.3.2020 to Mr. Rajesh, since –
- (1) “recurring deposit” is included in the definition of “time deposit”; and
 - (2) such interest exceeds the threshold limit of ₹ 40,000.

3.5 Winnings from lotteries, crossword puzzles and horse races [Sections 194B and 194BB]

(1) *Rate of tax on casual income*

Any income of a casual and non-recurring nature of the type of winnings from lottery, crossword puzzle, card game and other game of any sort, races including horse races, etc. will be charged to income-tax at a flat rate of **30%** [Section 115BB].

(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, is required to deduct income-tax therefrom at the rate of **30%** if the amount of payment exceeds **₹ 10,000**.

(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.

(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 ₹ 10,000. The rate applicable for deduction of tax at source is 30%.

Tax will have to be deducted at source from winnings from horse races even though the winnings may be paid to the person concerned in instalments of less than ₹ 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. Therefore, winnings by way of jack pot would also fall within the scope of section 194BB.

3.6 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.

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 Central

Government, a State Government, local authority, statutory corporation, a company, co-operative society, any statutory authority dealing with housing accommodation, any society registered under the Societies Registration Act, 1860, any trust or any university or any firm or any Government of a foreign State or foreign enterprise or any association or body established outside India or an individual, HUF, AOP or BOI subject to tax audit under section 44AB(a)/(b) in the immediately preceding financial year must deduct tax at source at the prescribed rate from such sum.

(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 2

ABC Ltd. makes the following payments to Mr. X, a contractor, for contract work during the P.Y.2019-20–

₹ 20,000 on 1.5.2019

₹ 25,000 on 1.8.2019

₹ 28,000 on 1.12.2019

On 1.3.2020, 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. 2019-20 exceeds ₹ 1,00,000 (on account of the last payment of ₹ 30,000, due on 1.3.2020, 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 – ₹ 1,030) 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.

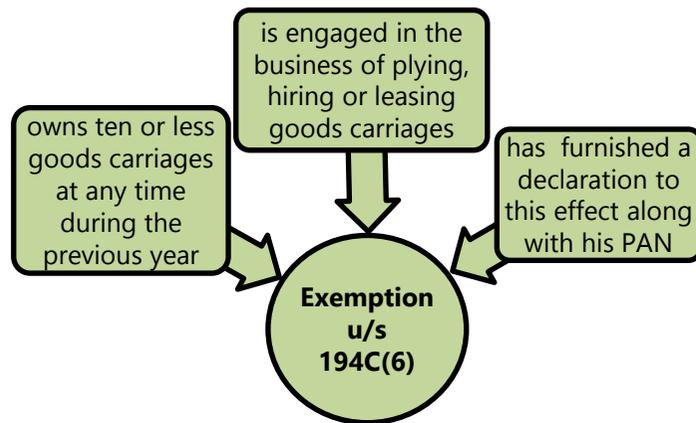
However, "work" shall not include manufacturing or supplying a product according to the requirement or specification of a customer by using raw material purchased from a person, other than such customer, as such a contract is a contract for 'sale'. However, this will not be applicable to a contract which 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. In such a case, tax shall be deducted on the invoice value excluding the value of material purchased from such customer if such value is mentioned separately in the invoice. Where the material component has not been separately mentioned in the invoice, tax shall be deducted on the whole of the invoice value.

(6) *Non-applicability of TDS under section 194C*

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.

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, who fulfills 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 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 sale of goods.
- (ii) 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.
- (iii) The deduction of income-tax must be made at the time of credit of the sum to the account of the contractor, 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.

(8) 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 XVIII B are not applicable on 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.

(9) 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.

ILLUSTRATION 3

Certain concessions are granted to transport operators in the context of cash payments under section 40A(3) and deduction of tax at source under section 194-C. Elucidate.

SOLUTION

Section 40A(3) provides for disallowance of expenditure incurred in respect of which payment or aggregate of payments made to a person in a day exceeds ₹ 10,000, and such payment or payments are made otherwise than by account payee cheque or account payee bank draft or use of electronic system through bank account or through other prescribed electronic modes.

However, in case of payment made to transport operators for plying, hiring or leasing goods carriages, the disallowance will be attracted only if the payment made to a person in a day exceeds ₹ 35,000. Therefore, payment or aggregate of payments up to ₹ 35,000 in a day can be made to a transport operator otherwise than by way of account payee cheque or account payee bank draft or use of electronic system through bank account or through other prescribed electronic modes, without attracting disallowance under section 40A(3).

Under section 194C, tax had to be deducted in respect of payments made to contractors at the rate of 1% in case the payment is made to individual or Hindu Undivided Family or at the rate of 2% in any other case.

However, no deduction is required to be made from any 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 the following conditions are fulfilled:-

- (1) He owns ten or less goods carriages at any time during the previous year.
- (2) He is engaged in the business of plying, hiring or leasing goods carriages;
- (3) He has furnished a declaration to this effect along with his PAN.

3.7 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%**.

(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**.

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

(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 fulfillment 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 **1%** on any sum paid to a resident under a

life insurance policy, including the sum allocated by way of bonus, which are not exempt under section 10(10D). However, from 1.9.2019, tax is to be deducted at source @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.

(3) **Threshold limit**

Tax deduction is required only if the payment or aggregate payment of 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 4

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 31.3.2020, towards maturity proceeds of LIC policy taken on 1.4.2017, 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 ₹ 3.25 lakhs on 31.3.2020 on LIC policy taken on 31.3.2012, for which the sum assured is ₹ 3 lakhs and the annual premium is ₹ 35,000.
- (iii) Mr. Z, a resident, is due to receive ₹ 95,000 on 1.8.2019 towards maturity proceeds of LIC policy taken on 1.8.2013 for which the sum assured is ₹ 90,000 and the annual premium was ₹ 12,000.

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 31.3.2020 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 entire 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 ₹ 3.25 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 1.8.2019 would not be exempt under section 10(10D) in the hands of Mr. Z, the tax deduction provisions under section 194DA are not attracted since the maturity proceeds are less than ₹ 1 lakh.

3.9 Payments to non-resident sportsmen or sports associations [Section 194E]

(1) **Applicability**

This section provides for deduction of tax at source in respect of any income referred to in section 115BBA payable to a non-resident sportsman (including an athlete) or an entertainer who is not a citizen of India or a non-resident sports association or institution.

(2) **Rate of TDS**

Deduction of tax at source @20.8% should be made by the person responsible for making the payment. Health and education cess @4% on TDS rate of 20% would be leviable, since payment is made to a non-resident.

(3) **Time of deduction of tax**

Such tax deduction should be 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.

(4) **Income referred to in section 115BBA**

- (i) income received or receivable by a non-resident sportsman (including an athlete) by way of-
- (a) participation in any game or sport in India (However, games like crossword puzzles, horse races etc. taxable under section 115BB are not included herein); or
 - (b) advertisement; or
 - (c) contribution of articles relating to any game or sport in India in newspapers, magazines or journals.
- (ii) Guarantee amount paid or payable to a non-resident sports association or institution in relation to any game or sport played in India. However,

games like crossword puzzles, horse races etc. taxable under section 115BB are not included herein.

- (iii) income received or receivable by a non-resident entertainer (who is not a citizen of India) from his performance in India.

ILLUSTRATION 5

Calculate the amount of tax to be deducted at source (TDS) on payment made to Ricky Ponting, an Australian cricketer non-resident in India, by a newspaper for contribution of articles ₹ 25,000.

SOLUTION

Under section 194E, the person responsible for payment of any amount to a non-resident sportsman for contribution of articles relating to any game or sport in India in a newspaper shall deduct tax @20%. Further, since Ricky Ponting is a non-resident, health and education cess @4% on TDS would also be added.

Therefore, tax to be deducted = ₹ 25,000 × 20.8% = ₹ 5,200.

3.10 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.

3.11 Repurchase of units by Mutual Fund or Unit Trust of India [Section 194F]

A person responsible for paying to any person any amount on account of

repurchase of units covered under section 80CCB(2)¹ shall deduct tax at source at the rate of **20%** at the time of payment of such amount.

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 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%**.

(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 income 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.

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%**.

However, an individual or HUF whose total sales, gross receipts or turnover from the business or profession carried on by him exceed the monetary limits of **₹ 1 crore** and **₹ 50 lakhs**, respectively, specified under section 44AB during the immediately preceding financial year is liable to deduct tax at source.

¹ Deduction u/s 80CCB was available in respect of investment made in notified units of UTI or Mutual Funds during the PYs 1990-91 and 1991-92

(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

- (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.

(6) 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 canvassing/booking advertisements (typically 15% of the billing) is '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 6

Moon TV, a television channel, made payment of ₹ 50 lakhs to a production house for 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 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 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.

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 fixtures).

However, an individual or HUF whose total sales, gross receipts or turnover from the business or profession carried on by him exceed the monetary limits of ₹ 1 crore and ₹ 50 lakhs, respectively, specified under section 44AB during the immediately preceding financial year is liable to deduct tax at source.

(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 need 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.

(5) Applicability of TDS provisions under section 194-I to payments made by the customers on account of cooling charges to the cold storage owners

CBDT Circular No.1/2008 dated 10.1.2008 provides clarification regarding applicability of provisions of section 194-I to payments made by the customers on account of cooling charges to the cold storage owners.

The main function of the 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 are basically contractual in nature, the provision of section 194-C will be applicable to the amounts paid as cooling charges by the customers of the cold storage.

(6) No requirement to deduct tax at source under section 194-I on 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.

The primary requirement of 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 CBDT has, *vide* this circular, clarified that the provisions of section 194-I shall **not** be applicable on payment of PSF by an airline to Airport Operator.

(7) Applicability of TDS provisions under section 194-I to service tax component of rental income

CBDT Circular No.4/2008 dated 28.4.2008 provides clarification on deduction of tax at source (TDS) on service tax component of rental income under section 194-I.

As per the provisions of 194-I, tax is deductible at source on **income** by way of rent paid to any resident. Further, rent has been defined in 194-I to mean **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.

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 may be noted that the clarification in respect of applicability of TDS provisions under section 194-I to GST component of rental income on similar lines is yet to be issued. Pending such clarification, it is possible to take a view that the clarification given in Circular No.4/2008 would apply in the GST regime also.*

Clarification regarding 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.

(8) Clarification on applicability of TDS provisions of section 194-I on lumpsum lease premium paid for acquisition of long term lease [Circular No.35/2016, dated 13-10-2016]

The issue of whether or not TDS under section 194-I is applicable on 'lump sum lease premium' or 'one-time upfront lease charges' paid by an assessee for acquiring long-term leasehold rights for land or any other property has been examined by the CBDT.

Accordingly, the CBDT has, vide this Circular, clarified that lump sum lease premium or one-time upfront lease charges, which are not adjustable against periodic rent, paid or payable for 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. Therefore, such payments are not liable for TDS under section 194-I.

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 transferor shall deduct tax, at the rate of **1%** of such sum.

(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 is less than **₹ 50 lakh**.

(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 in 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 immovable property

Consideration for transfer of immovable property include 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 similar nature, which are incidental to transfer of the immovable property.

Time and mode of payment of tax deducted at source under section 194-IA to the credit of Central Government, furnishing challan-cum-statement and TDS Certificate [Rules 30, 31A & 31]

- (i) Such sum deducted under section 194-IA shall be paid to the credit of the Central Government within a period of 30 days from the end of the month in which the deduction is made and shall be accompanied by a challan-cum-statement in Form No.26QB [Rule 30].
- (ii) The amount so deducted has to be deposited to the credit of the Central Government by electronic remittance within the above mentioned time limit, into RBI, SBI or any authorized bank [Rule 30].
- (iii) Every person responsible for deduction of tax under section 194-IA shall also furnish to the DGIT (Systems) or any person authorized by him, a challan-cum-statement in Form No.26QB electronically within 30 days from the end of the month in which the deduction is made [Rule 31A].
- (iv) Every person responsible for deduction of tax under section 194-IA shall furnish the TDS certificate in Form No.16B to the payee within 15 days from the due date for furnishing the challan-cum-statement in Form No.26QB under Rule 31A, after generating and downloading the same from the web portal specified by the DGIT (Systems) or the person authorized by him [Rule 31]

ILLUSTRATION 7

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 1.8.2019. He has purchased the house property and the land in the year 2018 for ₹ 40 lakh and

₹ 10 lakh, respectively. The stamp duty value on the date of transfer, i.e., 1.8.2019, 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)	<u>Tax implications in the hands of Mr. X</u>
	<p>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 exceed 105% 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.2020-21.</p> <p>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.</p>
(ii)	<u>Tax implications in the hands of Mr. Y</u>
	<p>In case 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 the higher of ₹ 50,000 and 5% of the consideration.</p> <p>Therefore, in this case ₹ 25 lakh (₹ 85 lakh – ₹ 60 lakh) would be taxable in the hands of Mr. Y under section 56(2)(x).</p> <p>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.</p>
(iii)	<u>TDS implications in the hands of Mr. Y</u>
	<p>Since the sale consideration of house property exceeds ₹ 50 lakh, Mr. Y is required to deduct tax at source under section 194-IA. The tax to be deducted under section 194-IA would be ₹ 60,000, being 1% of ₹ 60 lakh.</p> <p>TDS provisions under section 194-IA are not attracted in respect of transfer of rural agricultural land.</p>

3.16 Payment of rent by certain individuals or Hindu undivided family [Section 194-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 carried on by him exceed the monetary limits of ₹ 1 crore and ₹ 50 lakhs, respectively, specified under section 44AB in the immediately preceding financial year, responsible for paying to a resident any income by way of rent, to deduct income tax at the rate of **5%**.

(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.

(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 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**

Section 206AA requires providing of Permanent Account Number (PAN) of the deductee to the deductor, failing which tax shall be deducted at a higher rate (i.e., higher of the rate provided in the relevant section, rates in force and 20%). 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.

ILLUSTRATION 8

Mr. X, a salaried individual, pays rent of ₹ 55,000 per month to Mr. Y from June, 2019. 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 December, 2019?

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. 2019-20, he is liable to deduct tax at source @5% of such rent for F.Y. 2019-20 under section 194-IB. Thus, ₹ 27,500 [₹ 55,000 x 5% x 10] has to be deducted from rent payable for March, 2020.

If Mr. X vacated the premises in December, 2019, then tax of ₹ 19,250 [₹ 55,000 x 5% x 7] has to be deducted from rent payable for December, 2019.

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

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, 2020.

In case 2 above, this would amount to ₹ 77,000 [₹ 55,000 x 20% x 7] but the same has to be restricted to ₹ 55,000, being rent for December, 2019.

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.

(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.

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
- (iv) royalty, or
- (v) non-compete fees referred to in section 28(va)

shall deduct tax at source at the rate of **10%**.

However, in case of a payee, engaged only in the business of operation of 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 such 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. However, there is no such exemption limit for deduction of tax on any remuneration or fees or commission payable to director of a company.

ILLUSTRATION 9

XYZ Ltd. makes a payment of ₹ 28,000 to Mr. Ganesh on 2.8.2019 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.2019-20.

(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 the above monetary limits under section 44AB in the immediately preceding financial year is required to deduct tax on fees for professional services or fees for technical services credited or paid.

- (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”.

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:

- (a) Sports Persons,
- (b) Umpires and Referees,
- (c) Coaches and Trainers,
- (d) Team Physicians and Physiotherapists,
- (e) Event Managers,
- (f) Commentators,
- (g) Anchors and
- (h) 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 in this section exhaustively. 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”

The term ‘fees for technical services’ 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 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.

(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.

The consideration for use or right to use of computer software is royalty by clarifying 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 would be attracted in respect of consideration for use or right to use computer software since the same falls within the definition of royalty.

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 under section 194J 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.

3.19 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.

(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.**

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

(1) Applicability and rate of TDS

Section 194M, inserted with effect from 1.9.2019, 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.

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 under section 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 who is subject to tax audit under section 44AB(a)/(b) in 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 under section 194H on commission (not being insurance commission referred to in section 194D) or brokerage i.e., an individual or a HUF whose total sales, gross receipts or turnover from the business or profession carried on by him exceed the monetary limits of ₹ 1 crore and ₹ 50 lakhs, respectively, specified under section 44AB during the immediately preceding financial year.
- (iii) they are required to deduct tax at source under section 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 exceed the monetary limits of ₹ 1 crore and ₹ 50 lakhs, respectively, specified under section 44AB 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 "3.6 Payments to contractors and sub-contractors [Section 194C]", "3.18 Fees for professional or technical services [Section 194J]" and "3.13 Commission or brokerage [Section 194H]", respectively.

ILLUSTRATION 10

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.2019-20
1	Mr. Ganesh, an individual carrying on retail business with turnover of ₹ 2.5 crores in the P.Y.2018-19	Contract Payment for repair of residential house	₹ 5 lakhs
		Payment of commission to Mr. Vallish for business purposes	₹ 80,000

2.	Mr. Rajesh, a wholesale trader who declares profits under section 44AD for P.Y.2018-19 and P.Y.2019-20.	Contract Payment for reconstruction of residential house (made during the period January-March, 2020)	₹ 20 lakhs in January, 2020, ₹ 15 lakhs in Feb 2020 and ₹ 20 lakhs in March 2020.
3.	Mr. Satish, a salaried individual	Payment of brokerage for buying a residential house in March, 2020	₹ 51 lakhs
4.	Mr. Dheeraj, a pensioner	Contract payment made during October-November 2019 for reconstruction of residential house	₹ 48 lakhs

SOLUTION

	Particulars of the payer	Nature of payment	Aggregate of payments in the F.Y.2019-20	Whether TDS provisions are attracted?
1	Mr. Ganesh, an individual carrying on retail business with turnover of ₹ 2.5 crores in the P.Y.2018-19	Contract Payment for repair of residential house	₹ 5 lakhs	No, TDS under section 194C is not attracted since the payment is for personal purpose and TDS under section 194M is not attracted as aggregate of contract payment to the payee in the P.Y.2019-20 does not exceed Rs.50 lakh.
		Payment of commission to Mr. Vallish for business purposes	₹ 80,000	Yes, u/s 194H, since the payment exceeds ₹ 15,000, and Mr. Ganesh's turnover exceeds ₹ 1 crore in the P.Y.2018-19.

2.	Mr. Rajesh, a wholesale trader who declares profits under section 44AD for P.Y.2018-19 and P.Y.2019-20.	Contract Payment for reconstruction of residential house	₹ 55 lakhs	Yes, under section 194M, since the aggregate of payments (i.e., ₹ 55 lakhs) exceed ₹ 50 lakhs, and the payments are made after 1.9.2019. Since he declares profits on presumptive basis under section 44AD, he is not subject to tax audit in the P.Y.2018-19. Hence, TDS provisions under section 194C are not attracted in respect of payments made in the P.Y.2019-20.
3.	Mr. Satish, a salaried individual	Payment of brokerage for buying a residential house	₹ 51 lakhs	Yes, under section 194M, since the payment of ₹ 51 lakhs made in March 2020 exceeds the threshold of Rs.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 reconstruction of residential house	₹ 48 lakhs	TDS provisions under section 194C are not attracted since Mr. Dheeraj is a pensioner and hence, not subject to tax audit. TDS provisions under section 194M are also not applicable in this

				case, since the payment of ₹ 48 lakhs, even though made after 1.9.2019, does not exceed the threshold of ₹ 50 lakhs.
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3.21 TDS on cash withdrawal [Section 194N]

(1) Applicability and rate of TDS

Section 194N, inserted with effect from 1.9.2019, provides that every person, being

- 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, in cash, any sum or aggregate of sums 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 sum exceeding ₹ 1 crore.**

(2) Time of deduction

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

(3) 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 –

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

- *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*
- *such other person or class of persons notified by the Central Government in consultation with the RBI.*

3.22 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.

3.23 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 Fund².
- (2) This provision for non-deduction is when such sum is payable to the above entities by way of -
 - (i) interest or dividend in respect of securities or shares -

² Specified under section 10(23D)

- (a) owned by the above entities; or
 - (b) in which they have full beneficial interest or
- (ii) any income accruing or arising to them.



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, 194I, 194J, 194LA **and 194M**.
- (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.



5. NO DEDUCTION IN CERTAIN CASES [SECTION 197A]

- (1) ***Enabling provision for filing of declaration for receipt of 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 any sum out of National Savings Scheme Account, without deduction of tax at source under section 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 section 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 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 in respect of deposits under National Savings Schemes, etc.; or
- (ii) payment of premature withdrawal from Employee Provident Fund; or
- (iii) income from interest on securities or interest other than "interest on securities" or units; or
- (iv) insurance commission; or
- (v) payment in respect of life insurance policy; or
- (vi) rent; or
- (vii) the aggregate of the amounts of such incomes in (i) to (vi) 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 individual, 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, if such individual furnishes a declaration in writing in duplicate 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.

(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 Trust³.

(iii) Specified payments to notified institutions/class of institutions etc. [Sub-section (1F)]

No deduction of tax shall be made from specified payments to such institution, association or body or class of institutions or associations or bodies as may be notified by the Central Government in the Official

³ referred in section 10(44)

Gazette in this behalf. Therefore, in respect of such specified payments made to notified bodies, no tax is to be deducted at source.

Accordingly, the Central Government has notified that no deduction of tax shall be made from the payments of the nature specified below, in case such payment is made by a person to a bank listed in the Second Schedule to the Reserve Bank of India Act, 1934, excluding a foreign bank or to any payment systems company authorised by the Reserve Bank of India under section 4(2) of the Payment and Settlement Systems Act, 2007–

- (i) bank guarantee commission,
- (ii) cash management service charges,
- (iii) depository charges on maintenance of DEMAT accounts,
- (iv) charges for warehousing services for commodities,
- (v) underwriting service charges,
- (vi) clearing charges (MICR charges) including interchange fee or any other similar charges, by whatever name called, charged at the time of settlement or for clearing activities under the Payment and Settlement Systems Act, 2007 and
- (vii) credit card or debit card commission for transaction between the merchant establishment and acquirer bank,

(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.



6. MISCELLANEOUS PROVISIONS

6.1 Tax deducted is income received [Section 198]

- (1) All sums deducted in accordance with the foregoing provisions 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**

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)(i) provides that where under any provisions 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).

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 within the prescribed time.
- (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.

Rule 30 – Prescribed time and mode of payment to Government account of TDS or tax paid under section 192(1A)

- (a) All sums deducted in accordance with Chapter XVII-B by an office of the Government shall be paid to the credit of the Central Government on
 - the same day where the tax is paid without production of an income-tax challan and
 - on or before seven days from the end of the month in which the deduction is made or income-tax is due under section 192(1A), where tax is paid accompanied by an income-tax challan.
- (b) All sums deducted in accordance with Chapter XVII-B by deductors other than a Government office shall be paid to the credit of the Central Government
 - on or before 30th April, where the income or amount is credited or paid in the month of March.
 - In any other case, the tax deducted should be paid on or before seven days from the end of the month in which the deduction is made or income-tax is due under section 192(1A).
- (c) In special cases, the Assessing Officer may, with the prior approval of the Joint Commissioner, permit quarterly payment of the tax deducted under section 192/ 194A/194D or 194H on or before 7th of the month

following the quarter, in respect of first three quarters in the financial year and 30th April in respect of the quarter ending on 31st March. The dates for quarterly payment would, therefore, be 7th July, 7th October, 7th January and 30th April, for the quarters ended 30th June, 30th September, 31st December and 31st March, respectively.

- (d) Tax deducted under sections 194-IA and 194-IB have to be remitted within 30 days from the end of the month of deduction. A challan-cum-statement in Form 26QB/26QC has to be furnished within 30 days from the end of the month of deduction.
- (3) For the purpose of improving the reporting of payment of TDS made through book entry and to make existing mechanism enforceable, it is provided that where the tax deducted or tax referred to in section 192(1A) 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 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) The following persons are responsible 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 –
 - (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).

Rule 31A - Submission of quarterly statements

Every person responsible for deduction of tax under Chapter XVII-B shall deliver, or cause to be delivered, the following quarterly statements to the DGIT (Systems) or any person authorized by him, in accordance with section 200(3):

- (i) Statement of TDS under section 192 in Form No.24Q;
- (ii) Statement of TDS under other sections from section 193 in Form No.26Q in respect of all deductees other than a deductee being a non-corporate non-resident or a foreign company or resident but not ordinarily resident in which case the relevant form would be Form No.27Q.

Such statements have to be furnished within the due date for each quarter specified in Rule 31A(2). Accordingly, quarterly statements of TDS have to be furnished by the due dates specified in column (3) against the corresponding quarter-

Sl.No.	Date of ending of the quarter of the financial year	Due date
1.	30 th June	31 st July of the financial year
2.	30 th September	31 st October of the financial year
3.	31 st December	31 st January of the financial year
4.	31 st March	31 st May of the financial year immediately following the financial year in which the deduction is made.

However, every person responsible for deduction of tax under section 194-IA or 194-IB have to furnish to the Principal Director General of Income-tax (Systems) or Director General of Income-tax (System) or the person authorised by the Principal Director General of Income-tax (Systems) or the Director General of Income-tax (Systems) a challan-cum-statement in Form No.26QB or 2QC, respectively, within thirty days from the end of the month of deduction of tax.

6.4 Correction of arithmetic mistakes and adjustment of incorrect claim during computerized processing of TDS statements [Section 200A]

- (1) At present, all statements of tax deducted at source are filed in an electronic mode, thereby facilitating computerised processing of these statements. Therefore, in order to process TDS statements on computer, electronic processing on the same lines as processing of income-tax returns has been provided in section 200A.
- (2) The following adjustments can be made during the computerized processing of statement of tax deducted at source or a correction statement –
 - (i) any arithmetical error in the statement; or
 - (ii) an incorrect claim, if such incorrect claim is apparent from any information in the statement.
- (3) The term “an incorrect claim apparent from any information in the statement” shall mean such claim on the basis of an entry, in the statement,—
 - (i) of an item, which is inconsistent with another entry of the same or some other item in such statement;
 - (ii) in respect of rate of deduction of tax at source, where such rate is not in accordance with the provisions of the Act.
- (4) The interest, if any, has to be computed on the basis of the sums deductible as computed in the statement;
- (5) The fee, if any, has to be computed in accordance with the provision of section 234E. A fee of ₹ 200 for every day would be levied under section 234E for late furnishing of TDS statement from the due date of furnishing of TDS statement to the date of furnishing of TDS/ 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 statement.
- (6) The sum payable by, or the amount of refund due to, the deductor has to be determined after adjustment of interest and fee against the amount paid under section 200 or section 201 or section 234E and any amount paid otherwise by way of tax or interest or fee.

- (7) An intimation will be prepared and generated and sent to the deductor, specifying his tax liability or the refund due, within one year from the end of the financial year in which the statement is filed. The refund due shall be granted to the deductor.
- (8) For this purpose, the CBDT is empowered to make a scheme for centralized processing of statements of TDS to determine the tax payable by, or refund due to, the deductor.

6.5 Consequences of failure to deduct or pay [Section 201]

(1) *Deemed assessee-in-default*

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).
- shall be deemed to be an assessee-in-default if he does not deduct the whole or any part of the tax or after deducting fails to pay the tax.

(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 payment made 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) *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 simple interest @ 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 11

An amount of ₹ 40,000 was paid to Mr. X on 1.7.2019 towards fees for professional services without deduction of tax at source. Subsequently, another payment of ₹ 50,000 was due to Mr. X on 28.2.2020, 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 22.6.2020. 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	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**.
- (iv) 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.

(4) **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

(5) 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,
- (iii) the deductee is a non-resident as it may not be administratively possible to recover the tax from the non-resident.

6.6 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.

6.7 Certificate for tax deducted [Section 203]

- (1) Every person deducting tax at source have to 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.
- (3) ***Certificate of TDS to be furnished under section 203 [Rule 31]***

The certificate of deduction of tax at source to be furnished under section 203 shall be in Form No.16 in respect of tax deducted or paid under section 192 and in any other case, Form No.16A.

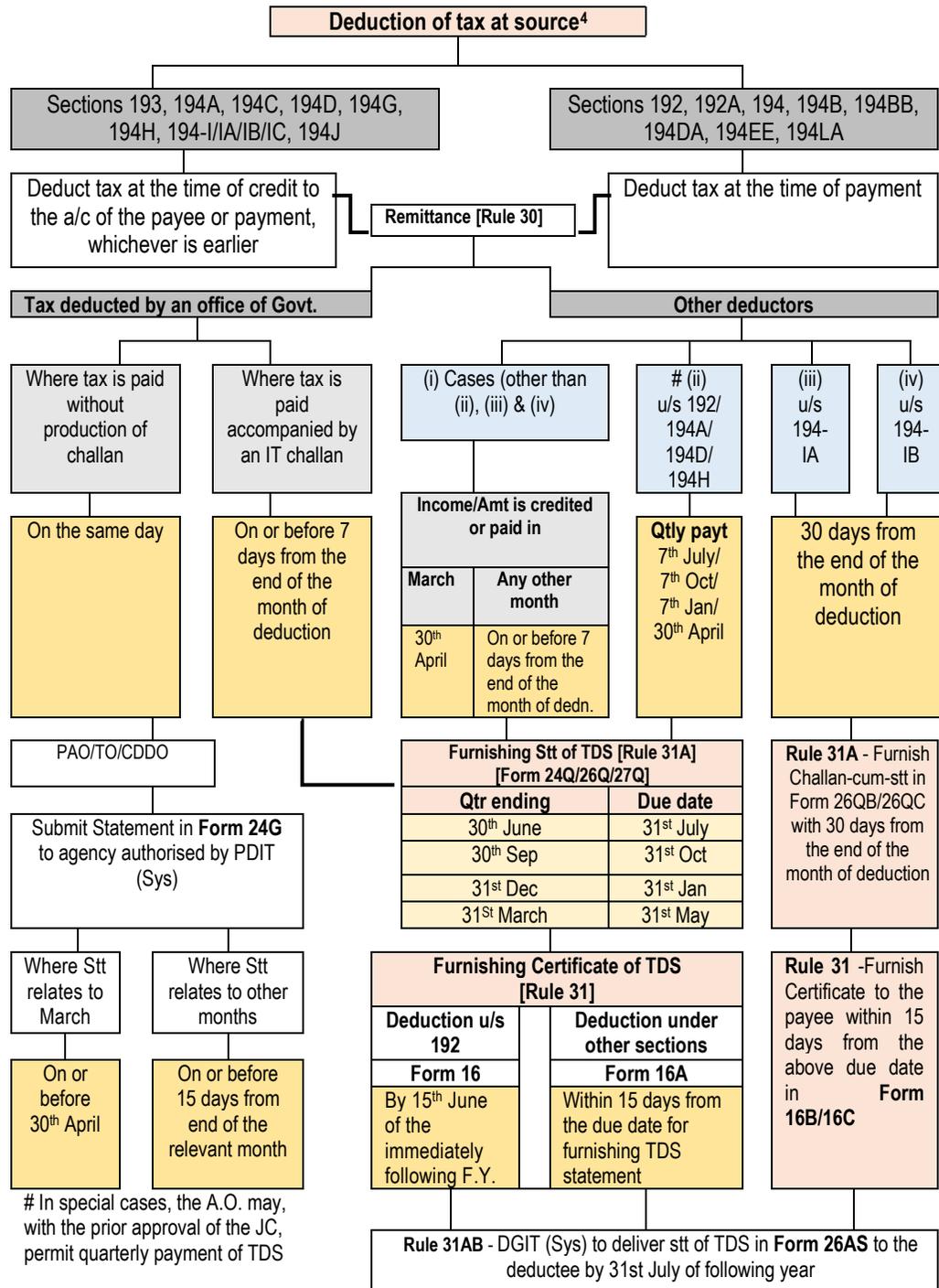
Form No.16 shall be issued to the employee annually by **15th June** of the financial year immediately following the financial year in which the income was paid and tax deducted. Form No.16A shall be issued quarterly within 15 days from the due date for furnishing the statement of TDS under Rule 31A.

Form No. 16B or 16C shall be issued by the every person responsible for deduction of tax under section 194-IA or 194-IB to the payee within fifteen days from the due date for furnishing the challan-cum-statement in Form No. 26QB under rule 31A

6.8 Furnishing of statement of tax deducted [Section 203AA]

- (1) This section provides for furnishing of a statement of the tax deducted on or after 1st April, 2008 by the prescribed income-tax authority or the person authorised by such authority referred to in section 200(3)
- (2) Such statement should be prepared and delivered to every person -
- from whose income, tax has been deducted or
 - in respect of whose income, tax has been paid.
- (3) Such statement should be in the prescribed form specifying the amount of tax deducted or paid and other prescribed particulars.
- (4) Accordingly, the DGIT (Systems) or the person authorized by the DGIT (Systems) has to deliver statement of TDS in Form 26AS by 31st July the following year.

Note – The entire TDS process can be understood at a glance from the diagram given in the next page. The reference to Rules and Forms are only for the information of students. They are, however, **not** required to memorize the Rule numbers and Form numbers for examination purposes.



⁴ In respect of the newly inserted sections 194M and 194N, rules relating to remittance, furnishing of statement of TDS and certificate of TDS to the payee are yet to be prescribed as on the date of publication of this material. Hence, reference to these sections have not been given in the above diagram.

6.9 Person responsible for paying taxes 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.

6.10 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.

6.11 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.*

6.12 Mandatory requirement of furnishing PAN in all TDS statements, bills, vouchers and correspondence between deductor and deductee [Section 206AA]

- (1) The non-quoting of PAN by deductees in many cases have led to delay in issue of refund 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 –
 - (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%.

For instance, 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.

Note: *The applicability of provisions of section 206AA on non-resident will be dealt with at the Final Level.*

7. ADVANCE PAYMENT OF TAX [SECTIONS 207 TO 219]

7.1 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, obligation to pay advance tax arises in every case where the advance tax payable 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 now 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.

7.2 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, may 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 estimate of his current income and advance tax payable thereon.
- (8) Where the advance tax payable on 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 at source.

No reduction of 'tax deductible but not deducted' 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.

- (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.

7.3 Instalments of advance tax and due dates

- (1) **Common advance tax payment schedule for both corporates and non-corporates (other than assessee computing profits on presumptive basis under 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 on or before 15th March.

(2) Advance tax payment by assessee computing profits on presumptive basis under section 44AD(1) or section 44ADA(1)

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 the 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 on or before 15th March.

- (3) If the last day for payment of any instalment of advance tax is a day on which the receiving bank is closed, the assessee can make the payment on the next immediately following working day, and in such cases, the mandatory interest leviable under sections 234B and 234C would not be charged.
- (4) Where advance tax is payable by virtue of the notice of demand issued⁵ by the Assessing Officer, the whole or the appropriate part of the advance tax

⁵ under section 156

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.

- (5) 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.

7.4 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.

7.5 Interest for non-payment or short-payment of advance tax [Section 234B]

- (1) Interest under section 234B is attracted for non-payment of advance tax or payment of advance tax of an amount less than 90% of assessed tax.
- (2) The interest liability would be 1% per month or part of the month from 1st April following the financial year upto the date of determination of income under section 143(1).
- (3) Such interest is calculated on the amount of difference between the assessed tax and the advance tax paid.
- (4) Assessed tax is the tax calculated on total income less
 - tax deducted or collected at source.
 - **any relief of tax allowed under section 89**
 - any tax credit allowed to be set off in accordance with the provisions of section 115JD
- (5) However, where self-assessment tax is paid by the assessee under section 140A or otherwise, interest shall be calculated upto the date of payment of such tax and reduced by the interest, if any, paid under section 140A towards the interest chargeable under this section.

7.6 Interest payable for deferment of advance tax [Section 234C]

- (a) **Manner of computation of interest under section 234C for deferment of advance tax by corporate and non-corporate assesseees:**

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.

Specified date	Specified %	Shortfall in advance tax	Period
(1)	(2)	(3)	(4)
15 th June	15%	15% of tax due on returned income (-) advance tax paid up to 15 th June	3 months
15 th September	45%	45% of tax due on returned income (-) advance tax paid up to 15 th September	3 months
15 th December	75%	75% of tax due on returned income (-) advance tax paid up to 15 th December	3 months
15 th March	100%	100% of tax due on returned income (-) advance tax paid up to 15 th 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, as the case may be, 36% of the tax due on the returned income, then, the assessee shall not be liable to pay any interest on the amount of the shortfall on those dates.

(b) 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.

(c) 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) income of the nature referred to in section 115BBDA i.e., dividend in aggregate exceeding of ₹ 10 lakhs received during the previous year.

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.

(d) Meaning of tax due on returned income

Tax due on returned income means the tax calculated on total income declared in the return furnished by the assessee less

- tax deducted or collected at source.
- **any relief of tax allowed under section 89**
- any tax credit allowed to be set off in accordance with the provisions of section 115JD



8. TAX COLLECTION AT SOURCE – BASIC CONCEPT [SECTION 206C]

(1) Applicability and Rates

- (i) 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%

(ii) Sub-section (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%.

(iii) Section 206C(IF) provides that every person, being a seller, who receives any amount as consideration for sale of a motor vehicle of the value exceeding ₹ 10 lakhs, shall collect tax from the buyer@1% of the sale consideration.

(2) Meaning of certain terms [Explanation to section 206C]

	Term	Meaning
(i)	Buyer	<p><u>For sub-section (1) and (1C) of section 206C:</u></p> <p>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 sub-section (1) or the right to receive any such goods but does not include –</p> <p>(A) a public sector company, the Central Government, a State Government, and an embassy, a high</p>

		<p>commission, legation, commission, consulate and the trade representation, of a foreign State and a club, or</p> <p>(B) a buyer in the retail sale of such goods purchased by him for personal consumption</p> <p><u>For sub-section (1F) of section 206C:</u></p> <p>A person who obtains in any sale, goods of the nature specified therein, but does not include –</p> <p>(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</p> <p>(B) a local authority⁶; or</p> <p>(C) a public sector company which is engaged in the business of carrying passengers.</p>
(ii)	Seller	<p>(i) The Central Government,</p> <p>(ii) a State Government or</p> <p>(iii) any local authority or</p> <p>(iv) corporation or</p> <p>(v) authority established by or under a Central, State or Provincial Act, or</p> <p>(vi) any company or</p> <p>(vii) firm or</p> <p>(viii) co-operative society</p> <p>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 the monetary limits specified under section 44AB(a)/(b) during the financial year immediately preceding the financial year in which the goods of the nature specified in the Table in (1) are sold.</p>
(iii)	Scrap	<p>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;</p>

⁶ as defined in Explanation to section 10(20)

(3) CBDT Clarification relating to certain issues with respect to section 206C(1F)

These amendments in section 206C have given rise to certain issues relating to the scope and applicability of the provisions. Accordingly, the CBDT has, vide *Circular No. 22/2016 dated 8.6.2016* and *Circular No.23/2016 dated 24.6.2016*, clarified the following issues in "Question & Answer (Q&A)" format.

Q.1 *Whether TCS@1% is on sale of motor vehicle at 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, it **will not 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 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 sub-section (1F) of section 206C.

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 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.

Accordingly, an individual who is liable to audit as per the provisions of section 44AB during the financial year immediately preceding the financial year in which the motor vehicle is sold shall be liable for collection of tax at source on sale of motor vehicle by him.

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%.

(4) Time of Collection of tax [Section 206C(1)/(1C)/(1F)]

The tax should be collected at the time of debiting of the amount payable by the buyer or licensee or lessee, as the case may be, to his account or at the time of receipt of such amount from the buyer or licensee or lessee, as the case may be, in cash or by the issue of a cheque or draft or any other made, whichever is earlier.

In case of sale of a motor vehicle of the value exceeding ₹ 10 lakhs, tax shall be collected at the time of receipt of such amount.

(5) Non-applicability of TCS [Section 206C(1A)]

No collection of tax shall be made 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 section 206C(1) above 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.

(6) 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 Chief Commissioner or Commissioner one copy

of the declaration referred to in sub-section (1A) on or before 7th of the month next following the month in which the declaration is furnished to him.

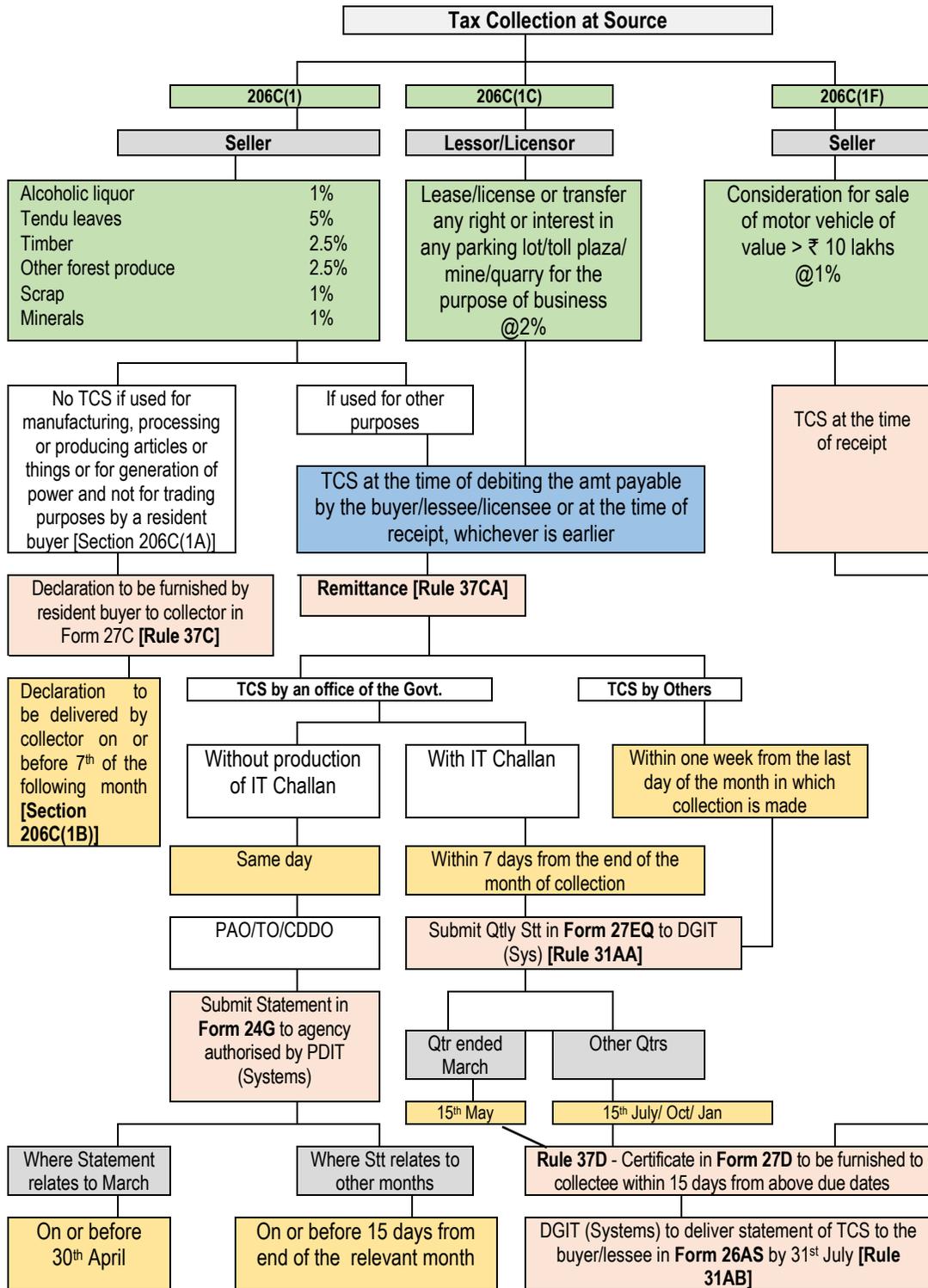
(7) TCS to be paid within prescribed time [Section 206C(3)]

Any amount collected under sub-section (1) or (1C) 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(1)/(1C)	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

Note – The entire TCS process can be understood at a glance from the diagram given in the next page. The reference to Rules and Forms are only for the information of students. They are, however, **not** required to memorize the Rule numbers and Form numbers for examination purposes.



(8) Main differences between TDS and TCS

	TDS	TCS
(1)	TDS is tax deduction at source	TCS is tax collection at source.
(2)	Person responsible for paying is required to deduct tax at source at the prescribed rate.	Seller of certain goods is responsible for collecting tax at source at the prescribed rate from the buyer. Person who grants licence or lease (in respect of any parking lot, toll plaza, mine or quarry) is responsible for collecting tax at source at the prescribed rate from the licensee or lessee, as the case may be.
(3)	Generally, tax is required to be deducted at the time of credit to the account of the payee or at the time of payment, whichever is earlier. However, in case of payment of salary, payment in respect of life insurance policy etc. tax is required to be deducted at the time of payment.	Generally, tax is required to be collected at source at the time of debiting of the amount payable by the buyer of certain goods to the account of the buyer or at the time of receipt of such amount from the said buyer, whichever is earlier. However, in case of sale of motor vehicle of the value exceeding ₹ 10 lakhs, tax collection at source is required at the time of receipt of sale consideration.

Note – TCS will be dealt with in detail at the Final level.

(9) Common number for TDS and TCS [Section 203A]

- (i) 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".
- (ii) 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 -

- (a) challans for payment of any sum in accordance with the provisions of section 200 or section 206C(3);
 - (b) certificates furnished under section 203 or section 206C(5);
 - (c) statements prepared and delivered or caused to be delivered in accordance with the provisions of section 200(3) or section 206C(3).
 - (d) returns delivered in accordance with the provisions of section 206 or section 206C(5B); and
 - (e) in all other documents pertaining to such transactions as may be prescribed in the interests of revenue.
- (iii) 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.

EXERCISE

Question 1

Ashwin doing manufacture and wholesale trade furnishes you the following information:

Total turnover for the financial year

<i>Particulars</i>	₹
2018-19	2,05,00,000
2019-20	95,00,000

Examine whether tax deduction at source provisions are attracted for the below said expenses incurred during the financial year 2019-20:

<i>Particulars</i>	₹
Interest paid to UCO Bank	41,000
Contract payment to Raj (2 contracts of ₹ 12,000 each)	24,000
Shop rent paid (one payee)	2,50,000
Commission paid to Balu	7,000

Answer

As the turnover of Ashwin for F.Y. 2018-19, i.e. ₹ 205 lakh, has exceeded the monetary limit of ₹ 100 lakh prescribed under section 44AB, he has to comply with the tax deduction provisions during the financial year 2019-20, subject to, however, the exemptions provided for under the relevant sections for applicability of TDS provisions.

Interest paid to UCO Bank

TDS under section 194A is not attracted in respect of interest paid to a banking company.

Contract payment of ₹ 24,000 to Raj for 2 contracts of ₹ 12,000 each

TDS provisions under section 194C would not be attracted if the amount paid to a contractor does not exceed ₹ 30,000 in a single payment or ₹ 1,00,000 in the aggregate during the financial year. Therefore, TDS provisions under section 194C are not attracted in this case.

Shop Rent paid to one payee – Tax has to be deducted under section 194-I as the rental payment exceeds ₹ 2,40,000.

Commission paid to Balu – No, tax has to be deducted under section 194-H in this case as the commission does not exceed ₹ 15,000.

Question 2

Compute the amount of tax deduction at source on the following payments made by M/s. S Ltd. during the financial year 2019-20 as per the provisions of the Income-tax Act, 1961.

Sr. No.	Date	Nature of Payment
(i)	1-10-2019	Payment of ₹ 2,00,000 to Mr. "R" a transporter who owns 8 goods carriages throughout the previous year and furnishes a declaration to this effect alongwith his PAN.
(ii)	1-11-2019	Payment of fee for technical services of ₹ 25,000 and Royalty of ₹ 20,000 to Mr. Shyam who is having PAN.
(iii)	30-06-2019	Payment of ₹ 25,000 to M/s X Ltd. for repair of building.
(iv)	01-01-2020	Payment of ₹ 2,00,000 made to Mr. A for purchase of diaries made according to specifications of M/s S Ltd. However, no material was supplied for such diaries to Mr. A by M/s S Ltd.
(v)	01-01-2020	Payment made ₹ 1,80,000 to Mr. Bharat for compulsory acquisition of his house as per law of the State Government.
(vi)	01-02-2020	Payment of commission of ₹ 14,000 to Mr. Y.

Answer

- (i) No tax is required to be deducted at source under section 194C by M/s S Ltd. on payment to transporter Mr. R, since he satisfies the following conditions:
- (1) He owns ten or less goods carriages at any time during the previous year.
 - (2) He is engaged in the business of plying, hiring or leasing goods carriages;
 - (3) He has furnished a declaration to this effect along with his PAN.
- (ii) As per section 194J, liability to deduct tax is attracted only in case the payment made as fees for technical services and royalty, individually, exceeds ₹ 30,000 during the financial year. In the given case, since, the

individual payments for fee of technical services i.e., ₹ 25,000 and royalty ₹ 20,000 is less than ₹ 30,000 each, there is no liability to deduct tax at source. It is assumed that no other payment towards fees for technical services and royalty were made during the year to Mr. Shyam.

- (iii) Provisions of section 194C are not attracted in this case, since the payment for repair of building on 30.06.2019 to M/s. X Ltd. is less than the threshold limit of ₹ 30,000.
- (iv) According to section 194C, the definition of “work” does not include the manufacturing or supply of product according to the specification by customer in case the material is purchased from a person other than the customer.

Therefore, there is no liability to deduct tax at source in respect of payment of ₹ 2,00,000 to Mr. A, since the contract is a contract for ‘sale’.

- (v) As per section 194LA, any person responsible for payment to a resident, any sum in the nature of compensation or consideration on account of compulsory acquisition under any law, of any immovable property, is responsible for deduction of tax at source if such payment or the aggregate amount of such payments to the resident during the financial year exceeds ₹ 2,50,000.

In the given case, no liability to deduct tax at source is attracted as the payment made does not exceed ₹ 2,50,000.

- (vi) As per section 194H, tax is deductible at source @5% if the amount of commission or brokerage or the aggregate of the amounts of commission or brokerage credited or paid during the financial year exceeds ₹ 15,000.

Since the commission payment made to Mr. Y does not exceed ₹ 15,000, the provisions of section 194H are not attracted.

Question 3

Examine the applicability of TDS provisions and TDS amount in the following cases:

- (a) *Rent paid for hire of machinery by B Ltd. to Mr. Raman ₹ 2,60,000.*
- (b) *Fee paid on 1.12.2019 to Dr. Srivatsan by Sundar (HUF) ₹ 35,000 for surgery performed on a member of the family.*
- (c) *ABC and Co. Ltd. paid ₹ 19,000 to one of its Directors as sitting fees on 01-01-2020.*

Answer

- (a) Since the rent paid for hire of machinery by B. Ltd. to Mr. Raman exceeds ₹ 2,40,000, the provisions of section 194-I for deduction of tax at source are attracted.

The rate applicable for deduction of tax at source under section 194-I on rent paid for hire of plant and machinery is 2% assuming that Mr. Raman had furnished his permanent account number to B Ltd.

Therefore, the amount of tax to be deducted at source:

$$= ₹ 2,60,000 \times 2\% = ₹ 5,200.$$

Note: In case Mr. Raman does not furnish his permanent account number to B Ltd., tax shall be deducted @ 20% on ₹ 2,60,000, by virtue of provisions of section 206AA.

- (b) As per the provisions of section 194J, a Hindu Undivided Family is required to deduct tax at source on fees paid for professional services only if the total sales, gross receipts or turnover from the business or profession exceed ₹ 1 crore or ₹ 50 lakhs, as the case may be, in the financial year preceding the current financial year and such payment made for professional services is not exclusively for the personal purpose of any member of Hindu Undivided Family.

Section 194M, inserted with effect from 1.9.2019, provides for deduction of tax at source by a HUF (which is not required to deduct tax at source under section 194J) in respect of fees for professional service and such sum exceeds ₹ 50 lakhs during the financial year.

In the given case, the fees for professional service to Dr. Srivatsan is paid on 1.12.2019 for a personal purpose, therefore, section 194M would have been applicable if the payment or aggregate of payments exceeded ₹ 50 lakhs in the P.Y.2019-20. However, since the payment does not exceed ₹ 50 lakh in this case, there is liability to deduct tax at source under section 194M.

- (c) Section 194J provides for deduction of tax at source @10% from any sum paid by way of any remuneration or fees or commission, by whatever name called, to a resident director, which is not in the nature of salary on which tax is deductible under section 192. The threshold limit of ₹ 30,000 upto which the provisions of tax deduction at source are not attracted in respect of every other payment covered under section 194J is, however, not applicable in respect of sum paid to a director.

Therefore, tax@10% has to be deducted at source under section 194J in respect of the sum of ₹ 19,000 paid by ABC Ltd. to its director.

Question 4

Examine the applicability of tax deduction at source provisions, the rate and amount of tax deduction in the following cases for the financial year 2019-20:

- (1) *Payment of ₹ 27,000 made to Jacques Kallis, a South African cricketer, by an Indian newspaper agency on 02-07-2019 for contribution of articles in relation to the sport of cricket.*
- (2) *Payment made by a company to sub-contractor ₹ 3,00,000 with outstanding balance of ₹ 1,20,000 shown in the books as on 31-03-2020.*
- (3) *Winning from horse race ₹ 1,50,000.*
- (4) *₹ 2,00,000 paid to Mr. A, a resident individual, on 22-02-2020 by the State of Uttar Pradesh on compulsory acquisition of his urban land.*

Answer

- (1) Section 194E provides that the person responsible for payment of any amount to a non-resident sportsman who is not a citizen of India for contribution of articles relating to any game or sport in India in a newspaper has to deduct tax at source @ 20%. Further, since Jacques Kallis, a South African cricketer, is a non-resident, Health and education cess @4% on TDS should also be added.

Therefore, tax to be deducted = ₹ 27,000 x 20.80% = **₹ 5,616.**

- (2) Provisions of tax deduction at source under section 194C are attracted in respect of payment by a company to a sub-contractor. Under section 194C, tax is deductible at the time of credit or payment, whichever is earlier @ 1% if the payment is made to an individual or HUF and 2% for others.

Assuming that sub-contractor to whom payment has been made is an individual and the aggregate amount credited during the year is ₹ 4,20,000, tax is deductible @ 1% on ₹ 4,20,000.

Tax to be deducted = ₹ 4,20,000 x 1% = **₹ 4,200**

- (3) Under section 194BB, tax is to be deducted at source, if the winnings from horse races exceed ₹ 10,000. The rate of deduction of tax at source is 30%. Assuming that winnings are paid to a resident, health and education cess@4% has not been added to the tax rate of 30%.

Hence, tax to be deducted = ₹ 1,50,000 x 30% = **₹ 45,000.**

- (4) As per section 194LA, any person responsible for payment to a resident, any sum in the nature of compensation or consideration on account of compulsory acquisition under any law, of any immovable property, is required to deduct tax at source @ 10%, if such payment or the aggregate amount of such payments to the resident during the financial year exceeds ₹ 2,50,000.

In the given case, there is no liability to deduct tax at source as the payment made to Mr. A does not exceed ₹ 2,50,000.

Question 5

Briefly discuss the provisions relating to payment of advance tax on income arising from capital gains and casual income.

Answer

The proviso to section 234C contains the provisions for payment of advance tax in case of capital gains and casual income.

Advance tax is payable by an assessee on his/its total income, which includes capital gains and casual income like income from lotteries, crossword puzzles, etc.

Since it is not possible for the assessee to estimate his capital gains, or income from lotteries etc., it has been provided that if any such income arises after the due date for any instalment, then, the entire amount of the tax payable (after considering tax deducted at source) on such capital gains or casual income should be paid in the remaining instalments of advance tax, which are due.

Where no such instalment is due, the entire tax should be paid by 31st March of the relevant financial year.

No interest liability on late payment would arise if the entire tax liability is so paid.

Note: *In case of casual income the entire tax liability is fully deductible at source @30% under section 194B and 194BB. Therefore, advance tax liability would arise only if the surcharge, if any, and health and education cess@4% in respect thereof, along with tax liability in respect of other income, if any, is ₹ 10,000 or more.*

LET US RECAPITULATE						
I. TAX DEDUCTION AT SOURCE						
Section	Nature of payment	Threshold Limit for deduction of tax at source	Payer	Payee	Rate of TDS	Time of deduction
192	Salary	Basic exemption limit (₹ 2,50,000/₹ 3,00,000, as the case may be). This is taken care of in computation of the average rate of the chargeable under income-tax.	Any person responsible for paying any income chargeable under head "Salaries"	Individual (Employee)	Average rate of income-tax computed on the basis of the rates in force.	At the time of payment
192A	Premature withdrawal from Employee Provident Fund	Payment or aggregate payment \geq ₹ 50,000	Trustees of the EPF Scheme or any authorised person under the Scheme	Individual (Employee)	10% [In case of failure to furnish PAN, TDS@ Maximum Marginal Rate]	At the time of payment
193	Interest on Securities	> ₹ 10,000 in a F.Y., in case of interest on Savings Bonds, 2003/7.75% Savings Bonds, 2018. > ₹ 5,000 in a F.Y., in	Any person responsible for paying any income by way of interest on securities	Any resident	10%	At the time of credit of such income to the account of the payee or at the time of payment, whichever is earlier.

Section	Nature of payment	Threshold Limit for deduction of tax at source	Payer	Payee	Rate of TDS	Time of deduction
194A	Interest other than interest on securities	<p>case of interest on debentures issued by a Co. in which the public substantially interested, paid or credited to a resident individual or HUF by an A/c payee cheque. No threshold specified in any other case.</p> <p>> ₹ 40,000 in a F.Y., in case of interest credited or paid by –</p> <p>(i) a banking company,</p> <p>(ii) a co-operative society engaged in banking business; and</p> <p>(iii) a post office on any deposit under a notified Scheme.</p> <p>In all the above cases, if payee is a resident senior citizen, tax deduction limit is > ₹ 50,000.</p>	Any person (other than an individual or HUF whose total sales, gross receipts or turnover from business or profession do not exceed the monetary limits specified u/s 44AB in the immediately preceding F.Y.) responsible for paying interest	Any Resident	10%	At the time of credit of such income to the account of the payee or at the time of payment, whichever is earlier.

ADVANCE TAX, TDS AND INTRODUCTION TO TCS

Section	Nature of payment	Threshold Limit for deduction of tax at source	Payer	Payee	Rate of TDS	Time of deduction
194B	Winnings from any lottery, crossword puzzle or card game or other game of any sort	> ₹ 5,000 in a F.Y., in other cases. > ₹ 10,000	other interest securities. The person responsible for paying income by way of such winnings	Any Person	30%	At the time of payment
194BB	Winnings from horse race	> ₹ 10,000	Book Maker or a person holding licence for horse racing or for arranging for wagering or betting in any race course.	Any Person	30%	At the time of payment
194C	Payments to Contractors	Single sum credited or paid > ₹ 30,000 (or) The aggregate of sums credited or paid to a contractor during the F.Y. > ₹ 1,00,000 Individual/HUF need not deduct tax where sum is credited or	Central/State Govt., Local authority, Central/State/ Provincial Corpn., company, firm, trust, registered society, co-operative society,	Any Resident contractor carrying out any work (including supply of labour)	1% of sum paid or credited, if the payee is an Individual or HUF 2% of sum paid or credited, if	At the time of credit of such sum to the account of the contractor or at the time of payment, whichever is earlier.

Section	Nature of payment	Threshold Limit for deduction of tax at source	Payer	Payee	Rate of TDS	Time of deduction
194D	Insurance Commission	paid exclusively for personal purposes > ₹ 15,000 in a financial year	university established under Central/State/ Provincial Act, declared university under the UGC Act, Govt. of Foreign State or a foreign enterprise, individual/HUF liable to tax audit u/s 44AB(a)/(b) in the immediately preceding F.Y.	Any Resident	the payee is any other person. 5%	At the time of credit of such income to the account of the payee or at the time of payment, whichever is earlier.
194DA	Any sum under a Life Insurance Policy	≥ ₹ 1,00,000 (aggregate amount of payment to a payee in	Any person responsible for paying any income by way of remuneration or reward for soliciting or procuring insurance business	Any resident	1% 15% of the amount of	At the time of payment

Section	Nature of payment	Threshold Limit for deduction of tax at source	Payer	Payee	Rate of TDS	Time of deduction
194E	Payment to non-resident sportsmen or sports associations of income referred to in section 115BBA	a financial year	under a LIP, including the sum allocated by way of bonus Any person responsible for making the payment	Non-resident sportsman (including an athlete) or entertainer who is not a citizen of India or non-resident sports association or institution	income comprised w.e.f. 1.9.2019] 20%	At the time of credit of such income to the account of the payee or at the time of payment, whichever is earlier.
194EE	Payment of deposit under NSS	≥ ₹ 2,500 in a financial year	Any person responsible for paying	Individual or HUF	10%	At the time of payment
194G	Commission on sale of lottery tickets	> ₹ 15,000 in a financial year	Any person responsible for paying income by way of commission, remuneration or prize (by whatever name called) on lottery tickets	Any person for stocking, distributing, purchasing or selling lottery tickets	5%	At the time of credit of such income to the account of the payee or at the time of payment, whichever is earlier.

Section	Nature of payment	Threshold Limit for deduction of tax at source	Payer	Payee	Rate of TDS	Time of deduction
194H	Commission or brokerage	> ₹ 15,000 in a financial year	Any person (other than an Individual or HUF whose total sales, gross receipts or turnover from business or profession do not exceed the monetary limits specified u/s 44AB in the immediately preceding F.Y.) responsible for paying commission or brokerage.	Any resident	5%	At the time of credit of such income to the account of the payee or at the time of payment, whichever is earlier.
194-I	Rent	> ₹ 2,40,000 in a financial year	Any person (other than an individual or HUF whose total sales, gross receipts or turnover from business or profession	Any resident	For P & M or equipment- 2% For land or building, land appurtenant to a building,	At the time of credit of such income to the account of the payee or at the time of payment, whichever is earlier.

Section	Nature of payment	Threshold Limit for deduction of tax at source	Payer	Payee	Rate of TDS	Time of deduction
194-IA	Payment of transfer of certain immovable property other than agricultural land	≥ ₹ 50 lakh (Consideration transfer)	Any person, being transferee (other than a person referred to in section 194LA responsible for paying compensation for compulsory acquisition of immovable property)	Resident transferor	1%	At the time of credit of such sum to the account of the transferor or at the time of payment, whichever is earlier.
194-IB	Payment of rent by certain individuals or HUF	> ₹ 50,000 for a month or part of a month	Individual/ HUF (other than Individual/HUF whose total sales, gross receipts or	Any Resident	5%	At the time of credit of rent, for the last month of the previous year or the last month of

Section	Nature of payment	Threshold Limit for deduction of tax at source	Payer	Payee	Rate of TDS	Time of deduction
194-IC	Payment under specified agreement referred to in section 45(5A)	No threshold specified.	turnover from business or profession carried on by him exceed the limits specified u/s 44AB in the immediately preceding F.Y.) responsible for paying rent. Any person responsible for paying any sum by way of consideration, not being consideration in kind, under a registered agreement, wherein L or B or both are handed over by the owner for development of real estate project, for a	Any Resident	10%	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, whichever is earlier. At the time of credit of such income to the account of the payee or at the time of payment, whichever is earlier.

Section	Nature of payment	Threshold Limit for deduction of tax at source	Payer	Payee	Rate of TDS	Time of deduction
194J	Fees for professional or technical services/ Royalty/ Non-compete fees/ Director's remuneration	> ₹ 30,000 in a financial year, for each category of income. (However, this limit does not apply in case of payment made to a director of a company).	consideration, being a share in L or B or both in such project, with payment of part consideration in cash. Any person, other than an individual or HUF; However, in case of fees for professional or technical services paid or credited, individual/HUF whose total sales, gross receipts or turnover from business or profession exceed the monetary limits specified u/s 44AB in the	Any Resident	2% - Payee engaged only in the business of operation of call centre 10% - Others - whichever is earlier.	At the time of credit of such sum to the account of the payee or at the time of payment, whichever is earlier.

Section	Nature of payment	Threshold Limit for deduction of tax at source	Payer	Payee	Rate of TDS	Time of deduction
			immediately preceding F.Y. is liable to deduct tax u/s 194J, except where fees for professional services is credited or paid exclusively for his personal purposes.			
194LA	Compensation on acquisition of certain immovable property other than agricultural land	> ₹ 2,50,000 in a financial year	Any person responsible for paying any sum in the nature of compensation or enhanced compensation on compulsory acquisition of immovable property	Any Resident	10%	At the time of payment
194M (w.e.f. 1 st Sep, 2019)	- Payments to Contractors - Commission or brokerage	> ₹ 50,00,000 in a financial year	Individual or HUF other than those who are required to deduct tax at	Any Resident	5%	At the time of credit of such sum to the account of the payee or at the

Section	Nature of payment	Threshold Limit for deduction of tax at source	Payer	Payee	Rate of TDS	Time of deduction
194N (w.e.f. 1 st Sep, 2019)	- Fees for professional services Cash withdrawals	> ₹ 1 crore	source under section 194C or 194H or 194J - a banking company or any bank or banking institution - a co-operative society engaged in carrying on the business of banking or - a post office	Any person	@2% of sum exceeding ₹ 1 crore	time of payment, whichever is earlier. At the time of payment of such sum

Notes –

- (1) Section 206AA requires furnishing of PAN by the deductee to the deductor, failing which the deductor has to deduct tax at the higher of the following rates, namely, -
 - (i) at the rate specified in the relevant provision of the Income-tax Act, 1961; or
 - (ii) at the rate or rates in force; or
 - (iii) at the rate of 20%.
- (2) The threshold limit given in column (3) of the table is with respect to each payee.

II Advance Payment of Tax

Liability for payment of advance tax [Sections 207 & 208]

- Tax shall be payable in advance during any financial year in respect of the total income (TI) of the assessee which would be chargeable to tax for the A.Y. immediately following that financial year.
- Advance tax is payable during a financial year in every case where the amount of such tax payable by the assessee during the year is ₹ 10,000 or more.
- However, an individual resident in India of the age of 60 years or more at any time during the previous year, who does not have any income chargeable under the head "Profits and gains of business or profession" (PGBP), is not liable to pay advance tax.

Instalments of advance tax and due dates [Section 211]

Advance tax payment schedule for corporates and non-corporates (other than an assessee computing profits on presumptive basis under section 44AD or section 44ADA) – Four instalments

Due date of instalment	Amount payable
On or before 15 th June	Not less than 15% of advance tax liability.
On or before 15 th September	Not less than 45% of advance tax liability (-) amount paid in earlier instalment.
On or before 15 th December	Not less than 75% of advance tax liability (-) amount paid in earlier instalment or instalments.
On or before 15 th March	The whole amount of advance tax liability (-) amount paid in earlier instalment or instalments.

Advance tax payment by assessee computing profits on presumptive basis under section 44AD(1) or section 44ADA(1)

An eligible assessee, opting for computation of profits or gains of business or profession on presumptive basis in respect of eligible business referred to in section 44AD(1) or in respect of eligible profession referred to in section 44ADA(1), shall be required to pay advance tax of the whole amount on or before 15th March of the F.Y.

However, any amount paid by way of advance tax on or before 31st March shall also be treated as advance tax paid during the F.Y. ending on that day.

Interest for defaults in payment of advance tax [Section 234B]

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|-----|---|
| (1) | Interest under section 234B is attracted for non-payment of advance tax or payment of advance tax of an amount less than 90% of assessed tax. |
| (2) | The interest liability would be 1% per month or part of the month from |

	1st April following the F.Y. upto the date of determination of total income under section 143(1) and where regular assessment is made, upto the date of such regular assessment.
(3)	Such interest is calculated on the amount of difference between the assessed tax and the advance tax paid.
(4)	“Assessed tax” means the tax on total income determined u/s 143(1)/under regular assessment, as the case may be, less TDS & TCS, any relief of tax allowed u/s 89 , any tax credit allowed to be set off in accordance with the provisions of section 115JD.
(5)	Where self-assessment tax is paid by the assessee under section 140A or otherwise, interest shall be calculated upto the date of payment of such tax and reduced by the interest, if any, paid under section 140A towards the interest chargeable under this section.

Interest for deferment of advance tax [Section 234C]

(a) **Manner of computation of interest u/s 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 u/s 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) below is less than the specified percentage [given in column (2) below] 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 u/s 234C.

Specified date	Specified %	Shortfall in advance tax	Period
(1)	(2)	(3)	(4)
15 th June	15%	15% of tax due on returned income (-) advance tax paid up to 15 th June	3 months
15 th September	45%	45% of tax due on returned income (-) advance tax paid up to 15 th September	3 months
15 th December	75%	75% of tax due on returned income (-) advance tax paid up to 15 th December	3 months

	15 th March	100%	100% of tax due on returned income (-) advance tax paid up to 15 th March	1 month
<p>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, as the case may be, 36% of the tax due on the returned income, then, the assessee shall not be liable to pay any interest on the amount of the shortfall on those dates.</p> <p>Tax due on returned income = Tax chargeable on total income declared in the return of income – TDS – TCS - any relief of tax allowed u/s 89 - any tax credit allowed to be set off in accordance with the provisions of section 115JD</p>				
(b)	<p><u>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):</u></p> <p>In case 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 u/s 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.</p>			
(c)	<p><u>Non-applicability of interest under section 234C in certain cases:</u></p> <p>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 –</p> <ul style="list-style-type: none"> (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) income of the nature referred to in section 115BBDA(1) i.e., dividend in aggregate exceeding of ₹ 10 lakhs including in the assessee’s total income. <p>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) and (iv), as the case may be, had such income been a part of the total income, as part of</p>			

the remaining instalments of advance tax which are due or where no such instalments are due, by 31st March of the financial year.

Tax Collection at source [Section 206C]

(a) 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
(i)	Alcoholic liquor for human consumption	1%
(ii)	Tendu leaves	5%
(iii)	Timber obtained under a forest lease	2.5%
(iv)	Timber obtained by any mode other than (iii)	2.5%
(v)	Any other forest produce not being timber or tendu leaves	2.5%
(vi)	Scrap	1%
(vii)	Minerals, being coal or lignite or iron ore	1%

However, no collection of tax shall be made in the case of a resident buyer, if such buyer furnishes a declaration in writing in duplicate to the effect that goods 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

(b) 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%, at the time of debiting of the amount payable by the licensee or lessee to his account or at the time of receipt of such amount from the licensee or lessee in cash or by the issue of a cheque or draft or by any other mode, whichever is earlier

(c) Every person, being a seller, who receives any amount as consideration for sale of a motor vehicle of the value exceeding ₹ 10 lakhs, shall, at the time of receipt of such amount, collect tax from the buyer@1% of the sale consideration.

TEST YOUR KNOWLEDGE

1. Any person responsible for paying to a resident any sum exceeding ₹ 2.5 lakh towards compensation for compulsory acquisition of his urban industrial land under any law has to deduct income-tax at the rate of -
 - (a) 10%
 - (b) 15%
 - (c) 20%
 - (d) 2%
2. The rate of TDS on rental payments of plant, machinery or equipment is -
 - (a) 2%
 - (b) 5%
 - (c) 10%
 - (d) 1%
3. Advance tax will not be paid if tax payable after TDS is not more than or equal to—
 - (a) ₹ 10,000
 - (b) ₹ 15,000
 - (c) ₹ 20,000
 - (d) ₹ 25,000
4. For non-payment or short payment of advance tax -
 - (a) interest is payable under section 234A
 - (b) interest is payable under section 234B
 - (c) interest is payable under section 234C
 - (d) interest is payable under all the three sections 234A, 234B and 234C
5. For deferment of advance tax -
 - (a) interest is payable under section 234A
 - (b) interest is payable under section 234B
 - (c) interest is payable under section 234C
 - (d) interest is payable under all the three sections 234A, 234B and 234C

6. Mr. X, a resident Indian, wins ₹ 10,000 in a lottery. Which of the statement is true?
- (a) Tax is deductible u/s 194B@30%
 - (b) Tax is deductible u/s 194B@30.9%
 - (c) No tax is deductible at source
 - (d) None of the above
7. Mr. X paid fees for professional services of ₹ 40,000 to Mr. Y, who is engaged only in the business of operation of call centre, on 15.7.2019. Tax is to be deducted by Mr. X at the rate of –
- (a) 1%
 - (b) 2%
 - (c) 10%
 - (d) 20%
8. An interior decorator has opted for presumptive taxation scheme under section 44ADA for A.Y. 2020-21. –
- (a) He is liable to pay advance tax on or before 15.3.2020
 - (b) He is not liable to advance tax
 - (c) He is liable to pay advance tax in three instalments i.e., on or before 15.9.2019, 15.12.2019 and 15.3.2020
 - (d) He is liable to pay advance tax in four instalments i.e., on or before 15.6.2016, 15.9.2019, 15.12.2019 and 15.3.2020
9. Mr. A, a salaried individual, pays rent of ₹ 51,000 per month to Mr. B from June, 2019. Which of the following statement is true?
- (a) No tax is deductible at source since Mr. A is not liable to tax audit u/s 44AB.
 - (b) Tax is deductible at source every month@10% on rent paid to Mr. B.
 - (c) Tax is deductible at source every month@5% on rent paid to Mr. B.
 - (d) Tax is deductible at source @5% on annual rent from the rent paid for March 2020.

10. Mr. A, whose total sales is ₹ 201 lakhs, declares profit of ₹ 10 lakhs for the F.Y. 2019-20. He is liable to pay advance tax -
- in one instalment
 - in two instalments
 - in three instalments
 - in four instalments
11. Who is liable to pay advance tax? What is the procedure to compute the advance tax payable?
12. Briefly discuss the provisions of section 234B of the Income-tax Act, 1961 for short-payment or non-payment of advance tax.

Answers

1. (a); 2. (a); 3. (a); 4. (b); 5. (c); 6. (c);
7. (b); 8. (a); 9. (a); 10. (d).