

# Advance Tax, Tax Deduction at Source and introduction to Tax Collection at Source

## Tax Deducted at Source

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### INTRODUCTION

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The total income of an assessee for the previous year (P.Y.) is taxable in the relevant assessment year (A.Y.). For example, the total income for the P.Y. 2020-21 is taxable in the A.Y. 2021-22. However, income-tax is recovered from the assessee in the previous year itself through-

**(i) Deduction or Collection of tax at source**

Scheme of TDS is deduction of tax by the payer from the income of the recipient. It is governed by section 192 to section 196D.

**(ii) Direct Payment by the assessee i.e., Advance tax/ Self- assessment tax.**

**Section 191:** In the case of any income in respect of which provision is not made under the chapter of TDS for deducting income-tax at the time of payment, and in any case where income tax has not been deducted in accordance with the provisions of this chapter, Income tax shall be payable by the assessee direct.

#### **SCHEME OF THIS CHAPTER:**

1. Deduction of tax on specified payments at specified rates.
2. Deposit tax within the time limit as prescribed.
3. File return of tax deducted at source
4. Issue certificate of deduction of tax at source.
5. Processing of TDS Returns
6. Consequences of non- compliance.

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#### **SECTION 192: TDS ON SALARIES (PAID TO RESIDENT AS WELL AS NON-RESIDENT)**

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- (1) Any person** responsible for paying any income chargeable under the head “Salaries”, shall, at the time of payment, deduct income –tax on the amount payable at the average rate of income tax computed on the basis of the rates in force for the financial year in which the payment is made, on the estimated income of the assessee under this head for that financial year.

- 1(A)** The person responsible for paying any income in the nature of a perquisite which is not provided for by way of monetary payment, referred to in section 17(2), may pay, at his option, tax on the whole or part of such income without making any deduction therefrom at the time when such tax was otherwise deductible under the provisions of sub-section (1).
- 1(B)** For the purposes of paying tax under sub-section (1A), tax shall be determined at the average of income tax computed on the basis of rates in force for the financial year, on the Income chargeable under the head “salaries” including the income referred to in sub-section (1A), and the tax so payable shall be constructed as if it were, a tax deductible at source, from the income under the head “Salaries” as per the provisions of sub-section (1).

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**SECTION 192(2D): TDS ON SALARY- FURNISHING OF PROOF FOR CLAIMING DEDUCTION  
(INSERTED BY FINANCE ACT, 2015)**

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The person responsible for making the payment of salary shall, for the purposes of estimating income of the assessee or computing tax deductible at source, obtain from the assessee the evidence or proof or particulars claims (including claim for set off of loss) under the provision of the Act in such form and manner as may be prescribed.

**Analysis**

The evidence/proof/ particulars for some of the deductions/exemptions/ allowances/ set-off of loss claimed by the employees such as rent receipts for claiming exemption of HRA, evidence of interest payments for claiming loss from set-occupied house property etc. should be furnished by employee to employer as per the amendment. The employer will allow the deduction/exemption/ set-off of loss only, if proofs are furnished by the employee.

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**SECTION 192A: PAYMENT OF ACCUMULATED BALANCE DUE TO AN EMPLOYEE**

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Notwithstanding anything contained in this Act, the trustees of the Recognised Provident Fund, or any person authorised under the scheme to make payment of accumulated balance due to employees, shall, in a case where the accumulated balance due to an employee participating in a recognised 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, at the time of payment of the accumulated balance due to the employee, deduct income-tax thereon at the rate of 10%.

Provided that no deduction under this section shall be made where the amount of such payment or, as the case may be, the aggregate amount of such payment to the payee is less than Rs. 50,000/-.

Provided further that any person entitled to receive any amount on which tax is deductible under this section shall furnish his Permanent Account Number to the person responsible for deducting such tax, failing which tax shall be deducted at the maximum marginal rate.

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### **SECTION 193: TDS ON INTEREST ON SECURITIES (PAID TO RESIDENT ONLY)**

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The person responsible for paying to a resident any income by way of interest on securities shall, 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, deduct income-tax at the rate of 10% on the amount of the interest payable.

In order to provide more funds at the disposal of the taxpayers for dealing with the economic situation arising out of COVID-19 pandemic, the rate of TDS u/s 193 has been reduced from 10% to 7.5% (i.e.,  $\frac{3}{4}$ th of the specified rate) for the period from 14th May, 2020 to 31st March, 2021[Section 197B].

#### **KEY NOTE:**

Where any income by way of interest on securities is credited to any account, whether called "Interest payable account" or "Suspense account" or by any other name, in the books of account of the person liable to pay such income, such crediting shall be deemed to be credit of such income to the account of the payee.

#### **Non- applicability of section 193:**

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

1. On 41/4% National defence bonds 1972, where the bonds are held by an individual not being a non-resident.
2. On 41/4% National defence loan, 1968 of 43/4% National defence loan,1972 where the interest is payable to an individual;
3. On national development bonds;
4. On 7 years national saving certificates
5. On debentures issued by any institution or authority or any public sector company or any co-operative society as notified by central government. (As per the notification no. 27 & 28/2018, 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")

6. On 6.5% gold bonds, 1977 or 7% gold bonds 1980, where the bonds are held by an individual (other than 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 Rs.10,000/- at any time during the period to which the interest relates.
7. On any securities 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 Rs. 10,000/- during the financial year.
8. On any debentures (whether listed or not listed on a recognised stock exchange) issued by the company in which 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 Rs. 5,000/-.
9. 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.
10. 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.

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## SECTION 194: DIVIDEND

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### 1. Applicability of TDS under section 194

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

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

### 2. Rate of TDS

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

In order to provide more funds at the disposal of the taxpayers for dealing with the economic situation arising out of COVID-19 pandemic, the rate of TDS u/s 194 has been reduced from 10% to 7.5% (i.e.,  $\frac{3}{4}$ th of the specified rate) for the period from 14th May, 2020 to 31st March, 2021 [Section 197B].

### 3. Time of tax deduction at source

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

### 4. Non-Applicability of TDS under section 194

- (i) No tax is to be deducted in case of a shareholder, being an individual, where -
  - (a) the dividend is paid by any mode other than cash; and
  - (b) the amount of such dividend or aggregate of dividend distributed or paid or likely to be distributed or paid during the financial year by the company to such shareholder does not exceed Rs. 5,000.
- (ii) The TDS provisions will not apply to such dividend credited or paid to LIC, GIC, subsidiaries of GIC or any other insurer provided the shares are owned by them, or they have full beneficial interest in such shares

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### SECTION 194A: TDS ON INTEREST OTHER THAN 'INTEREST ON SECURITIES' (PAID TO RESIDENT ONLY)

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Any person, **not being an Individual or a Hindu undivided family**, who is responsible for paying to a **resident** any income by way of interest other than income by way of interest on securities, shall, at the time of credit such income to the account of payee or at the time of payment thereof in cash or by issue of a cheque or draft or by any other mode, whichever is earlier, deduct income tax thereon at the rate of 10%. **(TDS is also to be deducted from interest on Fixed deposits and recurring deposits with banks and Co-operative banks).**

In order to provide more funds at the disposal of the taxpayers for dealing with the economic situation arising out of COVID-19 pandemic, the rate of TDS u/s 194A has been reduced from 10% to 7.5% (i.e.,  $\frac{3}{4}$ th of the specified rate) for the period from 14th May, 2020 to 31st March, 2021 [Section 197B].

#### **KEYNOTES:**

1. An individual or a Hindu undivided family, whose total sales, gross receipts or turnover from the business or profession carried on by him exceed the monetary limits specified under clause (a) or clause (b) of section 44AB during the financial year immediately preceding the financial year in which such interest is credited or paid, shall be liable to deduct income tax u/s 194A.
2. Finance act, 2015 provides that time deposit means fixed deposits and also the recurring deposits repayable after fixed period.  
Provided in respect of the income credited or paid in respect of-
  1. Time deposits with banking company or

2. Time deposits with a co-operative bank;

The aforesaid amount shall be computed with reference to the income credited or paid by a branch of the banking company or the co-operative bank, as the case maybe.

Provided further that the amount referred to in the first proviso shall be computed with reference to the income credited or paid by the banking company or cooperative bank, as the case may be, where such banking company or the cooperative bank has adopted core banking solutions.

**EXCEPTION TO SECTION 194A:**

Following are the cases where tax is not required to be deducted u/s 194A.

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

This limit is Rs. 40,000 where the payer is a –

- (i) banking company;
- (ii) a co-operative society engaged in banking business; and
- (iii) post office and interest is credited or paid in respect of any deposit under notified schemes.

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

**NON-APPLICABILITY OF TDS UNDER SECTION 194A:**

1. Where such income is credited to paid to-

- Any banking company to which Banking Regulation Act, 1949 applies or;
- Any co-operative society engaged in the carrying on the business of banking i.e. cooperative bank (including a co-operative land mortgage bank), or
- Any financial corporation established by or under a central, state or provincial act, or
- The life insurance corporation of India or
- The unit of trust of India or
- Any company or co-operative society carrying on the business of insurance.
- 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). However, no notification shall be issued in this regard on or after 1.4.2020.

2. Where such income is credited or paid by a firm to a partner of the firm.

3. Interest credited or paid in respect of deposits with a primary agricultural credit society or a primary credit society or any co-operative land mortgage bank or a co-operative land development bank.
4. Where such income credited or paid 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.
5. Interest on savings account with banks or with a co-operative society engaged in the business of banking.
6. Where interest is credited or paid in respect of deposits under certain schemes of post office, post office (Recurring deposit), post office monthly income account, kisan Vikas Patra, Indira Vikas Patra and national savings certificates.
7. Where interest is credited or paid by the Central Government under the Income-tax act.
8. Such income credited by way of interest on the compensation amount awarded by the motor accidents claims tribunal;
9. Such 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 fifty thousand rupees.
10. Such income which is paid or payable by an infrastructure capital company or infrastructure capital fund or a public sector company or schedule bank in relation to a Zero-Coupon bond issued by such company or fund or public sector company or schedule bank.

### **Question 1**

Examine the TDS implications u/s 194A in the cases mentioned hereunder-

1. On 1.10.2020, Mr. Harish made a six-month fixed deposit of Rs. 10 lakhs @ 9%p.a. with ABC co-operative Bank. The fixed deposits matures on 31.03.2021
2. On 1.6.2020, Mr. Ganesh made three nine-month fixed deposits of Rs. 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 28.2.2021.
3. On 1.10.2020, Mr. Rajesh started a six months recurring deposits of Rs. 2,00,000 per month @8% p.a. with PQR bank. The recurring deposits matures on 31.3.2021.

### **Solution**

1. ABC Co-operative bank has to deduct tax at source @ 7.5% on the interest of Rs. 45,000 ( $9\% \times 10 \text{ lakhs} \times 1/2$ ) u/s 194A. The tax deductible at source u/s 194A from such interest is, thereof, Rs. 3375/-.

2. XYZ bank has to deduct tax at source @ 7.5% u/s 194A. Since the aggregate interest on fixed deposit with the three branches of the bank is Rs. 60,750 [ $3,00,000 \times 3 \times 9\% \times 9/12$ ], which exceeds the threshold limit of Rs. 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 Rs.60,750/- exceeds the threshold limit of Rs. 40,000, tax has to be deducted @7.5% u/s 194A.
3. No tax has to be deducted under section 194A by PQR Bank on the interest of Rs.28,000 falling due on recurring deposit on 31.3.2021 to Mr. Rajesh, since such interest does not exceed the threshold limit of Rs. 40,000.

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**SECTION 194B: TDS ON WINNING FROM LOTTERY OR CROSSWORD PUZZLE  
(PAID TO RESIDENT AS WELL AS NON-RESIDENT)**

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The person responsible for paying to any person any income by way of winning from any lottery or crossword puzzle or card game or other game of any sort in an amount exceeding Rs. 10,000 shall, at the time of payment thereof, deduct income tax thereon at the rate of 30%.

**KEY NOTES:**

1. In case where:
  - (i) The winnings are wholly in kind or;
  - (ii) 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.

2. It has been provided that:
  - (i) "Lottery" includes winning from prizes awarded to any person by draw of lots or by chance or in any other manner whatsoever, under any scheme or arrangement by whatever name called.
  - (ii) "Card game and other game of any sort" includes any game show, an entertainment programme on television or electronics mode, in which people compete to win prizes or any other similar game."
3. It is mandatory for the organisers of TV programmes such as "KAUN BANEGA CROREPATI" or "DANCE INDIA DANCE" etc. To deduct tax u/s 194B.
4. Lucky draw schemes organised by any person shall attract TDS on distribution of prize since it is in the nature of lottery as defined above.



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**SECTION 194BB: TDS ON WINNING FROM HORSE RACE (PAID TO RESIDENT AS WELL AS NON-RESIDENT)**

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**Any person**, being a bookmaker or a person to whom a licence has been granted by the Government under any law for the time being in force for horse racing in any race courses or for arranging for betting in any race course, who is responsible for paying to any person any income by way of winning from any horse race in an amount exceeding Rs. 10,000/- shall, at the time of payment thereof, deduct income tax thereon at the rate of 30%.

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**SECTION 194C: TDS ON PAYMENT TO CONTRACTORS (PAID TO RESIDENTS ONLY)**

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1. Any person responsible for paying any sum to **any resident** (hereafter in this section referred to as the contractor) for carrying out **any work (including supply of labour for carrying out any work) in pursuance of a contract** between the contractor and a specified person shall, at the time of credit of such 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, deduct an amount equal to –
  - (1) 1% where the payment being made or credit is being given to an individual of a HUF;
  - (2) 2% where the payment being made or credit is being given to a person other than an individual or a HUF.

Of such sum as income tax on income comprised therein. (on gross amount of receipt).

To provide more funds at the disposal of the taxpayers for dealing with the economic situation arising out of COVID-19 pandemic, the rate of TDS u/s 194C has been reduced from 1% to 0.75% (i.e.,  $\frac{3}{4}$ th of the specified rate), where the payee is an individual or HUF and 2% to 1.5% (i.e.,  $\frac{3}{4}$ th of the specified rate) in respect of other payees for the period from 14th May 2020 to 31st March 2021 [Section 197B].

2. No individual or HUF shall be liable to deduct income tax on the sum credited or paid to the account of the contractor where such sum is credited or paid exclusively for personal purposes of such individual or any member of HUF.
3. **No deduction** shall be made from the amount of any sum credited or paid or likely to be credited or paid to the account of, or to, the contractor, **if such sum does not exceed Rs. 30,000/-**.

Provided that where the **aggregate of the amounts** of such sums credited or paid or likely to be credited or paid during the financial year exceeds Rs. 1,00,000/- the person responsible for

paying such sums referred to in sub section (1) shall be liable to deduct income tax under this section.

4. **No deduction** shall 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 business of plying, hiring or leasing goods carriage, where such contractor owns more than 10 or less goods carriage at any time during the previous year and furnishes a declaration to that effect along with his permanent account number, to the person paying or crediting such sum.
5. The person responsible for paying or crediting any sum to the person referred to in sub section (6) shall furnish, to the prescribed income tax authority or the person authorised by it, such particulars, in such form and within such time as may be prescribed.

Explanation. - For the purposes of this section, -

- (i) **“Specified person”** shall mean all person, including the central government or any state government, government of foreign state or foreign enterprise established outside India. However, an individual or a HUF shall be liable to deduct tax at source if he is liable to audit of accounts under clause (a) or clause (b) of section 44AB during the financial year immediately preceding the financial year in which such sum is credited or paid to the account of the contractor.
- (ii) **“Goods carriage”** means any motor vehicle for carriage of goods.
- (iii) **“Contract”** shall include sub- contract.
- (iv) **“Work”** shall include-
  - (a) Advertising;
  - (b) Broadcasting and telecasting including production of programmes for such broadcasting or telecasting;
  - (c) Carriage of goods or passengers by any mode of transport other than by railways;
  - (d) Catering;
  - (e) Manufacturing or supplying a product according to the requirement or specification of a customer by using material purchased from such customer or its associate, being a person related to the customer in such manner as defined u/s 40A(2)(b), (i.e., the customer would be in the place of assessee; and the associate would be the related person(s) mentioned in that section).

But does not include manufacturing or supplying a product according to the requirement or specification of a customer by using material purchased from a person, other than such customer or associate of customer.

### **Circular**

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

- (i) Payments by client to the advertising agency, and
- (ii) Payment by advertising agency to the television channel/newspaper company

It has been clarified that while TDS under section 194C (as work contract) will be applicable on the first type of payment, there will be no TDS u/s 194C on 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'. Since the relationship between the media company and the advertising company is on a principal-to-principal basis, such payments are in the nature of trade discount and not commission and, therefore, outside the purview of TDS u/s 194H.

It is hereby clarified that no TDS is attracted on payments made by television channel/newspaper companies to the advertising agency for booking or procuring of or canvassing for advertisements.

### **Question 2**

ABC Ltd. Makes the following payments to Mr. X, a contractor, for contract work during the PY 2020-21-

Rs. 20,000/- on 01.05.2020

Rs. 25,000/- on 01.08.2020

Rs. 28,000/- on 01.12.2020

On 01.03.2021, a payment of Rs. 30,000 is due to Mr.X on account of a contract work.

Discuss whether ABC Ltd is liable to deduct tax at source u/s 194C from payments made to Mr.X

### **Answer:**

In this case, the individual contract payments made to Mr. X does not exceed Rs. 30,000. However, since the aggregate amount paid to Mr. X during the PY 2020-21 exceeds Rs. 1,00,000 (on account of the last payment of Rs. 30,000, due on 01.03.2021, taking the total from Rs.73,000 to Rs. 1,03,000), the TDS provisions u/s 194C would get attracted. Tax has to be deducted @1% on the entire amount of Rs. 1,03,000 from the last payment of Rs. 30,000 and the balance of Rs. 29,227/- (i.e. Rs.30000-773) has to be paid to Mr. X.

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### **SECTION 194D: TDS ON INSURANCE COMMISSION (PAID TO RESIDENT ONLY)**

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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 business relating to the continuation, renewal or revival of policies of insurance) shall, 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, deduct income tax thereon at the rate of 5%.

In order to provide more funds at the disposal of the taxpayers for dealing with the economic situation arising out of COVID-19 pandemic, the rate of TDS u/s 194D has been reduced from 5% to 3.75% (i.e.,  $\frac{3}{4}$ th of the specified rate) for the period from 14th May, 2020 to 31st March, 2021 [Section 197B].

However, no deduction shall be made under this section in a case where the amount of such income or as the case may be, 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, or to, the payee, **does not exceed Rs. 15,000.**

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#### **SECTION 194DA: PAYMENT IN RESPECT OF LIFE INSURANCE POLICY**

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Any person responsible for paying to a resident any sum under a life insurance policy, including the sum allocated by way of bonus on such policy, other than the amount not including in the total income u/s 10(10D), shall, at the time of payment thereof, deduct income tax thereon at the rate of 5% on the amount of income comprised therein i.e., after deducting the amount of insurance premium paid by the resident assessee from the total sum received.

In order to provide more funds at the disposal of the taxpayers for dealing with the economic situation arising out of COVID-19 pandemic, the rate of TDS u/s 194DA has been reduced from 5% to 3.75% (i.e.,  $\frac{3}{4}$ th of the specified rate) for the period from 14th May, 2020 to 31st March, 2021 [Section 197B].

Provided that no deduction under this section shall be made where the amount of such payment or, as the case may be, the aggregate amount of such payments to the payee during the financial year is less than 1,00,000.

#### **Question 3**

Examine the applicability of the provisions for tax deduction at source u/s 194DA in the following cases-

1. Mr X, a resident, is due to receive Rs. 4.50 lakhs on 31.03.2021, towards maturity proceeds of LIC policy taken on 01.04.2018, for which the sum assured is Rs. 4 lakhs and the annual premium is Rs. 1,25,000.

2. Mr.Y, a resident, is due to receive Rs. 3.25 lakhs on 31.03.2021 on LIC policy taken on 31.03.2012, for which the sum assured is Rs. 3 lakhs and the annual premium is Rs. 30,100.
3. Mr. Z, a resident, is due to receive Rs. 95,000 on 01.10.2020 towards maturity proceeds of LIC policy taken on 01.08.2014 for which the sum assured is Rs. 90,000 and the annual premium was Rs. 10,000.

**Answer:**

1. Since the annual premium exceeds 10% of sum assured in respect of a policy taken after 31.3.2012, the maturity proceeds of Rs. 4.50 lakhs due on 31.3.2021 are not exempt under section 10(10D) in the hands of Mr. X. Therefore, tax is required to be deducted @3.75% under section 194DA on the amount of income comprised therein i.e., on Rs. 75,000 (Rs. 4,50,000, being maturity proceeds Rs. 3,75,000, being the entire amount of insurance premium paid).
2. Since the annual premium is less than 20% of sum assured in respect of a policy taken before 1.4.2012, the sum of Rs. 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.
3. 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 Rs. 95,000 due on 1.8.2020 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 Rs. 1 lakh.

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**SECTION 194E: PAYMENTS TO NON –RESIDENT SPORTSMEN OF SPORTS ASSOCIATION**

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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 intuition.

Deduction of tax 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.

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 cash or by issue of a cheque or draft or by any other mode, whichever is earlier.

### **Income referred to in section 115BBA**

1. 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 u/s 115BB are not included herein); or
  - (b) Advertisement; or
  - (c) Contribution of article relating to any game or sports in India in newspapers, magazines, or journals.
2. 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 u/s 115BB are not included herein.
3. Income received or receivable by a non-resident entertainer (who is not a citizen of India) from his performance in India.

### **Question 4**

Calculate the amount of tax to be deducted at source (TDS) on payment made to Ricky Ponting, an Australian cricketer, by a newspaper for contribution of article Rs.25,000.

### **Answer:**

U/s 194E, the person responsible for payment of any amount to a non-resident sportsman for contribution of articles relating to any games or sports 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=  $25,000 \times 20.8\% = 5,200$ .

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### **SECTION 194EE: PAYMENTS IN RESPECT OF DEPOSITS UNDER NATIONAL SAVINGS SCHEME**

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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.

In order to provide more funds at the disposal of the taxpayers for dealing with the economic situation arising out of COVID-19 pandemic, the rate of TDS u/s 194EE has been reduced from 10% to 7.5% (i.e.,  $\frac{3}{4}$ th of the specified rate) for payments to residents for the period from 14th May, 2020 to 31st March, 2021 [Section 197B].

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

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

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**SECTION 194F: REPURCHASE OF UNITS BY MUTUAL FUND OR UNIT TRUST OF INDIA**

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A person responsible for paying to any person any amount on account of repurchase of units covered u/s 80CCB(2) shall deduct tax at source at the rate of 20% at the time of payment of such amount.

In order to provide more funds at the disposal of the taxpayers for dealing with the economic situation arising out of COVID-19 pandemic, the rate of TDS u/s 194F has been reduced from 20% to 15% (i.e.,  $\frac{3}{4}$ th of the specified rate) for payments to residents during the period from 14th May, 2020 to 31st March, 2021[Section 197B].

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**SECTION 194G: TDS ON COMMISSION ETC. ON THE SALE OF LOTTERY TICKETS**

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Any person who is responsible for paying to any person who is or has been stocking, distributing, purchasing or selling lottery tickets, any income by way of commission, remuneration or prize on such tickets in an amount exceeding Rs. 15,000 shall, at the time of credit of such income to the account of the payee or at the time of payment of such income in cash or by issue of a cheque or draft or by any other mode, whichever is earlier, deduct income tax thereon at the rate of 5%.

In order to provide more funds at the disposal of the taxpayers for dealing with the economic situation arising out of COVID-19 pandemic, the rate of TDS u/s 194G has been reduced from 5% to 3.75% (i.e.,  $\frac{3}{4}$ th of the specified rate) for payments to residents during the period from 14th May, 2020 to 31st March, 2021[Section 197B].

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**SECTION 194H: TDS ON COMMISSION OR BROKERAGE (PAID TO RESIDENT ONLY)**

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Any person, not being an individual or a HUF (not liable to tax audit in the preceding financial year), who is responsible for paying, to a resident, any income by way of commission (not being insurance commission referred to in section 194D) or brokerage shall, at the time of credit of such income to the account of the payee or at the time of the payment of such income in cash or by issue of a cheque or draft or by any other mode, whichever is earlier, deduct income-tax thereon at the rate of 5%.

In order to provide more funds at the disposal of the taxpayers for dealing with the economic situation arising out of COVID-19 pandemic, the rate of TDS u/s 194H has been reduced from 5% to 3.75% (i.e.,  $\frac{3}{4}$ th of the specified rate) for the period from 14th May, 2020 to 31st March, 2021 [Section 197B].

**Notes:**

1. No TDS where amount does not exceed Rs. 15,000 during a financial year .
2. No TDS is required to be deducted by BSNL or MTNL on commission or brokerage paid to their PCO (public call office) franchisees.
3. Commission to employee and employee directors will form part of salary income and is liable to TDS u/s 192 of the Act and not under this section.

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**SECTION 194-I: TDS ON RENT**

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**Deductor: Any person,[other than individual or HUF (not liable to tax audit in the receding financial year)].**

**Deductee- Any Resident**

**Time of deduction-** At the time of credit or payment whichever is earlier.

**Rate of TDS: (i) For use of plant & machinery -2%**

**(iii) For use of land, building, furniture or fitting- 10%**

In order to provide more funds at the disposal of the taxpayers for dealing with the economic situation arising out of COVID-19 pandemic, the rate of TDS u/s 194-I has been reduced from 2% to 1.5% (i.e.,  $\frac{3}{4}$ th of the specified rate) , in respect of rent for plant, machinery or equipment and 10% to 7.5% (i.e.,  $\frac{3}{4}$ th of the specified rate) in respect of other rental payments for the period from 14th May, 2020 to 31st March, 2021 [Section 197B].

**Note:**

- No TDS where amount does not exceed Rs. 2,40,000 during a FY.
- “rent”, means any payment, by whatever name called, under any lease, sublease, 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 the above owned by the payee.



- TDS should also be deducted on advance rent, warehousing charges and non-refundable deposits.
- 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.
- **CBDT circular:** 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 provision of section 194 –I is 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 194C will be applicable to the amounts paid as cooling charges by the customers of the cold storage.

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#### **SECTION 194-IA: TDS ON PAYMENT ON TRANSFER OF CERTAIN IMMOVABLE PROPERTY**

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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.

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.

**Tax is not required to be deducted at source where total amount of consideration for the transfer of immovable property is less than Rs. 50 lakhs.**

In order to provide more funds at the disposal of the taxpayers for dealing with the economic situation arising out of COVID-19 pandemic, the rate of TDS u/s 194-IA has been reduced from 1% to 0.75% (i.e.,  $\frac{3}{4}$ th of the specified rate) for the period from 14th May, 2020 to 31st March, 2021 [Section 197B].

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

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.

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### **SECTION 194-IB: PAYMENT OF RENT BY CERTAIN INDIVIDUALS OR HUF**

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Section 194-IB requires any person, being individual or HUF, other than those whose total sales, gross receipts or turnover from the business or profession carried on by him exceed the monetary limit of Rs. 1 crore and Rs. 50 lakhs, respectively, specified u/s 44AB in the immediately preceding financial year, responsible for paying to a resident any income by way of rent, to deduct tax at the rate of 5%.

In order to provide more funds at the disposal of the taxpayers for dealing with the economic situation arising out of COVID-19 pandemic, the rate of TDS u/s 194-IB has been reduced from 5% to 3.75% (i.e.,  $\frac{3}{4}$ th of the specified rate) for the period from 14th May, 2020 to 31st March, 2021[Section 197B].

Under this section, tax has been deducted at source only if the amount of such rent exceeds Rs.,50,000/- for a month or part of a month during the previous year.

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.

**Note:**

- 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.
- 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.

**Question 5**

Mr.X, a salaried individual, pays a rent of RS. 55,000/- per month to Mr. Y from June,2020. Is he required to deduct tax at source? If so, when is he required to deduct tax? Also, compute the amount of tax deducted at source.

Would your answer change if Mr. X vacated the premises on 31st December 2020? Also, what would be your answer if Mr. Y does not provide his PAN to Mr. X?

**Answer:**

Since Mr. X pays rent exceeding Rs. 50,000 per month in the FY 2020-21, he is liable to deduct tax at source @3.75% of such rent for FY 2020-21 u/s 194-IB. Thus, Rs. 20,625 [55000\*3.75%\*10] has to be deducted from rent payable for March, 2021.

In case Mr. X vacated the premises in December 2020, then tax of Rs. 14,438 [55000\*3.75%\*7] has to be deducted from rent payable for December 2020.

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

In case 1 above, this would amount to Rs. 1,10,000 [55000\*20%\*10] but the same has to be restricted to Rs. 55,000, being rent for March 2019.

In case 2 above, this would amount to Rs. 77,000 [55000\*20%\*7] but the same has to be restricted to Rs. 55,000, being rent for December 2020.

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**SECTION 194-IC: PAYMENT UNDER SPECIFIED AGREEMENT**

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**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 u/s 45(5A), to deduct income tax at the rate of 10%.

In order to provide more funds at the disposal of the taxpayers for dealing with the economic situation arising out of COVID-19 pandemic, the rate of TDS u/s 194-IC has been reduced from 10% to 7.5% (i.e.,  $\frac{3}{4}$ th of the specified rate) for the period from 14th May, 2020 to 31st March, 2021[Section 197B].

**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 any other mode, whichever is earlier.

**Non-applicability of Section 194-IA**

Since tax deduction at source for specified agreement under section 45(5A) is covered u/s 194-IA do not get attracted in the hands of the transferee in such case.

**Meaning of specified agreement:**

Specified agreement u/s 45(5A) means a registered agreement in which a person owning land or building or both, agrees to allow another person to develop a real estate projects 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.

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**SECTION 194J: TDS ON FEES FOR PROFESSIONAL OR TECHNICAL SERVICES**

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**Applicability and Rate of TDS**

Every person, who is responsible for paying to a resident any sum by way of-

- (1) Fees for professional services; or
- (2) Fees for technical services; or
- (3) Any remuneration or fees or commission, by whatever named called, other than those on which tax is deductible u/s 192, to a director of a company; or
- (4) Royalty; or
- (5) Non-corporate fees referred to in section 28(va)

Shall deduct tax at source at the rate of

- (a) 2% in case of fees for technical services (not being professional services) or royalty in the nature of consideration for sale, distribution or exhibition of cinematographic films; and
- (b) 10% in other cases.

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

In order to provide more funds at the disposal of the taxpayers for dealing with the economic situation arising out of COVID-19 pandemic, the rate of TDS u/s 194J has been reduced from 2% to 1.5% (i.e., ¾th of the specified rate) in case of fees for technical services (not being professional services) or royalty in the nature of consideration for sale, distribution or exhibition of cinematographic films or a payee engaged only in the business of operation of call centre; and from 10% to 7.5% (i.e., ¾th of the specified rate) in other cases for the period from 14th May, 2020 to 31st March, 2021 [Section 197B].

**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.

### **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 Rs. 30,000 in case of fees for professional services, Rs. 30,000 in the case of fees for technical services, Rs. 30,000 in the case of royalty and Rs. 30,000 in the case of non-compete fees.

### **Non- applicability of TDS u/s 194J**

- Personal purposes
- Payment made by individual or HUF who are not liable for audit in the immediately preceding year.

### **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 if 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 representative”
- (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 purposes of section 194J:

- (a) Sports Person;
- (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 requirements of TDS as per section 194J would apply to all the aforesaid professions. The term “profession”, 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.

### **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:

1. Managerial services;
2. Technical services;
3. Consultancy services;
4. 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:

- (1) Consideration for any construction, assembly, mining or like project, or
- (2) Consideration which is chargeable under the head ‘Salaries’.

TPAs (third party administrator’s) liable deduct tax u/s 194J on payment to hospitals on behalf of insurance companies.

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### **SECTION 194K: Income in respect of mutual fund**

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#### **(1) Applicability and rate of tax**

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

- (i) Units of mutual fund
- (ii) Unit from Administrator of the specified undertaking
- (iii) Units from specified company

In order to provide more funds at the disposal of the taxpayers for dealing with the economic situation arising out of COVID-19 pandemic, the rate of TDS u/s 194K has been reduced from 10% to 7.5% (i.e.,  $\frac{3}{4}$ th of the specified rate) for the period from 14th May, 2020 to 31st March, 2021[Section 197B].

#### **(2) Time of deduction**

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

**(3) Non- applicability of section**

No tax is required to be deducted if -

- (i) the amount of such income or the aggregate of the amounts of such income credited or paid or likely to be credited or paid during a financial year does not exceed Rs. 5,000; or
- (ii) the income is of the nature of capital gains.

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**SECTION 194LA: PAYMENT OF COMPANIES ON ACQUISITION OF CERTAIN IMMOVABLE PROPERTY.**

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

- 1. Compensation or the enhanced compensation or
- 2. 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).

**Rate of TDS and time of deduction**

The amount of tax to be deducted is 10% of such mentioned in above. The tax should be deducted at the time of payment in cash or by issue of cheque or draft or by any other mode, whichever is earlier.

In order to provide more funds at the disposal of the taxpayers for dealing with the economic situation arising out of COVID-19 pandemic, the rate of TDS u/s 194-LA has been reduced from 10% to 7.5% (i.e.,  $\frac{3}{4}$ th of the specified rate) for the period from 14th May, 2020 to 31st March, 2021[Section 197B].

**Threshold limit**

No tax is required to be deducted where the amount of such payment or the aggregate amount of such payments to a resident during the financial year does exceed Rs. 2,50,000.

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**SECTION 194M: Payment made by an individual or a HUF for contract work or by way of commission or brokerage or fees for professional services**

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**(1) Applicability and rate of tax**

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

- i. for carrying out any work (including supply of labour for carrying out any work) in pursuance of a contract; or
- ii. by way of commission (not being insurance commission referred to in section 194D) or brokerage; or
- iii. by way of fees for professional services.

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.

In order to provide more funds at the disposal of the taxpayers for dealing with the economic situation arising out of COVID-19 pandemic, the rate of TDS u/s 194-M has been reduced from 5% to 3.75% (i.e.,  $\frac{3}{4}$ th of the specified rate) for the period from 14th May, 2020 to 31st March, 2021 [Section 197B].

## **(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 Rs. 50,00,000/-

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

An individual or a HUF is not liable to deduct tax at source u/s 194M if they are required to deduct tax at source u/s 194C, 194H, 194J respectively.

## **(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.

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## **SECTION 194N: TDS on cash withdrawal**

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### **(1) Applicability and rate of TDS**

Section 194N 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 any sum, being the amount or aggregate of amounts, as the case may be, in cash exceeding Rs.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.

**(2) Time of deduction**

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

**(3) Modification in rate of TDS and threshold limit of withdrawal for recipient who has not furnished return of income for last 3 years (w.e.f., 1st July, 2020)**

If the recipient has not furnished the returns of income for all the three assessment years relevant to the three previous years, for which the time limit of file return of income under section 139(1) has expired, immediately preceding the previous year in which the payment of the sum is made, the sum shall mean the amount or the aggregate of amounts, as the case may be, in cash > Rs. 20 lakhs during the previous year, and the tax shall be deducted at the rate of -

- 2% of the sum, where the amount or aggregate of amounts, as the case may be, being paid in cash > Rs. 20 lakhs but ≤ Rs. 1 crore
- 5% of the sum, where the amount or aggregate of amounts, as the case may be, being paid in cash > Rs. 1 crore.

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

**(4) Non-applicability of TDS under section 194N [Second Proviso to section 194N]**

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

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

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

- I. **Cash Replenishment Agencies (CRA's) and franchise agents of White Label Automated Teller Machine Operators (WLATMO's)** maintaining a separate bank account from

which withdrawal is made only for the purposes of replenishing cash in the Automated Teller Machines (ATM's) operated by such WLATMO's and the WLATMO have furnished a certificate every month to the bank certifying that the bank account of the CRA's and the franchise agents of the WLATMO's have been examined and the amounts being withdrawn from their bank accounts has been reconciled with the amount of cash deposited in the ATM's of the WLATMO's.

- II. **Commission agent or trader, operating under Agriculture Produce Market Committee (APMC), and registered under any Law relating to Agriculture Produce Market** of the concerned State, who has intimated to the banking company or co-operative society or post office his account number through which he wishes to withdraw cash in excess of Rs. 1 crore in the previous year along with his Permanent Account Number (PAN) and the details of the previous year and has certified to the banking company or co-operative society or post office that the withdrawal of cash from the account in excess of ` 1 crore during the previous year is for the purpose of making payments to the farmers on account of purchase of agriculture produce and the banking company or co-operative society or post office has ensured that the PAN quoted is correct and the commission agent or trader is registered with the APMC, and for this purpose necessary evidences have been collected and placed on record.
- III. (a) the authorised dealer and its franchise agent and sub-agent; and  
(b) Full-Fledged Money Changer (FFMC) licensed by the RBI and its franchise agent;  
Such persons should maintain a separate bank account from which withdrawal is made only for the purposes of –
- purchase of foreign currency from foreign tourists or non-residents visiting India or from resident Indians on their return to India, in cash as per the directions or guidelines issued by RBI; or
  - disbursement of inward remittances to the recipient beneficiaries in India in cash under Money Transfer Service Scheme (MTSS) of the RBI;

The exemption from the requirement to deduct tax u/s 194N would be available only if a certificate is furnished by the authorised dealers and their franchise agent and sub-agent, and the Full-Fledged Money Changers (FFMC) and their franchise agent to the bank that withdrawal is only for the purposes specified above and the directions or guidelines issued by the RBI have been adhered to.

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#### **SECTION 194-O: Certain payment by e- commerce operator to e-commerce participant**

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##### **(1) Applicability and rate of TDS**

Notwithstanding anything to the contrary contained in any of the provisions of this Chapter, section 194-O provides that where sale of goods or provision of services of an

e-commerce participant is facilitated by an e-commerce operator through its digital or electronic facility or platform, such e-commerce operator is liable to deduct tax at 1% source services or both.

In order to provide more funds at the disposal of the taxpayers for dealing with the economic situation arising out of COVID-19 pandemic, the rate of TDS u/s 194-O for the period upto 31.3.2021 has been reduced from 1% to 0.75 (¾th of the specified rate) [Section 197B].

**(2) Time of deduction**

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

**(3) Deemed credit**

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

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

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

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

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

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

**(6) Power of CBDT to issue guidelines**

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

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

**(7) Person responsible for paying**

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

**(8) Meaning of certain terms**

S. No	Term	Meaning
1	Electronic commerce	The supply of goods or service or both, including digital products, over digital or electronic network.
2	E-commerce operator	A person who owns, operates or manages digital or electronic facility or platform for electronic commerce.
3	E-commerce participant	A person resident in India selling goods or providing services or both, including digital products, through digital or electronic facility or platform for electronic commerce.
4	Services	It includes fees for technical services and fees for professional services as defined in section 194J.

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**SECTION 195A: INCOME PAYABLE NET OF TAX**

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Were 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 the net amount payable under such agreement or arrangement.

However no grossing up is required in case of tax paid by an employer on the non-monetary perquisites provided to the employee.

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**SECTION 196: INTEREST OR DIVIDEND OR OTHER SUMS PAYABLE TO GOVERNMENT, RESERVE BANK OR CERTAIN CORPORATIONS**

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No deduction of tax shall be made by any person from any sums payable to-

1. Government
2. The reserve bank of India
3. A corporation established by or under a central act, which is, under any law for the time being in force, exempt on income tax on its income or
4. A mutual fund.

This provision for non-deduction is when such sum is payable to the above entities by way of-

1. Interest or dividend in respect of securities or shares-
  - a. Owned by the above entities; or
  - b. In which they have full beneficial interest or
2. Any income accruing or arising to them.

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**SECTION 197: CERTIFICATE FOR DEDUCTION OF TAX AT A LOWER RATE**

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The assessee can make an application to the assessing officer for deduction of tax at a lower rate or for non-deduction of tax.

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 the may be appropriate.

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**SECTION 197A: NO DEDUCTION IN CERTAIN CASES**

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If a declaration is submitted u/s 197A by the recipient to the payer along with his PAN, then no tax is deductible in a few cases which are as follows:

Particulars	Taxable pre-mature withdrawal from provident fund [sec. 192A]	Interest [secs. 193 and 194A] or rent [sec. 194I, 194K] or insurance commission [sec.194D]	Payment in respect of Life insurance policy [sec. 194DA]	National savings scheme [sec. 194EE.] and 194 dividends
<b>Condition-1:</b> who is recipient	Individual	Other than a company or firm	Other than a company or firm	Resident individual
<b>Condition-2:</b> what is tax on total income of the previous year	Nil	Nil	Nil	Nil
<b>Condition-3:</b> How much is total income covered by sections 192A, 193, 194, 194A, 194D, 194DA, 194EE, 194K and 194 –I	Not exceeding the maximum amount not chargeable to tax.			

**Date of deposit of TDS to the account of government**

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 u/s 192(1A), where tax is paid accompanied by an income tax challan.
- 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 30<sup>th</sup> April, where the income or amount is credited or paid in the month of March.

**Submission of quarterly statement [Section 200(3)]**

- Tax deducted under sections 194-IA, 194-IB and 194M have to be remitted within 30 days from the end of the month of deduction. A challan-cum-statement in Form 26QB/26QC/26QD has to be furnished within 30 days from the end of the month of deduction.
- Statement of TDS under section 192 in Form No.24Q;
- Statement of TDS under other sections from section 193 to section 196D 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.

**Quarterly statement of TDS and TCS have to be furnished by the due dates specified as follows:**

Sr No.	Date of ending of the quarter of the FY	Due date of TDS	Due date of TCS
1	30 <sup>th</sup> June	31 <sup>st</sup> July of the FY	15 <sup>th</sup> July of the FY
2	30 <sup>th</sup> September	31 <sup>st</sup> October of the FY	15 <sup>th</sup> October of the FY
4	31 <sup>st</sup> December	31 <sup>st</sup> January of FY	15 <sup>th</sup> January of FY
5	31 <sup>st</sup> March	31 <sup>st</sup> May of the FY immediately following the FY in which the deduction is made.	15 <sup>th</sup> May of the FY immediately following the FY in which the deduction is made.

**Consequences of failure to deduct or pay [section 201]**

Any person including the principal office of a company-

- (1) Who is required to deduct any sum in accordance with the provisions of the Act; or
- (2) An employer paying tax on non-monetary perquisites u/s 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.

### **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 resident payee shall not be deemed to be an assessee in default in respect of such tax if such resident payee-

- (1) has furnished his return of income under section 139
- (2) has taken into account such sum for computing income in such return of income and
- (3) has paid the tax due on the income declared by him in such return of income,

and the payer furnished a certificate to this effect from an accountant in such form as may be prescribed.

### **Interest liability**

A person deemed to be an assessee in default u/s 201(1), for failure to deduct tax or to pay 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 @1.5% for every month or part of the month from the date on which tax was deducted to the date on which such tax is actually paid.

### **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 15<sup>th</sup> 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, 16C or 16D shall be issued by every person responsible for deduction of tax under section 194-IA, 194-IB or 194M to the payee within 15 days from the due date for furnishing the challan-cum-statement in Form No. 26QB, 26QC or 26QD, respectively, under rule 31A.

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

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 –

- (a) the rate prescribed in the Act;
- (b) at the rate in force i.e., the rate mentioned in the Finance Act; or
- (c) at the rate of 20%. [5% in case tax is required to be deducted at source u/s 194-O]

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**SECTION 207: ADVANCE PAYMENT OF TAX**

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**Liability for payment of advance tax**

Advance tax shall be calculated by estimating the current year income and then applying the tax rates in force. TDS/TCS and MAT credit shall be deducted to arrive at advance tax liability.

Tax shall be payable in advance during any financial year, in accordance with the provisions of section 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 financial year. u/s 208, obligation to pay advance tax arises in every case where the advance tax payable is Rs. 10,000 or more.

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-

- (a) not having income chargeable under the head "PGBP" and
- (b) of the age of 75 years or more.

**For computing liability of advance tax of the assessee:**

**-the income tax computed above shall not be reduced by the TDS or TCS deductible /collectible during the financial year, if the person responsible for deducting TDS or collecting TCS has failed to deduct TDS on the income paid to the assessee or has failed to collect the TCS on the amount received from the assessee.**

**Instalments of advance tax and due dates**

Due date of instalment	Amount payable
On or before 15 <sup>th</sup> June	not less than 15% of the advance tax liability
On or before 15 <sup>th</sup> September	Not less than 45% of the advance tax liability as reduced by the amount, if any, paid on earlier instalment.
On or before 15 <sup>th</sup> December	Not less than 75% of the advance tax liability as reduced by the amount, if any, paid on earlier instalment.
On or before 15 <sup>th</sup>	The whole amount of the advance tax liability as reduced by the



Due date of instalment	Amount payable
March	amount, if any, paid in the earlier instalments.

**IN CASE OF ELIGIBLE ASSESSEE IN RESPECT OF AN ELIGIBLE BUSINESS REFERRED TO IN SECTION 44AD**

On or before 15 <sup>th</sup> March	The whole amount of the advance tax liability
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**Note:** It may be noted that an eligible assessee who is governed by section 44AD is required to pay advance tax by 15<sup>th</sup> March of the previous year irrespective of the fact that he has substantial income apart from the income deemed under section 44AD.

Any amount paid by way of advance tax on or before 31<sup>st</sup> March shall also be treated as advance tax paid during the financial year for all purposes of the Act.

**SECTION 234B: INTEREST FOR NON-PAYMENT OR SHORT PAYMENT OF ADVANCE TAX**

1. interest u/s 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 1<sup>st</sup> April following the financial year upto the date of determination of income u/s 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.
5. However, where self-assessment tax is paid by the assessee u/a 140A or otherwise, interest shall be calculated upto the date of payment of such tax and reduced by the interest, if any, paid u/s 140A towards the interest chargeable under this section.

**SECTION 243C: INTEREST PAYABLE FOR DEFERMENT OF ADVANCE TAX**

Manner of computation of interest u/s 243C for deferment of advance tax by corporate and non-corporate assessee:

Specified date	Specified %	Shortfall in advance tax	Period
15 <sup>th</sup> June	15%	15% of tax due on returned income (-) advance tax paid upto 15 <sup>th</sup> June	3 Months
15 <sup>th</sup> September	45%	45% of tax due on returned income (-) advance tax paid upto 15 <sup>th</sup> September	3 Months
15 <sup>th</sup> December	75%	75% of tax due on returned income (-) advance tax paid upto 15 <sup>th</sup> December	3 Months

Specified date	Specified %	Shortfall in advance tax	Period
15 <sup>th</sup> March	100%	100% of tax due on returned income (-) advance tax paid upto 15 <sup>th</sup> March	1 Months

**Note- however, if the advance tax paid by the assessee on the current income , on or before 15<sup>th</sup> June pr 15<sup>th</sup> September, is not less than 12% or, as the case may be, 36% of the tax due on the returned income, them , the assessee shall not be liable to pay interest on the amount of the shortfall on those dates.**

In case an assessee who declares profit and gains in accordance with the section 44AD(1) pr 44ADA(1), as the case may be, 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 15<sup>th</sup> 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.

**Non-applicability of interest u/s 234C in certain cases:**

The provisions of section 234C shall not apply to any shortfall in the payment of the tax due on the returned income where such shortfall is on account of under estimate or failure to estimate

- (a) the amount of capital gain; or
- (b) income by way of winning from lotteries, crossword puzzles, races, card games, gambling etc., or
- (c) income under the head "PGBP" in cases where the income accrues or arise under the said head of for the first time.
- (d) Income of the nature referred to in section 115BBDA i.e., dividend in aggregate exceeding of Rs. 10 lakhs received during the previous year.

And the assessee has paid the whole of the amount of tax payable in respect of the incomes referred in (a) to (d) above as part of the remaining instalments of advance tax which are due, where no such instalment is due, by 31<sup>st</sup> March of the financial year.

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**SECTION 206C: AX COLLECTION AT SOURCE**

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**SECTION 206(1): PROFIT AND GAINS FROM BUSINESS OF TRADING IN ALCOHOLIC LIQUOR, FOREST PRODUCE, SCRAP ETC.**

Every person, being a seller shall, at the time of debiting of the amount payable by the buyer to the account of the buyer, or at the time of receipt of such amount from the said buyer, whichever is earlier, collect from the buyer, a sum equal to the following percentage of the purchase price, as income tax.

Sr No.	Nature of goods	% from 01.04.2020 to 13.05.2020	% from 14.05.2020 to 31.03.2021
1	Alcoholic liquor for human consumption	1%	1%
2	Tendu leaves	5%	3.75%
3	Timber obtained under forest lease	2.5%	1.875%
4	Timber obtained by any mode other than under a forest lease	2.5%	1.875%
5	Any other forest produce not being timber or tendu leaves	2.5%	1.875%
6	Scrap	1%	0.75%
7	Minerals being coal or lignite or iron ore	1%	0.75%

Note: buyer does not include: Public sector company, central govt, club, embassy, highway commission, consulate or trade representative of a foreign state, a buyer who buys the above goods for personal consumption.

➤ **Lease or licence of parking lot, toll plaza or mine or a quarry**

Sub section 1(C) provided for collection of tax by every person who grants a lease or a license or enters a contract or otherwise transfer any right or interest in any parking lot or toll plaza or a mine or quarry to another person (other than a public sector company) for the use of such parking lot or toll plaza or a mine or quarry for the purposes of business. The tax shall be collected as provided, from the licensee or lessee of any such license, contract or lease of the specified nature, at the rate of 2%.

In order to provide more funds at the disposal of the taxpayers for dealing with the economic situation arising out of COVID-19 pandemic, the rate of TCS u/s 206C(1C) has been reduced from 2% to 1.5% (i.e.,  $\frac{3}{4}$ th of the specified rate) for the period from 14th May, 2020 to 31st March, 2021 [Section 206C(10A)].

➤ **Sale of motor vehicle of value exceeding Rs. 10 lakhs**

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

In order to provide more funds at the disposal of the taxpayers for dealing with the economic situation arising out of COVID-19 pandemic, the rate of TCS u/s 206C(1F) has been reduced from 1% to 0.75% for the period from 14th May, 2020 to 206C(10A)].

➤ **Overseas remittance or an overseas tour package [w.e.f. 1.10.2020]**

Section 206C(IG) provides for collection of tax by every person,

- being an authorized dealer, who receives amount, under the Liberalised Remittance Scheme of the RBI, for overseas remittance from a buyer, being a person remitting such amount out of India;
- being a seller of an overseas tour programme package who receives any amount from the buyer who purchases the package

at the rate of 5% of such amount.

Tax has to be collected at the time of debiting the amount payable by the buyer or at the time of receipt of such amount from the said buyer, by any mode, whichever is earlier.

**Rate of TCS in case of collection by an authorized dealer**

Sr No	Amount and purpose of remittance	Rate of TCS
1	(a) Where the amount is remitted for a purpose other than purchase of overseas tour programme package; and (b) the amount or aggregate of the amounts being remitted by a buyer is less than Rs. 7 lakhs in a financial year	Nil (No tax to be collected at source)
2	(a) where the amount is remitted for a purpose other than purchase of overseas tour programme package; and (b) the amount or aggregate of the amounts in excess of Rs. 7 lakhs is remitted by the buyer in a financial year	5% of the amt or agg. of amts in excess of Rs. 7 lakhs
3	(a) where the amount being remitted out is a loan obtained from any financial institution, for the purpose of pursuing any education; and (b) the amount or aggregate of the amounts in excess of 7 lakhs is remitted by the buyer in a financial year	0.5% of the amt or agg. of amts in excess of Rs. 7 lakhs

**Cases where no tax is to be collected**

(i)	No TCS by the authorized dealer on an amount in respect of which the sum has been collected by the seller
(ii)	No TCS, if the buyer is liable to deduct tax at source under any other provision of the Act and has deducted such tax
(iii)	No TCS, if the buyer is the Central Government, a State Government, an embassy, a High Commission, a legation, a commission, a consulate, the trade representation of a foreign

State, a local authority <sup>9</sup> or any other person notified by the Central Government, subject to fulfilment of conditions stipulated thereunder
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➤ **Sale of goods of value exceeding Rs. 50 lakhs [w.e.f. 1.10.2020]**

- (a) As per section 206C(1H), tax is also required to be collected by a seller, who receives any amount as consideration for sale of goods of the value or aggregate of such value exceeding Rs. 50 lakhs in a previous year [other than exported goods or goods covered under sub-sections (1)/(1F)/(1G)].
- (b) Tax is to be collected at source @0.1% u/s 206C(1H) of the sale consideration exceeding Rs. 50 lakhs, at the time of receipt of consideration.

In order to provide more funds at the disposal of the taxpayers for dealing with the economic situation arising out of COVID-19 pandemic, the rate of TCS u/s 206C(1H) has been reduced from 0.1% to 0.075% (i.e.,  $\frac{3}{4}$ th of the specified rate) for the period upto 31st March, 2021 [Section 206C(10A)].

- (c) Tax is, however, not required to be collected if the buyer is liable to deduct tax at source under any other provision of the Act on the goods purchased by him from the seller and has deducted such tax.
- (d) In case of non-furnishing of PAN or Aadhar number by the buyer to the seller, tax is required to be collected at the higher of –
- Twice the rate specified in this sub-section; and
  - 1%.

**"buyer" means** a person who purchases any goods, but does not include, —

- the Central Government, a State Government, an embassy, a High Commission, legation, commission, consulate and the trade representation of a foreign State; or
- a local authority as defined in the Explanation to clause (20) of section 10; or
- a person importing goods into India or any other person as the Central Government may, by notification in the Official Gazette, specify for this purpose, subject to such conditions as may be specified therein;

**"Seller "** means a person whose total sales, gross receipts or turnover from the business carried on by him exceed ten crore rupees during the financial year immediately preceding the financial year in which the sale of goods is carried out, not being a person as the central government may, by notification in the Official Gazette, specify for this purpose, subject to such conditions as may be specified therein.

**Time limit for paying tax collected to the credit of the Central government [Rule 37CA]**

<b>Sr No</b>	<b>Person collecting sums in accordance with section 206(1)/(1C)</b>	<b>Circumstances</b>	<b>Period within which such sum should be paid to the credit of the Central Government</b>
1	An office of the government	Where tax is paid without production of an income tax challan	On the same date
		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.

***Thank you!***