

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

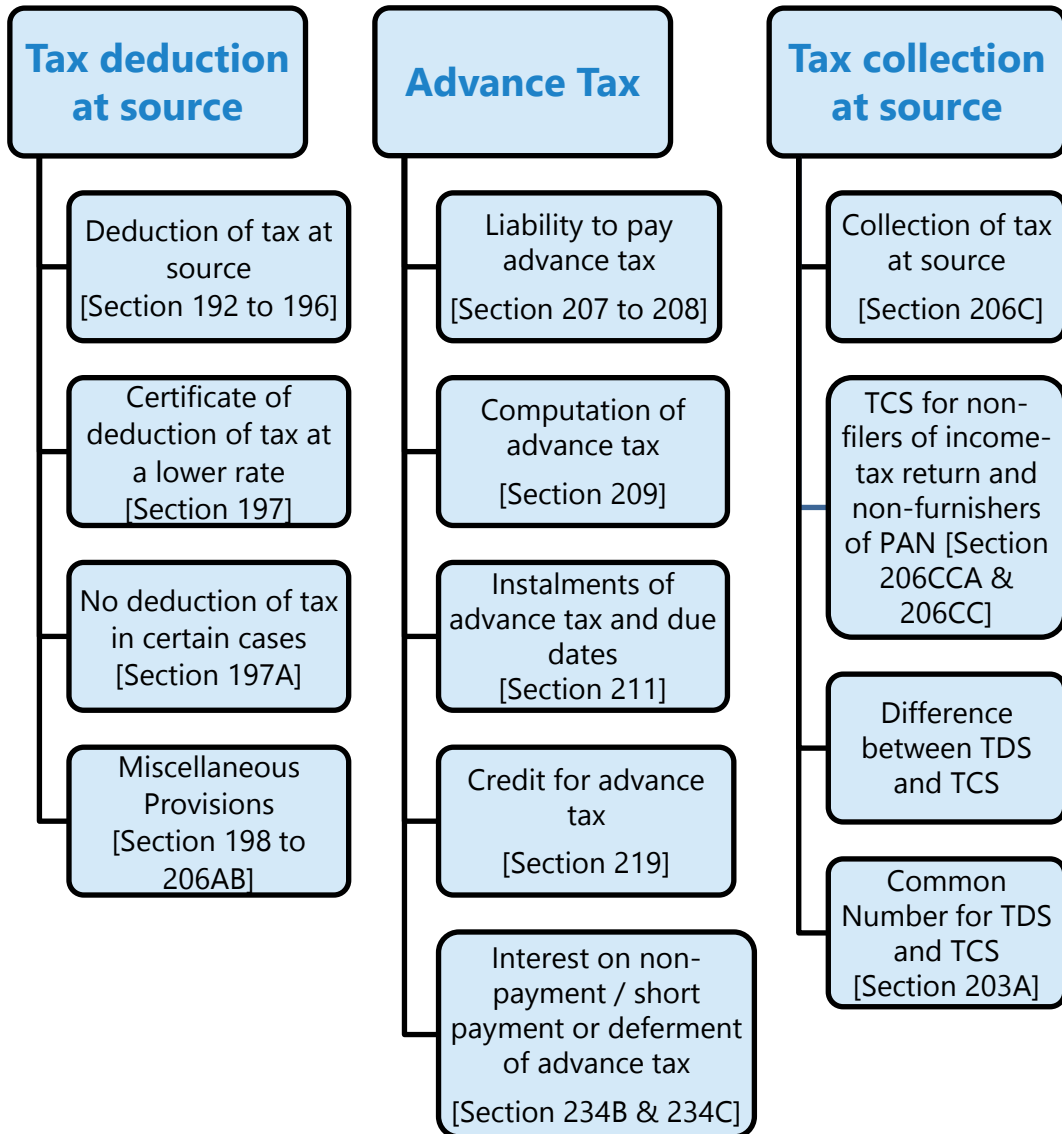


LEARNING OUTCOMES

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;
- ♦ **appreciate** when the liability to pay advance tax arises;
- ♦ **compute** advance tax liability and the schedule of instalments for payment 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. 2023-24 is taxable in the A.Y. 2024-25. 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, *in case assessee exercises the option of shifting out of the default tax regime provided under section 115BAC(1A)*, any tax or interest payable according to the provisions of section 191(2) and advance tax.



2. DIRECT PAYMENT [SECTION 191]

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

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

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

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

- (i) who is required to deduct tax at source; or
- (ii) an employer paying tax on non-monetary perquisites under section 192(1A), does not deduct, or after deducting fails to pay such tax, or does not pay, the whole or part of the tax, then, such person shall be deemed to be an assessee-in-default.

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



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 at the time of payment on the amount payable.

(2) **Manner of deduction of tax**

- (i) Such income-tax has to be calculated at the average rate of income-tax computed on the basis of the rates in force for the relevant financial year in which the payment is made, on the estimated total income of the assessee **where the employee intimates to the employer his intent to exercise the option of shifting out of the default tax regime provided under section 115BAC(1A).**
- (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) *A deductor, being an employer, has to seek information from each of its employees having income under section 192 regarding their intended tax regime and each such employee would intimate the same to the deductor, being his employer, regarding his intended tax regime for each year and upon intimation, the deductor has to compute his total income, and deduct tax at source thereon according to the option exercised.*

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

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

- (iv) 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.

ILLUSTRATION 1

Mr. A, the employer, pays gross salary including allowances and monetary perquisites amounting to ₹ 7,30,000 to his General Manager. Besides, the employer provides non-monetary perquisites to him whose value is estimated at ₹ 1,20,000. The General Manager is exercising the option to shift out of the default tax regime and pay tax under the optional tax regime as per the normal provisions of the Act. What is the tax implication in the hands of Mr. A, the employer and General Manager, the employee?

SOLUTION

	₹
Gross salary, allowances and monetary perquisites	7,30,000
Non-Monetary perquisites	<u>1,20,000</u>
	8,50,000
Less: Standard deduction under section 16(ia)	<u>50,000</u>
	<u>8,00,000</u>

Tax Liability	75,400
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Average rate of tax ($\text{₹ } 75,400 / \text{₹ } 8,00,000 \times 100$)	9.425%
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Mr. A can deduct ₹ 75,400 at source from the salary of the General Manager at the time of payment.

Alternatively, Mr. A can pay tax on non-monetary perquisites as under –

Tax on non-monetary perquisites = 9.425% of ₹ 1,20,000 = ₹ 11,310

Balance to be deducted from salary = ₹ 64,090

If Mr. A pays tax of ₹ 11,310 on non-monetary perquisites, the same is not a deductible expenditure as per section 40(a). The amount of tax paid towards non-monetary perquisite by the employer, however, is not chargeable to tax in the hands of the employee as per section 10(10CC).

- (v) In cases where an assessee is employed simultaneously 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.
- (vi) 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 u/s 89(1), where eligible.
- (vii) A tax payer having salary income in addition to other income chargeable to tax for that financial year, may send to the employer, the following particulars of:
 - (a) such other income and of any tax deducted under any other provision;
 - (b) *loss, if any, under the head 'Income from house property' if the assessee intimated to the employer his intent to exercise the*

option of shifting out of the default tax regime provided under section 115BAC(1A).

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

- (viii) 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. *Loss from house property would be adjusted against salary where the assessee intimated to the employer his intent to exercise the option of shifting out of the default tax regime provided under section 115BAC(1A).* However, loss under the head "income from house property" shall be allowed to be set off against salary and income under any other head subject to maximum of ₹ 2,00,000.

(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).

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

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

3.2 Interest on securities [Section 193]

(1) **Person responsible for deduction of tax at source**

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

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

Interest on securities means -

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

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

(3) Rate of TDS

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

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

(4) Time of tax deduction at source

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

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

(5) Non-applicability of TDS under section 193

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

- (i) on National Development Bonds;
- (ii) on 7-year National Savings Certificates (IV Issue);
- (iii) 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".

- (iv) 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.

- (v) 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.
- (vi) 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.

3.3 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 ₹ 1 crore in case of business and ₹ 50 lakhs in case of profession during the immediately preceding financial year is liable to deduct tax at source under this section.

(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** 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 **₹ 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.

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.

Section 206A requires every banking company or co-operative society or public company referred to in above 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 and
- such income should be by way of interest (other than interest on securities)

The statement should be in the prescribed form and should be delivered to the DGIT (Systems) or person authorized by him.

- (b) Interest paid or credited by a firm to any of its partners;
- (c) Interest paid or credited in respect of deposits under any scheme framed by the Central Government and notified by it in this behalf;
- (d) Interest income credited or paid in respect of deposits (other than time deposits made on or after 1.7.1995) with a bank to which the Banking Regulation Act, 1949 applies;
- (e) Income paid or credited by a co-operative society (other than a co-operative bank) to a member thereof or to such income credited or paid by a co-operative society to any other co-operative society;
- (f) Interest income credited or paid in respect of -
 - (i) deposits with primary agricultural credit society or a primary credit society or a co-operative land mortgage bank or a co-operative land development bank;
 - (ii) deposit (other than time deposits made on or after 1.7.1995) with a co-operative society [other than cooperative society or bank referred to in (i)] engaged in carrying on the business of banking.

From a combined reading of (e) and (f), it can be inferred that a co-operative bank other than mentioned in (i) above is required to

deduct tax at source on payment of interest on time deposit to its members. However, it is not required to deduct tax from the payment of interest on time deposit, to a depositor, being a co-operative society.

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

- (i) the total sales, gross receipts or turnover of the co-operative society exceeds ₹ 50 crore during the financial year immediately preceding the financial year in which interest is credited or paid; **and**
- (ii) the amount of interest or the aggregate amount of interest credited or paid, or is likely to be credited or paid, during the financial year is more than ₹ 50,000 in case of payee being a senior citizen and ₹ 40,000, in any other case.

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

- (a) to its member or to any other co-operative society; or
- (b) in respect of deposits with a primary agricultural credit society or a primary credit society or a co-operative land mortgage bank or a co-operative land development bank or
- (c) in respect of deposits with a co-operative bank other than a co-operative society or bank engaged in carrying on the business of banking
- (g) Interest income credited or paid by the Central Government under any provision of the Income-tax Act, 1961.
- (h) Interest paid or credited to the following entities:
 - (i) banking companies, or co-operative societies engaged in the business of banking, including co-operative land mortgage banks;
 - (ii) financial corporations established by or under any Central, State or Provincial Act.
 - (iii) the Life Insurance Corporation of India.

- (iv) companies and co-operative societies carrying on the business of insurance.
 - (v) the Unit Trust of India; and
 - (vi) notified institution, association, body or class of institutions, associations or bodies (National Skill Development Fund and Housing and Urban Development Corporation Ltd. (HUDCO), New Delhi have been notified by the Central Government for this purpose).
- (i) income credited by way of interest on the compensation amount awarded by the Motor Accidents Claims Tribunal;
 - (j) income paid by way of interest on the compensation amount awarded by the Motor Accidents Claims Tribunal where the amount of such income or, as the case may be, the aggregate of the amounts of such income paid during the financial year does not exceed ₹ 50,000.
 - (k) income paid or payable by an infrastructure capital company or infrastructure capital fund or infrastructure debt fund or public sector company or scheduled bank in relation to a zero coupon bond issued on or after 1.6.2005.

Notes

- (1) The expression "time deposits" [for the purpose of (4)(a), (d) and (f) above] means the deposits, **including** recurring deposits, repayable on the expiry of fixed periods.
- (2) Senior citizen means an individual resident in India who is of the age of 60 years or more at any time during the relevant previous year.

(5) Power to the Central Government to issue notification

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

ILLUSTRATION 2

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

- (i) *On 1.10.2023, Mr. Harish made a six-month fixed deposit of ₹ 10 lakh@9% p.a. with ABC Co-operative Bank. The fixed deposit matures on 31.3.2024.*
- (ii) *On 1.6.2023, Mr. Ganesh made three nine months fixed deposits of ₹ 3 lakh each, carrying interest@9% p.a. with Dwarka Branch, Janakpuri Branch and Rohini Branch of XYZ Bank, a bank which has adopted CBS. The fixed deposits mature on 28.2.2024.*
- (iii) *On 1.10.2023, Mr. Rajesh started a six months recurring deposit of ₹ 2,00,000 per month@8% p.a. with PQR Bank. The recurring deposit matures on 31.3.2024.*

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% u/s 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% u/s 194A.
- (iii) No tax has to be deducted under section 194A by PQR Bank on the interest of ₹ 28,000 falling due on recurring deposit on 31.3.2024 to Mr. Rajesh, since such interest does not exceed the threshold limit of ₹ 40,000.

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

(1) Applicability of TDS under section 194C

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

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

- (i) the Central Government or any State Government; or
- (ii) any local authority; or
- (iii) any statutory corporation; or
- (iv) any company; or
- (v) any co-operative society; or
- (vi) any statutory authority dealing with housing accommodation or for the purpose of planning, development or improvement of cities, towns and villages or for both; or
- (vii) any society registered under the Societies Registration Act, 1860; or
- (viii) any trust; or
- (ix) any university established or incorporated by or under a Central, State or Provincial Act and an institution declared to be a university under the UGC Act, 1956; or
- (x) any firm; or
- (xi) any Government of a foreign State or foreign enterprise or any association or body established outside India; or
- (xii) any person, being an individual, HUF, AOP or BOI, who has total sales, gross receipts or turnover from the business or profession carried on by him exceeding ₹ 1 crore in case of business and ₹ 50 lakhs in case of profession during the financial year immediately preceding the financial year in which such sum is credited or paid to the account of the contractor.

(2) Time of deduction

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

Where any such sum is credited to any account in the books of account of the person liable to pay such income, such crediting is deemed to be credit

of such income to the account of the payee and the tax has to be deducted at source. The account to which such sum is credited may be called "Suspense account" or by any other name.

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

(3) **Rate of TDS**

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

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

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

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

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

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

ILLUSTRATION 3

ABC Ltd. makes the following payments to Mr. X, a contractor, for contract work during the P.Y.2023-24–

₹ 20,000 on 1.5.2023

₹ 25,000 on 1.8.2023

₹ 28,000 on 1.12.2023

On 1.3.2024, 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. 2023-24 exceeds ₹ 1,00,000 (on account of the last payment of ₹ 30,000, due on 1.3.2024, 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 or its associate, being a person related to the customer in such manner as defined u/s 40A(2)(b), (i.e., the customer would be in the place of assessee; and the associate would be the related person(s) mentioned in that section).

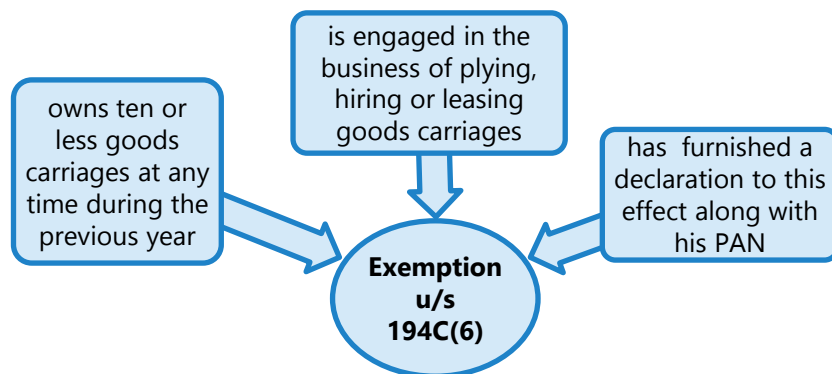
However, “work” shall not include manufacturing or supplying a product according to the requirement or specification of a customer by using raw material purchased from a person, other than such customer or associate of such customer, as such a contract is a contract for ‘sale’. However, this will not be applicable to a contract which does not entail manufacture or supply of an article or thing (e.g. a construction contract).

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

(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.

ILLUSTRATION 4

Certain concessions are granted to transport operators in the context of cash payments u/s 40A(3) and deduction of tax at source u/s 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 clearing 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 u/s 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.

3.5 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 ₹ 1 crore in case of business and ₹ 50 lakhs in case of profession during the financial year immediately preceding financial year in which such commission or brokerage is credited or paid, is liable to deduct tax at source.

(2) **Time of deduction**

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

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

(3) Threshold limit

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

(4) Meaning of "Commission or brokerage"

"Commission or brokerage" includes any payment received or receivable, directly or indirectly, by a person acting on behalf of another person

- for services rendered, or
- for any services in the course of buying or selling of goods, or
- in relation to any transaction relating to any asset, valuable article or thing, other than securities.

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

- (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 5

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.

3.6 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, is liable to deduct tax at source.

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

(2) **Rate of TDS**

Tax has to be deducted at the rate of:

- (i) **2%** in respect of rent for plant, machinery or equipment;
- (ii) **10%** in respect of other rental payments (i.e., rent for use of any land or building, including factory building, or land appurtenant to a building, including factory building, or furniture or fittings).

(3) **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.

(4) **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.

(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 (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.

(6) 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.

(7) 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]

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.

(8) 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 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 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.

(9) 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.

ILLUSTRATION 6

XYZ Ltd. pays ₹ 50,000 per month as rent to the Mr. Kishore for a building in which one of its branches is situated. Discuss whether TDS provisions under section 194-I are attracted.

SOLUTION

Section 194-I, which governs the deduction of tax at source on payment of rent, exceeding ₹ 2,40,000 p.a., is applicable to all taxable entities except individuals and HUFs, whose total sales, gross receipts or turnover from the business or profession carried on by him does not exceed ₹ 1 crore in case of business and ₹ 50 lakhs in case of profession during the financial year immediately preceding financial year in which such rent was credited or paid, is liable to deduct tax at source.

Since the rent paid by XYZ Ltd. to Mr. Kishore exceeds ₹ 2,40,000, the provisions of section 194-I for deduction of tax at source attracted.

The rate applicable for deduction at source under section 194-I on rent paid is 10%, assuming that Mr. Kishore had furnished his PAN to XYZ Ltd.

Therefore, the amount of tax to be deducted at source

$$= ₹ 6,00,000 \times 10\% = ₹ 60,000$$

3.7 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 **exceeds ₹ 1 crore in case of business and ₹ 50 lakhs in case of profession** in the financial year immediately preceding the financial year in which such rent was credited or paid, responsible for paying to a resident any income by way of rent, to deduct income tax @ **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

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

ILLUSTRATION 7

Mr. X, a salaried individual, pays rent of ₹ 55,000 per month to Mr. Y from June, 2023. 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, 2023?

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. 2023-24, he is liable to deduct tax at source @5% of such rent for F.Y. 2023-24 under section 194-IB. Thus, ₹ 27,500 [₹ 55,000 x 5% x 10] has to be deducted from rent payable for March, 2024.

If Mr. X vacated the premises in December, 2023, then tax of ₹ 19,250 [₹ 55,000 x 5% x 7] has to be deducted from rent payable for December, 2023.

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, 2024.

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, 2023.

3.8 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 –

- (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 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.

Summary of rates and threshold limit under section 194J for deduction of tax at source

Nature of payment	TDS rate	Separate Limit
Fees for technical services (not being professional services)	2%	₹ 30,000
Fees for professional services	10%	₹ 30,000
Royalty in the nature of consideration for sale, distribution or exhibition of cinematographic films	2%	₹ 30,000
Other royalty	10%	

Any remuneration or fees or commission, by whatever name called, other than those on which tax is deductible under section 192, to a director of a company	10%	Nil
Non-compete fees	10%	₹ 30,000

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

ILLUSTRATION 8

XYZ Ltd. makes a payment of ₹ 28,000 to Mr. Ganesh on 2.8.2023 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.2023-24.

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

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

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



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

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

(5) Meaning of "Professional services"

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

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

- (a) Profession of "authorised representatives";
- (b) Profession of "film artist";
- (c) Profession of "company secretary";
- (d) Profession of "information technology".

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

- (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.

As per *Explanation 4* to section 9(1)(vi), the consideration for use or right to use of computer software would be royalty. This *Explanation* clarifies that

transfer of all or any rights in respect of any right, property or information includes and has always included transfer of all or any right for use or right to use a computer software (including granting of a licence) irrespective of the medium through which such right is transferred.

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



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.*

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

(1) Applicability and rate of TDS

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

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

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 u/s 194M if –

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

profession during the immediately preceding financial year and such amount is not exclusively credited or paid for personal purposes of such individual or HUF.

(5) No requirement to obtain TAN

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

Note - For the meaning of the terms "Work", "Professional services" and "Commission or brokerage" refer sub-heading "3.4 Payments to contractors and sub-contractors [Section 194C]", "3.8 Fees for professional or technical services [Section 194J]" and "3.5 Commission or brokerage [Section 194H]", respectively.

ILLUSTRATION 9

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.2023-24
1.	Mr. Ganesh, an individual carrying on retail business with turnover of ₹ 2.5 crores in the P.Y.2022-23	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 whose turnover was ₹ 95 lakhs in P.Y. 2022-23.	Contract Payment for reconstruction of residential house (made during the period January-March, 2024)	₹ 20 lakhs in January, 2024, ₹ 15 lakhs in Feb 2024 and ₹ 20 lakhs in March 2024.
3.	Mr. Satish, a salaried individual	Payment of brokerage for buying a residential house in March, 2024	₹ 51 lakhs

4.	Mr. Dheeraj, a pensioner	Contract payment made during October-November 2023 for reconstruction of residential house	₹ 48 lakhs
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SOLUTION

	Particulars of the payer	Nature of payment	Aggregate of payments in the F.Y.2023-24	Whether TDS provisions are attracted?
1.	Mr. Ganesh, an individual carrying on retail business with turnover of ₹ 2.5 crores in the P.Y.2022-23	Contract Payment for repair of residential house	₹ 5 lakhs	No; TDS under section 194C is not attracted since the payment is for personal purpose. TDS under section 194M is not attracted as aggregate of contract payment to the payee in the P.Y.2023-24 does not exceed ₹ 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.2022-23.
2.	Mr. Rajesh, a wholesale trader whose turnover was ₹ 95 lakhs in P.Y. 2022-23	Contract Payment for reconstruction of residential house	₹ 55 lakhs	Yes, u/s 194M, since the aggregate of payments (i.e., ₹ 55 lakhs) exceed ₹ 50 lakhs. Since, his turnover does not exceed 1 crore in the P.Y.2022-23, TDS provisions under section 194C are not attracted in respect of payments made in the P.Y. 2023-24.

3.	Mr. Satish, a salaried individual	Payment of brokerage for buying a residential house	₹ 51 lakhs	Yes, u/s 194M, since the payment of ₹ 51 lakhs made in March 2024 exceeds the threshold of ₹ 50 lakhs. Since Mr. Satish is a salaried individual, the provisions of section 194H are not applicable in this case.
4.	Mr. Dheeraj, a pensioner	Contract payment for reconstruction of residential house	₹ 48 lakhs	TDS provisions under section 194C are not attracted since Mr. Dheeraj is a pensioner. TDS provisions under section 194M are also not applicable in this case, since the payment of ₹ 48 lakhs does not exceed the threshold of ₹ 50 lakhs.

3.10 TDS on cash withdrawal [Section 194N]

(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 ₹ 1 crore during the previous year**, to any person from one or more accounts maintained by such recipient-person with it, shall deduct tax at source **@2% of such sum**

However, if the recipient is a co-operative society, tax is required to be deducted on any sum exceeding ₹3 crore.

(2) Time of deduction

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

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

If the recipient has not furnished the returns of income for all the three assessment years relevant to the three previous years, for which the time limit to 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 > ₹ 20 lakhs during the previous year**, and the tax shall be deducted at the rate of -

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

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

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

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

- (i) the Government
- (ii) any banking company or co-operative society engaged in carrying on the business of banking or a post-office
- (iii) any business correspondent of a banking company or co-operative society engaged in carrying on the business of banking, in accordance with the RBI guidelines
- (iv) any white label ATM operator of a banking company or co-operative society engaged in carrying on the business of banking, in accordance

with the authorisation issued by the RBI under the Payment and Settlement Systems Act, 2007

The Central Government may specify, with the consultation of RBI, by notification, the recipient in whose case section 194N shall not apply or apply at reduced rate, subject to the satisfaction of the conditions specified in such notification.

Example

The persons referred to in (i) to (vi) in Column (2) of the table below have always been filing their returns of income on or before the due date u/s 139(1). The persons mentioned in (vii) to (x) in Column (2) of the table below have not filed their returns of income for the last five years. Determine the liability of deduction of tax at source u/s 194N by the bank/co-operative bank referred to in column (3) of the table below in each of the following individual cases, assuming that this is the only withdrawal in the P.Y.2023-24 by the persons referred to in Column (2).

(1)	(2)	(3)	(4)	(5)	(6)
	Person making the withdrawal	Bank/Co-operative Bank from which money is withdrawn	Date of withdrawal	Amount of withdrawal (₹)	TDS u/s 194N (₹)
(i)	Mr. Harishit	SBI	1.7.2023	1,10,00,000	₹ 10,00,000 x 2% = ₹ 20,000
(ii)	Mr. Pranav	SBI	1.8.2023	90,00,000	Nil (since withdrawals < ₹ 1 crore)
(iii)	ABC Co-operative Society	SBI	1.9.2023	2,70,00,000	Nil (since withdrawals < ₹ 3 crore)
(iv)	XYZ Co-operative Society	MNO Co-operative bank	1.9.2023	3,10,00,000	₹ 10,00,000 x 2% = ₹ 20,000
(v)	Mr. Vaibhav	MNO Co-operative bank	1.9.2023	2,10,00,000	₹ 1,10,00,000 x 2% = ₹ 2,20,000

(vi)	A Ltd.	MNO Co-operative bank	1.10.2023	1,05,00,000	$\text{₹ } 5,00,000 \times 2\%$ $= \text{₹ } 10,000$
(vii)	M/s. DEF & Co., a firm	MNO Co-operative bank	1.2.2024	90,00,000	$\text{₹ } 70,00,000 \times 2\%$ $= \text{₹ } 1,40,000$
(viii)	Mr. Varun	BOI	1.2.2024	1,20,00,000	$\text{₹ } 80,00,000 \times 2\% (+)$ $\text{₹ } 20,00,000 \times 5\%$ $= \text{₹ } 2,60,000$
(ix)	Mr. Rakesh	BOI	1.2.2024	45,00,000	$\text{₹ } 25,00,000 \times 2\%$ $= \text{₹ } 50,000$
(x)	PQR Co-operative Society	BOI	1.2.2024	3,30,00,000	$\text{₹ } 2,80,00,000 \times 2\% (+)$ $\text{₹ } 30,00,000 \times 5\%$ $= \text{₹ } 7,10,000$

3.11 OTHER TDS PROVISIONS

The other TDS provisions are given below in tabular form -

Section	Nature of payment	Threshold Limit for deduction of tax at source	Payer	Payee	Rate of TDS	Time of deduction	Other relevant points
192A	Premature withdrawal from Employees' Provident Fund	Payment or aggregate payment \geq ₹ 50,000	Trustees of the EPF Scheme or any authorised person under the Scheme	Individual (Employee)	10% on premature taxable withdrawal.	At the time of payment	Exemption from TDS 1. Withdrawal after continuous service of 5 years 2. In case of withdrawal before continuous service of 5 years and – (a) employee opts for transfer of accumulated balance to the new employer (b) termination is due to ill health, contraction or discontinuance of business, cessation of employment etc.
194	Dividend (including dividends on preference shares)	Amount or aggregate amount $>$ ₹ 5,000 in a case F.Y., in case	The Principal Officer of a domestic company	Resident shareholder	10%	Before making any payment by any mode in	Exemption from TDS Dividend credited or paid to – (a) LIC, GIC, subsidiaries of GIC or any other

Section	Nature of payment	Threshold Limit for deduction of tax at source	Payer	Payee	Rate of TDS	Time of deduction	Other relevant points
		of dividend paid or credited to an individual shareholder by any mode other than cash > No threshold in other cases				respect of any dividend or before making any distribution or payment of dividend.	insurer provided the shares are owned by them, or they have full beneficial interest in such shares (b) any other person as may be notified by the Central Government.
194B	Winning from any lottery, crossword puzzle or card game or other game of any sort or from gambling or betting of any form or nature (other than	Amount or the aggregate of amounts > ₹ 10,000 in a F.Y.	The person responsible for paying income by way of such winnings	Any Person	30%	At the time of payment.	(a) 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,

Section	Nature of payment	Threshold Limit for deduction of tax at source	Payer	Payee	Rate of TDS	Time of deduction	Other relevant points
	<i>winnings from any online game in respect of which TDS u/s 194BA would be applicable)</i>						ensure that tax has been paid in respect of the winnings. (b) Where winnings are to be credited and losses are to be debited to the individual a/c of the punter, tax has to be deducted on winnings before set-off of losses. Thereafter, the net amount, after deduction of tax and losses, has to be paid to the winner.
194BA	Winnings from online games	On the net winnings in a person's user account as computed in prescribed manner.	Any person responsible for paying income by way of such winnings	Any person	30%	At the end of the F.Y. In case, there is withdrawal from user	Where the net winnings are wholly in kind or partly in cash and partly in kind but the part in cash is not sufficient to meet the liability of deduction of tax in respect of whole of the net

Section	Nature of payment	Threshold Limit for deduction of tax at source	Payer	Payee	Rate of TDS	Time of deduction	Other relevant points
						<p>account during the F.Y., tax shall, before releasing the would be deducted at the time of such withdrawal on net winnings comprised in such withdrawal. In addition, tax would also be deducted on the remaining amount of net winnings in the user</p> <p>winnings, the person responsible for paying the tax shall, before releasing the winnings, ensure that tax has been paid in respect of the net winnings.</p> <p><u>Meaning of certain terms:</u></p> <p>Online gaming intermediary – An intermediary that offers one or more online games.</p> <p>User – Any person who accesses or avails any computer resource of an online gaming intermediary.</p> <p>User account – Account of a user registered with an online gaming intermediary.</p>	

Section	Nature of payment	Threshold Limit for deduction of tax at source	Payer	Payee	Rate of TDS	Time of deduction	Other relevant points
						<i>account as computed in prescribed manner at the end of the F.Y.</i>	
194BB	Winnings from horse race	Amount or aggregate of amounts > ₹ 10,000 in a F.Y.	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	'Any horse race' includes, the circumstances so necessitate, more than one horse race.
194D	Insurance Commission	Amount or aggregate amount > ₹ 15,000 in a F.Y.	Any person responsible for paying any income by way of remuneration	Any Resident	5%, if the payee is non-corporate resident 10%, if the	At the time of credit of such income to the account of	

Section	Nature of payment	Threshold Limit for deduction of tax at source	Payer	Payee	Rate of TDS	Time of deduction	Other relevant points
			or reward for soliciting or procuring insurance business (including the business relating to the continuance, renewal or revival of policies of insurance)		payee is domestic company	the payee or at the time of payment, whichever is earlier.	
194DA	Any sum under a Life Insurance Policy not fulfilling the conditions specified u/s 10(10D)	Amount or aggregate amount \geq ₹ 1,00,000 in a financial year	Any person responsible for paying any sum under a LIP, including the sum allocated by way of bonus	Any resident	5% of the amount of income comprised therein	At the time of payment	Exemption from TDS The sum received under a life insurance policy which fulfills the conditions specified under section 10(10D).

Section	Nature of payment	Threshold Limit for deduction of tax at source	Payer	Payee	Rate of TDS	Time of deduction	Other relevant points
194G	Commission on sale of lottery tickets	> ₹ 15,000 in a F.Y.	Any person responsible for paying any income by way of commission, remuneration or prize (by whatever name called) on lottery tickets	Any person stocking, distributing or purchasing 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.	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 as the crediting shall be deemed to be credit to the account of the payee for the purposes of this section.
194-IA	Payment of transfer of certain immovable property other than agricultural land	on ≥ ₹ 50 lakh (Consideration for transfer or stamp duty value)	Any person, being a transferee (other than a person referred to in section 194LA responsible for paying compensation	Resident transferor	1% of consideration for transfer or stamp duty value, whichever is higher. No requirement of	At the time of credit of such sum to the account of the transferor or at the time of payment,	Meaning of consideration for transfer of immovable property Consideration for transfer of immovable property include all charges of the nature of membership fee, car fee, car

Section	Nature of payment	Threshold Limit for deduction of tax at source	Payer	Payee	Rate of TDS	Time of deduction	Other relevant points
			for compulsory acquisition of immovable property other than rural agricultural land)		obtaining TAN u/s 203A.	whichever is earlier.	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.
194K	Income on units other than in the nature of capital gains	Amount or aggregate > ₹ 5,000 in a F.Y.	Any person responsible for paying any income in respect of units of a mutual fund/ Administrator of the specified undertaking/ specified company	Any resident	10%	At the time of credit of such sum to the account of the payee or at the time of payment, whichever is earlier.	
194LA	Compensation on acquisition	Amount or aggregate	Any person responsible for	Any Resident	10%	At the time of payment	TDS provisions are not applicable on

Section	Nature of payment	Threshold Limit for deduction of tax at source	Payer	Payee	Rate of TDS	Time of deduction	Other relevant points
	of certain immovable property (other than agricultural land situated in India)	amount > ₹ 2,50,000 in a F.Y.	paying any sum in the nature of compensation or enhanced compensation on compulsory acquisition of immovable property (other than agricultural land situated in India)				compensation on acquisition of agricultural land in India, whether rural or urban.
194P	Pension (along with interest on bank account)	Basic exemption limit [₹ 3,00,000 (in case the specified senior citizen pays tax under default tax	Notified specified bank (a banking company which is a scheduled bank and has been appointed as agents of RBI u/s 45 of the RBI Act, 1934	Specified senior citizen	Rates in force, where the individual has exercised the option of shifting out of the default tax		Specified senior citizen means an individual, being a resident in India, who – - is of the age of 75 years or more at any time during the P.Y.; - is having pension income and no other

Section	Nature of payment	Threshold Limit for deduction of tax at source	Payer	Payee	Rate of TDS	Time of deduction	Other relevant points
		regime u/s 115BAC), ₹ 3,00,000 / ₹ 5,00,000, as the case may be, if the specified senior citizen has exercised the option of shifting out of the default tax regime providing u/s 115BAC] [i.e., total income after giving effect to the deduction allowable under Chapter VI-A, if any			regime. Rates specified in section 115BAC, where the individual pays tax under the default tax regime.		income except interest received or receivable from any account maintained by such individual in the same specified bank in which he is receiving his pension income; and - has furnished a declaration to the specified bank. Specified bank to compute the total income for the relevant A.Y. of the specified senior citizen who furnishes declaration in prescribed form, and deduct income-tax, after giving effect to deduction under

Section	Nature of payment	Threshold Limit for deduction of tax at source	Payer	Payee	Rate of TDS	Time of deduction	Other relevant points
		<i>allowable should exceed the basic exemption limit. Further, in case the individual is entitled to rebate u/s 87A from tax payable, then the same should be given effect to]</i>					Chapter VI-A, if any allowable (on the basis of evidence furnished by the specified senior citizen) and rebate allowable u/s 87A. [CBDT Notification No. 99/2021 dated 2.9.2021] The provisions of section 139, relating to filing of return, would not apply to a specified senior citizen for the A.Y. relevant to the P.Y. in which tax has been deducted u/s 194P(1).
194Q	Purchase of goods	> ₹ 50 lakhs in a previous year	Buyer, who is responsible for paying any sum to any resident for purchase of goods.	Any resident	0.1% of sum exceeding ₹ 50 lakhs	At the time of credit of such sum to the account of the seller	Non-applicability of TDS u/s 194Q Transactions on which (a) Tax is deductible under any of the provisions of the Act;

Section	Nature of payment	Threshold Limit for deduction of tax at source	Payer	Payee	Rate of TDS	Time of deduction	Other relevant points
			Buyer means a person whose total sales, gross receipts or turnover from business exceeds ₹ 10 crores during the FY immediately preceding the FY in which the purchase of goods is carried out.			or at the time of payment, whichever is earlier.	<p>(b) Tax is collectible u/s 206C, other than section 206C(1H)</p> <p>In case of a transaction to which both section 206(1H) and section 194Q applies, tax is required to be deducted u/s 194Q.</p> <p>Other points</p> <p>Where the sum 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 to the account of the payee for the purposes of this section.</p>

Section	Nature of payment	Threshold Limit for deduction of tax at source	Payer	Payee	Rate of TDS	Time of deduction	Other relevant points
194R	Any benefit or perquisite, whether convertible into money or not, arising from business or the exercise of a profession. The provisions would apply to any benefit or perquisite, whether in cash or in kind or partly in cash and partly in kind.	Value or aggregate of value of benefit or perquisite > ₹ 20,000 in a gross receipts F.Y.	Any person (other than an individual or HUF whose sales, receipts or turnover does not exceed ₹ 1 crore in case of business or ₹ 50 lakhs in case of profession during the immediately preceding F.Y.) responsible for providing to a resident, any benefit or perquisite.	Any resident	10% of value or aggre. of value of such benefit or perquisite	Before providing such benefit or perquisite	Where the benefit or perquisite is wholly in kind or partly in cash and partly in kind but the part in cash is not sufficient to meet the liability of deduction of tax in respect of whole of such benefit or perquisite, the person responsible for providing such benefit or perquisite shall, before releasing the benefit or perquisite, ensure that tax has been paid in respect of the benefit or perquisite.

Section	Nature of payment	Threshold Limit for deduction of tax at source	Payer	Payee	Rate of TDS	Time of deduction	Other relevant points
			In case of a company, "person responsible for paying" means the company itself including the Principal Officer thereof.				

ILLUSTRATION 10

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 31.3.2024, towards maturity proceeds of LIC policy taken on 1.4.2021, for which the sum assured is ₹ 4 lakhs and the annual premium is ₹ 1,25,000.*
- (ii) *Mr. Y, a resident, is due to receive ₹ 3.95 lakhs on 31.3.2024 on LIC policy taken on 31.3.2012, for which the sum assured is ₹ 3.50 lakhs and the annual premium is ₹ 26,100.*
- (iii) *Mr. Z, a resident, is due to receive ₹ 95,000 on 1.8.2023 towards maturity proceeds of LIC policy taken on 1.8.2017 for which the sum assured is ₹ 90,000 and the annual premium was ₹ 10,000.*

SOLUTION

- (i) Since the annual premium exceeds 10% of sum assured in respect of a policy taken after 31.3.2012, the maturity proceeds of ₹ 4.50 lakhs due on 31.3.2024 are not exempt under section 10(10D) in the hands of Mr. X. Therefore, tax is required to be deducted @ 5% under section 194DA on the amount of income comprised therein i.e., on ₹ 75,000 (₹ 4,50,000, being maturity proceeds - ₹ 3,75,000, being the aggregate amount of insurance premium paid).
- (ii) Since the annual premium is less than 20% of sum assured in respect of a policy taken before 1.4.2012, the sum of ₹ 3.95 lakhs due to Mr. Y would be exempt under section 10(10D) in his hands. Hence, no tax is required to be deducted at source under section 194DA on such sum payable to Mr. Y.
- (iii) Even though the annual premium exceeds 10% of sum assured in respect of a policy taken after 31.3.2012, and consequently, the maturity proceeds of ₹ 95,000 due on 1.8.2023 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.

ILLUSTRATION 11

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 1.8.2023. He has purchased the house property and the land in the year 2022 for ₹ 40 lakh and

₹ 10 lakh, respectively. The stamp duty value on the date of transfer, i.e., 1.8.2023, is ₹ 85 lakh and ₹ 20 lakh for the house property and rural agricultural land, respectively. Examine the tax implications in the hands of Mr. X and Mr. Y and the TDS implications, if any, in the hands of Mr. Y, assuming that both Mr. X and Mr. Y are resident Indians.

SOLUTION

(i)	Tax implications in the hands of Mr. X
	<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 exceeds 110% of the consideration received. Therefore, ₹ 45 lakh (i.e., ₹ 85 lakh – ₹ 40 lakh, being the purchase price) would be taxable as short-term capital gains in the A.Y.2024-25.</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)	Tax implications in the hands of Mr. Y
	<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 10% 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)	TDS implications in the hands of Mr. Y
	<p>Since the sale consideration of house property or the stamp duty value 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 ₹ 85,000, being 1% of ₹ 85 lakhs (higher of ₹ 60 lakhs or ₹ 85 lakhs).</p> <p>TDS provisions under section 194-IA are not attracted in respect of transfer of rural agricultural land.</p>

ILLUSTRATION 12

Mr. Sharma, a resident Indian aged 77 years, gets pension of ₹ 52,000 per month from the UP State Government. The same is credited to his savings account in SBI, Lucknow Branch. In addition, he gets interest@8% p.a. on fixed deposit of ₹ 20 lakh with the said bank. Out of the deposit of ₹ 20 lakh, ₹ 2 lakh represents five year term deposit made by him on 1.4.2023. Interest on savings bank credited to his SBI savings account for the P.Y.2023-24 is ₹ 9,500.

- (1) From the above facts, compute the total income and tax liability of Mr. Sharma for the A.Y. 2024-25, assuming that he has exercised the option of shifting out of the default tax regime provided under section 115BAC(1A).
- (2) What would be the amount of tax deductible at source by SBI, assuming that the same is a specified bank? Is Mr. Sharma required to file his return of income for A.Y.2024-25, if tax deductible at source has been fully deducted? Examine.
- (3) Is Mr. Sharma required to file his return of income for A.Y. 2024-25, if the fixed deposit of ₹ 20 lakh was with Canara Bank instead of SBI, other facts remaining the same?

SOLUTION**(1) Computation of total income of Mr. Sharma for A.Y.2024-25**

Particulars		₹	₹
I Salaries			
Pension (₹ 52,000 x 12)		6,24,000	
Less: Standard deduction u/s 16(ia)		50,000	
			5,74,000
II Income from Other Sources			
Interest on fixed deposit (₹ 20 lakhx8%)		1,60,000	
Interest on savings account		9,500	1,69,500
Gross total income			7,43,500
Less: Deductions under Chapter VI-A			
Under Section 80C			
Five year term deposit (₹ 2 lakh, restricted to ₹ 1.5 lakh)		1,50,000	

Under section 80TTB Interest on fixed deposit and savings account, restricted to 50,000, since Mr. Sharma is a resident Indian of the age of 77 years.	50,000	2,00,000
	Total Income	5,43,500

Computation of tax liability for A.Y.2024-25

Particulars	₹
Tax payable [$₹ 43,500 \times 20\% + ₹ 10,000$]	18,700
Add: Health and Education Cess@4%	748
Tax liability	19,448
Tax liability (rounded off)	19,450

- (2) SBI, being a specified bank, is required to deduct tax at source u/s 194P and remit the same to the Central Government. In such a case, Mr. Sharma would not be required to file his return of income u/s 139.
- (3) If the fixed deposit of ₹ 20 lakh is with a bank other than SBI, which is the bank where his pension is credited, then, Mr. Sharma would not qualify as a "specified senior citizen". In this case, Mr. Sharma would have to file his return of income u/s 139, since his total income (without giving effect to deduction under Chapter VI-A) exceeds the basic exemption limit.

3.12 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) When an amount is paid net of tax, the taxability has to be calculated by grossing up the amount, since the tax itself represents the income of the payee.

3.13 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 Fund¹.
- (2) This provision for non-deduction is applicable when such sum is payable to the above entities by way of -
 - (i) interest or dividend in respect of securities or shares -
 - (a) owned by the above entities; or
 - (b) in which they have full beneficial interest or
 - (ii) any 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, 194-I, 194J, 194K, 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.

¹ Specified under section 10(23D)

- (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 dividend 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 dividend, without deduction of tax at source under section 194 on furnishing a declaration in duplicate in the prescribed form [Form 15G] 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 194. The declaration will have to be to the effect that the tax on the estimated total income of the declarant of the previous year in which such income is to be included in computing his total income will be **Nil**.

(2) *Enabling provision for filing of declaration for non-deduction of tax under section 192A or 193 or 194A or 194D or 194DA or 194-I or 194K by persons, other than companies and firms [Sub-section (1A)]*

No deduction of tax shall be made under the above provisions of the Act, where a person, who is not a company or a firm, furnishes to the person responsible for paying any income of the nature referred to in these sections, a declaration in writing in duplicate in the prescribed form [Form 15G] to the effect that the tax on his estimated total income of the previous year in which such income is to be included in computing his total income will be **Nil**.

(3) *Filing declaration not permissible if income/aggregate of incomes exceed basic exemption limit [Sub-section (1B)]*

Declaration cannot be furnished as per the above provisions, where -

- (i) payments of dividend; or
- (ii) payment of premature withdrawal from Employee Provident Fund; or
- (iii) income from interest on securities or
- (iv) interest other than "interest on securities" or units; or
- (v) insurance commission; or
- (vi) payment in respect of life insurance policy; or
- (vii) rent; or
- (viii) income from units; or
- (ix) the aggregate of the amounts of such incomes in (i) to (viii) 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 or section 194K, if such individual furnishes a declaration in writing in duplicate in Form 15H to the payer, that tax on his estimated total income of the previous year in which such income is to be included in computing his total income is **Nil**. The restriction contained in sub-section (1B) will not apply to resident senior citizens.

(5) *Non-deduction of tax in certain cases*

Payments to notified person or class of persons including institutions/class of institutions etc. [Sub-section (1F)]

No deduction of tax shall be made or deduction of tax shall be made at such lower rate, from such payment to such person or class of persons, including institution, association or body or class of institutions or

associations or bodies as may be notified by the Central Government in the Official Gazette in this behalf. Therefore, in respect of such payments made to notified person or class of persons, no tax is to be deducted at source or tax is to be deducted at lower rate.

(6) Time limit for delivery of one copy of declaration [Sub-section (2)]

On receipt of the declaration referred to in sub-sections (1), (1A) or (1C), the person responsible for making the payment will be required to deliver or cause to be delivered to the Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner, one copy of the declaration **on or before the 7th of the month following the month in which the declaration is furnished** to him.



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.

6.3 Duty of person deducting tax [Section 200]

- (1) The persons responsible for deducting the tax at source should deposit the sum so deducted to the credit of the Central Government or as the Board directs, within the prescribed time.
- (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.
- (3) Rule 30 prescribes the time and mode of payment to Government account of TDS or tax paid under section 192(1A) and Rule 31A provides for submission of quarterly statements by every person responsible for deduction of tax [depicted in the diagram given in page 7.73]

However, every person responsible for deduction of tax under section 194-IA, 194-IB or 194M have to furnish to the Principal Director General of Income-tax (Systems) (in case of sections 194-IB and 194M) or Director General of Income-tax (System) or the person authorised by them, a challan-cum-statement in Form No.26QB, 26QC or 26QD 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, or does not pay or after deducting, fails to pay, the whole or any part of the tax, as required by or under the provisions of the Income-tax Act, 1961.

(2) *Non-applicability of deeming provision*

Any person (including the principal officer of the company) who fails to deduct the whole or any part of the tax on the amount credited or paid to a payee shall not be deemed to be an assessee-in-default in respect of such tax if such payee –

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

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

(3) 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)].
- (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.

However, where an order is made by the Assessing Officer for assessee-in-default, the interest shall be paid by the person in accordance with such order.
- (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.

6.6 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.

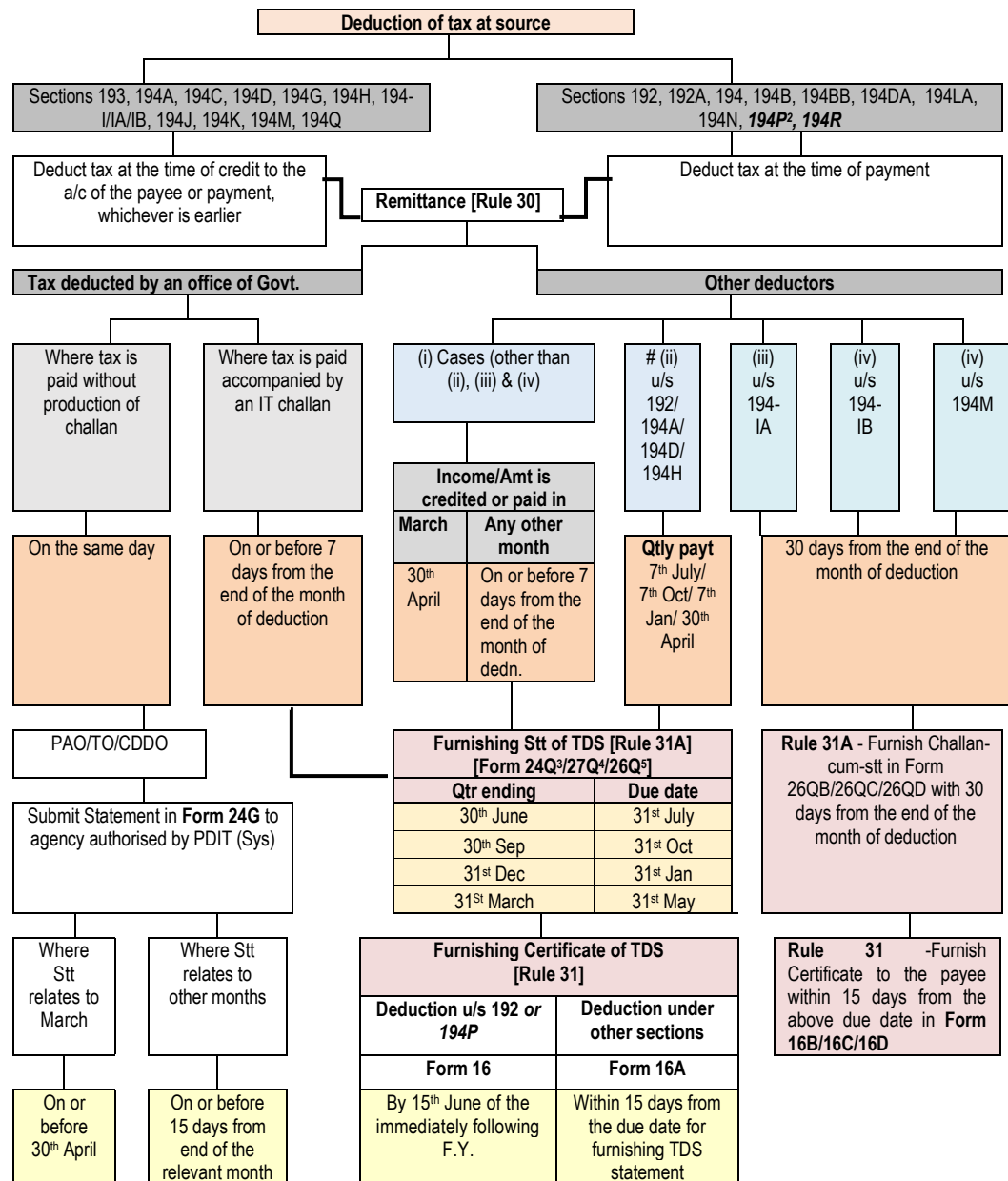
(3) Certificate of TDS to be furnished under section 203 [Rule 31]

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

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.



In special cases, the A.O. may, with the prior approval of the JC, permit quarterly payment of TDS

² TDS is required to be deducted at the time of payment, if declaration is furnished by the specified senior citizen

³ If deduction of tax is under section 192 or 194P

⁴ If deduction of tax is u/s 193 to 196D other than section 194P in respect of deductee who is a non-corporate non-resident or a foreign company or RNOR

⁵ If deduction of tax is u/s 193 to 196D other than section 194P in respect of all other deductees

6.7 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.

(7)	In case of a person not resident in India (irrespective of the nature of payment or income)	(i) the person himself; or (ii) any person authorized by such person; or (iii) the agent of such person in India including any person treated as an agent under section 163.
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6.8 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.

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

- (1) The non-furnishing 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%**. [5% in case tax is required to be deducted at source u/s 194Q]

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.*

6.10 Higher rate of TDS for non-filers of income-tax return [Section 206AB]

- (1) Section 206AB requires tax to be deducted at source under the provisions of this Chapter on any sum or income or amount paid, or payable or credited, by a person to a **specified person**, at higher of the following rates –
 - (i) at twice the rate prescribed in the relevant provisions of the Act;
 - (ii) at twice the rate or rates in force i.e., the rate mentioned in the Finance Act; or
 - (iii) at 5%

However, section 206AB is **not** applicable in case of tax deductible at source under sections 192, 192A, 194B, **194BA**, 194BB, 194-IA, 194-IB, 194M⁶ or 194N.

- (2) In case the provisions of section 206AA are also applicable to the specified person, in addition to the provisions of this section, then, tax is required to be deducted at higher of the two rates provided in section 206AA and section 206AB.

⁶ or section 194LBC (this section will be dealt with at the Final level)

- (3) **Meaning of “specified person”** – A person who has not furnished the return of income for assessment year relevant to the previous year immediately preceding the financial year in which tax is required to be deducted, for which the time limit for furnishing the return of income under section 139(1) has expired, and the aggregate of tax deducted at source and tax collected at source in his case is ₹ 50,000 or more in the said previous year.

However, the specified person would not include

- *a non-resident who does not have a permanent establishment in India⁷; or*
- *a person who is not required to furnish the return of income for the assessment year relevant to the said previous year and is notified by the Central Government in this behalf.*

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

⁷“Permanent establishment” includes a fixed place of business through which the business of the enterprise is wholly or partly carried on. This concept and related provisions will be dealt with at the Final level.

compliance hardship. Therefore, in order to reduce the compliance burden on such senior citizens, exemption from payment of advance tax has been provided to a resident individual-

- (i) not having any income chargeable under the head "Profits and gains of business or profession"; and
- (ii) of the age of 60 years or more.

Such senior citizens need not pay advance tax and are allowed to discharge their tax liability (other than TDS) by payment of self-assessment tax.

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 assessees 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 ending on 31st March.

- (2) **Advance tax payment by assessees 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 15th March of the financial year.

However, any amount paid by way of advance tax on or before 31st March shall also be treated as advance tax paid during each financial year ending on 31st March.

- (3) 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 interest leviable under sections 234B and 234C would not be charged.
- (4) Where advance tax is payable by virtue of the notice of demand issued⁸ by the Assessing Officer, the whole or the appropriate part of the advance tax specified in such notice shall be payable on or before each of such due dates as fall after the date of service of notice of demand.
- (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) and where a 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 is the tax calculated on total income determined under section 143(1) and where a regular assessment is made, the tax on the total income determined under such regular assessment less

⁸ under section 156

- 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, in case the assessee exercises the option of shifting out of the default tax regime provided under section 115BAC(1A).

Tax on the total income determined under section 143(1) would not include the additional income-tax, if any, payable under section 140B or section 143.

Tax on the total income determined under such regular assessment would not include the additional income-tax, if any, payable under section 140B.

Section 140B is discussed in detail in Chapter 8.

- (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. Thereafter, interest shall be calculated at 1% on the amount by which the tax so paid together with the advance tax paid falls short of the assessed tax.

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

- (1) **Manner of computation of interest under section 234C for deferment of advance tax by corporate and non-corporate 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 36% of the tax due on the returned income, respectively, then, the assessee shall not be liable to pay any interest on the amount of the shortfall on those dates.

(2) Computation of interest under section 234C in case of an assessee who declares profits and gains in accordance with the provisions of section 44AD(1) or section 44ADA(1):

In case an assessee who declares profits and gains in accordance with the section 44AD(1) or section 44ADA(1), as the case may be, who is liable to pay advance tax under section 208 has failed to pay such tax or the advance tax paid by the assessee on its current income on or before 15th March is less than the tax due on the returned income, then, the assessee shall be liable to pay simple interest at the rate of 1% on the amount of the shortfall from the tax due on the returned income.

(3) Non-applicability of interest under section 234C in certain cases:

Interest under section 234C shall not be leviable in respect of any shortfall in payment of tax due on returned income, where such shortfall is on account of under-estimation of or failure to estimate –

- (i) the amount of capital gains;
- (ii) income of nature referred to in section 2(24)(ix) i.e., winnings from lotteries, crossword puzzles etc.;
- (iii) income under the head "Profits and gains of business or profession" in cases where the income accrues or arises under the said head for the first time.
- (iv) the amount of dividend income other than deemed dividend referred u/s 2(22)(e)

However, the assessee should have paid the whole of the amount of tax payable in respect of such income referred to in (i), (ii), (iii) or (iv), as the case may be, had such income been a part of the total income, as part of the remaining instalments of advance tax which are due or where no such instalments are due, by 31st March of the financial year.

(4) 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, *in case the assessee exercises the option of shifting out of the default tax regime provided under section 115BAC(1A).*



8. TAX COLLECTION AT SOURCE

(1) Applicability and Rates

(i) Sale of certain goods

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%

The tax should be collected at the time of debiting of the amount payable by the buyer to his account or at the time of receipt of such amount from the buyer, whichever is earlier.

Non-applicability of TCS u/s 206C(1) [Section 206C(1A)]

No collection of tax shall be made under section 206C(1), in the case of a resident buyer, if such buyer furnishes to the person responsible for collecting tax, a declaration in writing in duplicate in the prescribed form and verified in the prescribed manner to the effect that goods referred to in 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.

(ii) Lease or a licence of parking lot, toll plaza or mine or a quarry

Section 206C(1C) provides for collection of tax by every person who grants a lease or a licence or enters into a contract or otherwise transfers any right or interest in any

- parking lot or
- toll plaza or
- a mine or a quarry

to another person (other than a public sector company) for the use of such parking lot or toll plaza or mine or quarry for the purposes of business. The tax shall be collected as provided, from the licensee or lessee of any such licence, contract or lease of the specified nature, at the rate of 2%.

Mining and quarrying would not include mining and quarrying of mineral oil. Mineral oil includes petroleum and natural gas.

The tax should be collected 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, whichever is earlier.

(iii) Sale of motor vehicle of value exceeding ₹ 10 lakhs

Section 206C(1F) 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, at the time of receipt of such amount, collect tax from the buyer@1% of the sale consideration.

(iv) Remittance under LRS of RBI through an authorized dealer or purchase of an overseas tour package

Section 206C(1G) provides for collection of tax by every person,

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

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

Rate of TCS in case of collection by an authorized dealer/ seller of an overseas tour programme package

S. No.	Amount and purpose of remittance	Rate of TCS upto 30.9.2023	Rate of TCS on or after 1.10.2023
(i)	Where the amount is for purchase of an overseas tour programme package	5% of such amount (without	5% till ₹ 7 lakhs, 20% thereafter

		any threshold limit)	
(ii)	<p>(a) Where the amount is remitted for the purpose of education or medical treatment; and</p> <p>(b) the amount or aggregate of the amounts being remitted by a buyer is less than ₹ 7 lakhs in a financial year</p>	<p>Nil (No tax to be collected at source)</p>	
(iii)	<p>(a) Where the amount is remitted for the purpose other than mentioned in (ii) above; and</p> <p>(b) the amount or aggregate of the amounts being remitted by a buyer is less than ₹ 7 lakhs in a financial year</p>	<p>Nil (No tax to be collected at source)</p>	
(iv)	<p>(a) where the amount is remitted for the purpose of education or medical treatment; and</p> <p>(b) the amount or aggregate of the amounts in excess of ₹ 7 lakhs is remitted by the buyer in a financial year</p>	<p>5% of the amt or agg. of amts in excess of ₹ 7 lakh</p>	
(v)	<p>(a) where the amount is remitted for the purpose other than mentioned in (iv) above; and</p> <p>(b) the amount or aggregate of the amounts in excess of ₹ 7 lakhs is remitted by the buyer in a financial year</p>	<p>5% of the amt or agg. of amts in excess of ₹ 7 lakh</p>	<p>20% of the amt or agg. of amts in excess of ₹ 7 lakh</p>

(vi)	<p>(a) where the amount being remitted out is a loan obtained from any financial institution as defined in section 80E, for the purpose of pursuing any education; and</p> <p>(b) the amount or aggregate of the amounts in excess of ₹ 7 lakhs is remitted by the buyer in a financial year</p>	0.5% of the amt or agg. of amts in excess of ₹ 7 lakh
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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)	<p>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 authority⁹ or any other person notified by the Central Government, subject to fulfillment of conditions stipulated thereunder.</p> <p><i>Accordingly, the CBDT has, vide notification no. 99/2022 dated 17.8.2022, notified that the provisions of section 206C(1G) would not apply to a person (being a buyer) who is a non-resident in India in terms of section 6 and does not have a permanent establishment in India.</i></p>

(v) Sale of goods of value exceeding ₹ 50 lakh

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

⁹ as defined in Explanation to section 10(20)

- (b) Tax is to be collected at source @0.1% u/s 206C(1H) of the sale consideration exceeding ₹ 50 lakhs, at the time of receipt of consideration.
- (c) Tax is, however, not required to be collected if the buyer is liable to deduct tax at source under any other provision of the Act on the goods purchased by him from the seller and has deducted such tax.

(vi) Power of the CBDT to issue guidelines

In case of any difficulty arises in giving effect to the provisions of section 206C(1G)/(1H), the CBDT is empowered to issue guidelines, with the approval of the Central Government, for the purpose of removing the difficulty.

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

(2) Meaning of certain terms

	Term	Meaning
(i)	Overseas tour program package	<p><u>For section 206C(1G)</u></p> <p>Any tour package which offers visit to a country/(ies) or territory/(ies) outside India. It includes expenses for travel or hotel stay or boarding or lodging or any other expenditure of similar nature or in relation thereto. [Clause (ii) of <i>Explanation</i> to section 206C(1G)]</p>
(ii)	Buyer	<p><u>For section 206C(1H):</u></p> <p>A person who purchases any goods but does <u>not</u> include –</p> <ul style="list-style-type: none"> (A) the Central Government, a State Government, an embassy, a High Commission, legation, commission, consulate and the trade representation of a foreign State, or (B) a local authority⁷; or (C) a person importing goods into India or any other person as the Central Government may, by notification in the Official Gazette, specify for this purpose, subject to stipulated conditions.

		<p><u>For section 206C(1):</u> A person who obtains in any sale, by way of auction, tender, or any other mode, goods of the nature specified in the Table in point (1) or the right to receive any such goods but does not include –</p> <p>(A) a public sector company, the Central Government, a State Government, and an embassy, a high commission, legation, commission, consulate and the trade representation, of a foreign State and a club, or</p> <p>(B) a buyer in the retail sale of such goods purchased by him for personal consumption <i>[Explanation to section 206C]</i></p> <p><u>For section 206C(1F):</u> 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 authority; or</p> <p>(C) a public sector company which is engaged in the business of carrying passengers. <i>[Explanation to section 206C]</i></p>
(iii)	Seller	<p><u>For section 206C(1H):</u> A person whose total sales, gross receipts or turnover from the business carried on by him exceed ₹ 10 crores during the financial year immediately preceding the financial year in which sale of goods is carried out. However, seller does not include a person as notified by the Central Government for this purpose, subject to fulfillment of the stipulated conditions <i>[Clause (b) of Explanation to section 206C(1H)]</i></p> <p><u>For section 206C(1) and section 206C(1F):</u></p> <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 ₹ 1 crore in case of business and ₹ 50 lakhs in case of profession during the financial year immediately preceding the financial year in which the goods of the nature specified in the Table in point (1) are sold.</p> <p>[Explanation to section 206C]</p>
(iv)	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. [Explanation to section 206C]</p>

(3) Higher rate of TCS for non-furnishers of PAN [Section 206CC]

- (i) The provisions of section 206CC require tax collection at the higher of the following two rates, in case of failure by the person paying any sum or amount on which tax is collectible at source (collectee) to furnish PAN [PAN or Aadhaar number in case of section 206C(1H)] to the person responsible for collecting tax at source (collector) –
- (a) at twice the rate specified in the relevant provision of the Act
 - (b) at 5% [1%, in case tax is required to be collected at source u/s 206C(1H)]

However, the maximum the rate of TCS under this section shall not exceed 20%.

- (ii) Tax would be collectible at the rates mentioned above also in case where the person furnishes a declaration under section 206C(1A) but does not provide his PAN.
- (iii) Both the collectee and the collector have to compulsorily quote the PAN of the collectee in all correspondence, bills, vouchers and other documents exchanged between them.
- (iv) If the PAN provided to the collector is invalid or it does not belong to the collectee, it shall be deemed that the collectee has not furnished his PAN to the collector. Accordingly, tax would be collectible at the rate specified in (i) above.
- (v) The provisions of section 206CC do **not** apply to a non-resident who does not have a permanent establishment in India.

(4) Higher rate of TCS for non-filers of income-tax return [Section 206CCA]

- (i) Section 206CCA requires tax to be collected at source under the provisions of this Chapter on any sum or amount received by a person **from a specified person**, at higher of the following rates –
 - (a) at twice the rate specified in the relevant provision of the Act;
 - (b) at 5%

However, the maximum the rate of TCS under this section shall not exceed 20%.

- (ii) In case the provisions of section 206CC are also applicable to the specified person, in addition to the provisions of section 206CCA, then, tax is required to be collected at higher of the two rates provided in section 206CC and section 206CCA.
- (iii) **Meaning of “specified person”** – A person who has not furnished the return of income for assessment year relevant to the previous year immediately preceding the financial year in which tax is required to be collected, for which the time limit for furnishing the return of income under section 139(1) has expired, and the aggregate of tax deducted at source and tax collected at source in his case is ₹ 50,000 or more in the said previous year.

However, the specified person would not include -

- *a non-resident who does not have a permanent establishment in India¹⁰; or*
- *a person who is not required to furnish the return of income for the assessment year relevant to the said previous year and is notified by the Central Government in this behalf.*

(5) 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*, 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,

¹⁰"Permanent establishment" includes a fixed place of business through which the business of the enterprise is wholly or partly carried on. This concept and related provisions will be dealt with at the Final level.

Legation, Commission and trade representation of a foreign State shall not be liable to levy of TCS@1% under section 206C(1F).

Q.4 *Whether TCS is applicable on each sale of motor vehicle or on aggregate value of sale during the year?*

- A.** Tax is to be collected at source@1% on sale consideration of a motor vehicle exceeding ₹ 10 lakhs. It is applicable to each sale and not to aggregate value of sale made during the year.

Q.5 *Whether TCS@1% on sale of motor vehicle is applicable in case of an individual?*

- A.** The definition of "Seller" as given in clause (c) of the *Explanation* below sub-section (11) of section 206C shall be applicable in the case of sale of motor vehicles also.

Q.6 *How would the provisions of TCS on sale of motor vehicle be applicable in a case where part of the payment is made in cash and part is made by cheque?*

- A.** The provisions of TCS on sale of motor vehicle exceeding ₹ 10 lakhs is not dependent on mode of payment. Any sale of motor vehicle exceeding ₹ 10 lakhs would attract TCS@1%.

(6) CBDT Clarification relating to certain issues with respect to section 206C(1H)

In exercise of the power to issue guidelines, the CBDT has, with the approval of Central Government, vide **Circular no. 17/2020 dated 29.9.2020**, issued the following guidelines for removing certain difficulties-

1. Applicability on sale of Motor vehicle:

The provisions of section 206C(1F) apply to sale of motor vehicle of the value exceeding ₹ 10 lakhs. Section 206C(1H) excludes from its applicability goods covered under section 206C(1F). It may be noted that the scope of sections 206C(1H) and (1F) are different. While section 206C(1F) is based on single sale of motor vehicle, section 206C(1H) is for receipt above ₹ 50 lakhs. Hence, in order to remove difficulty that whether all motor vehicles are excluded from the applicability of section 206C(1H), it is clarified that,-

- Receipt of sale consideration from a dealer would be subjected to TCS under section 206C(1H), if such sales are not subjected to TCS under section 206C(1F)
- In case of sale to consumer, receipt of sale consideration for sale of motor vehicle of the value of ₹ 10 lakhs or less to a buyer would be subjected to TCS under section 206C(1H), if the receipt of sale consideration for such vehicles during the previous year exceeds ₹ 50 lakhs during the previous year.
- In case of sale to consumer, receipt of sale consideration for sale of motor vehicle of the value exceeding ₹ 10 lakhs would not be subjected to TCS under section 206C(1H) if such sales are subjected to TCS under section 206C(1F).

2. **Adjustment for sale return, discount or indirect taxes:**

It is been clarified that no adjustment on account of sale return or discount or indirect taxes including GST is required to be made for collection of tax under section 206C(1H) since the collection is made with reference to receipt of amount of sale consideration.

Note – *It can be inferred that no adjustment for GST is required to be made under section 206C(1F) also, since collection is made with reference to receipt of amount of sale consideration.*

ILLUSTRATION 13

Mr. Gupta, a resident Indian, is in retail business and his turnover for F.Y.2022-23 was ₹ 12 crores. He regularly purchases goods from another resident, Mr. Agarwal, a wholesaler, and the aggregate payments during the F.Y.2023-24 was ₹ 95 lakh (₹ 20 lakh on 1.6.2023, ₹ 25 lakh on 12.8.2023, ₹ 22 lakh on 23.11.2023 and ₹ 28 lakh on 25.3.2024). Assume that the said amounts were credited to Mr. Agarwal's account in the books of Mr. Gupta on the same date. Mr. Agarwal's turnover for F.Y.2022-23 was ₹ 15 crores.

- (1) *Based on the above facts, examine the TDS/TCS implications, if any, under the Income-tax Act, 1961.*
- (2) *Would your answer be different if Mr. Gupta's turnover for F.Y.2022-23 was ₹ 8 crores, all other facts remaining the same?*
- (3) *Would your answer to (1) and (2) change, if PAN has not been furnished by the buyer or seller, as required?*

SOLUTION

- (1) Since Mr. Gupta's turnover for F.Y.2022-23 exceeds 10 crores, and payments made by him to Mr. Agarwal, a resident seller exceed ₹ 50 lakhs in the P.Y.2023-24, he is liable to deduct tax@0.1% of ₹ 45 lakhs (being the sum exceeding ₹ 50 lakhs) in the following manner –

No tax is to be deducted u/s 194Q on the payments made on 1.6.2023 and 12.8.2023, since the aggregate payments till that date i.e. 45 lakhs, has not exceeded the threshold of ₹ 50 lakhs.

Tax of ₹ 1,700 (i.e., 0.1% of ₹ 17 lakhs) has to be deducted u/s 194Q from the payment/ credit of ₹ 22 lakh on 23.11.2023 [₹ 22 lakh – ₹ 5 lakhs, being the balance unexhausted threshold limit].

Tax of ₹ 2,800 (i.e., 0.1% of ₹ 28 lakhs) has to be deducted u/s 194Q from the payment/ credit of ₹ 28 lakhs on 25.3.2024.

Note – In this case, since both section 194Q and 206C(1H) applies, tax has to be deducted u/s 194Q.

- (2) If Mr. Gupta's turnover for the F.Y.2022-23 was only ₹ 8 crores, TDS provisions under section 194Q would not be attracted. However, TCS provisions under section 206C(1H) would be attracted in the hands of Mr. Agarwal, since his turnover exceeds ₹ 10 crores in the F.Y.2022-23 and his receipts from Mr. Gupta exceed ₹ 50 lakhs.

No tax is to be collected u/s 206C(1H) on 1.6.2023 and 12.8.2023, since the aggregate receipts till that date i.e. 45 lakhs, has not exceeded the threshold of ₹ 50 lakhs.

Tax of ₹ 1,700 (i.e., 0.1% of ₹ 17 lakhs) has to be collected u/s 206C(1H) on 23.11.2023 (₹ 22 lakh – ₹ 5 lakhs, being the balance unexhausted threshold limit).

Tax of ₹ 2,800 (i.e., 0.1% of ₹ 28 lakhs) has to be collected u/s 206C(1H) on 25.3.2024.

- (3) In case (1), if PAN is not furnished by Mr. Agarwal to Mr. Gupta, then, Mr. Gupta has to deduct tax@5%, instead of 0.1%. Accordingly, tax of ₹ 85,000 (i.e., 5% of ₹ 17 lakhs) and ₹ 1,40,000 (5% of ₹ 28 lakhs) has to be deducted by Mr. Gupta u/s 194Q on 23.11.2023 and 25.3.2024, respectively.

In case (2), if PAN is not furnished by Mr. Gupta to Mr. Agarwal, then, Mr. Agarwal has to collect tax@1% instead of 0.1%. Accordingly, tax of ₹ 17,000 (i.e., 1% of ₹ 17 lakhs) and ₹ 28,000 (1% of ₹ 28 lakhs) has to be collected by Mr. Agarwal u/s 206C(1H) on 23.11.2023 and 25.3.2024, respectively.

Overview - TCS u/s 206C(1)/(1F)/(1H) v. TDS u/s 194Q

Particulars	206C(1) TCS	206C(1F) TCS	206C(1H) TCS	194Q TDS
1. Point of time	At the time of debit or at the time of receipt, whichever is earlier	At the time of receipt	At the time of receipt	At the time of payment or credit, whichever is earlier
2. % of TDS/TCS, as the case may be	Different rates for different goods (See below)	1% of sale consideration	0.1% of the sale consideration exceeding ₹ 50 lakhs from a buyer	0.1% of the value of purchases exceeding ₹ 50 lakhs from a seller
3. Seller [206C(1)/(1F)/(1H)] Buyer (194Q)	Central Govt., State Govt., Local Authority, Company, Co-op society, firm, corporation, Individual/HUF whose turnover in F.Y.2022-23 > ₹ 1 crore (business)/ ₹ 50 lakh (profession)	Central Govt., Local Authority, Company, Co-op society, firm, corporation, Individual/HUF whose turnover in F.Y.2022-23	Seller's turnover should exceed ₹ 10 crore in the F.Y.2022-23	Buyer's turnover should exceed ₹ 10 crore in the F.Y.2022-23
4. Exclusions from the definition of buyer				
Common Exclusions from 206C(1)/(1F)/(1H)	Central Govt, State Govt, embassy, High commission, legation, consulate, commission, trade rep. of a foreign state			
Specific exclusions	Public sector Co., a club and Buyer in retail sale of goods purchased for personal consumption	Local authority, Public sector co. engaged in the business of carrying passengers	Local authority, Persons importing goods into India or other notified persons	

Goods		206C(1)	206C(1F)	194Q	206C(1H)
		TCS	TCS	TDS	TCS
1	Alcoholic liquor for human consumption	1%			
2	Tendu leaves	5%			
3	Timber obtained under forest lease	2.5%			
4	Timber obtained by any other mode	2.5%			
5	Any other forest produce not being timber or tendu leaves	2.5%			
6	Scrap	1%			
7	Minerals, being coal or lignite or iron ore	1%			
	If items (1) to (7) are used for manufacturing, processing or producing articles or things or generation of electricity and not for trading purposes	Nil, by virtue of section 206C(1A)	N.A.	Yes, if turnover of buyer exceeds ₹ 10 crore in the F.Y.2022-23 and value of purchases from seller in F.Y.2023-24 exceeds ₹ 50 lakhs	Nil

Goods		206C(1)	206C(1F)	194Q	206C(1H)
		TCS	TCS	TDS	TCS
8	Sale of Motor Vehicle of value exceeding ₹ 10 lakhs	-	1% of sale consideration	-	-
9	Sale of Motor Vehicle of value exceeding ₹ 10 lakhs by manufacturer to dealers/distributors	-	-	Yes, if turnover of dealer exceeds ₹ 10 crore in the F.Y.2022-23 and value of motor vehicles purchased from manufacturer in the F.Y.2023-24 exceeds ₹ 50 lakhs.	No, if dealer is required to deduct tax at source. Yes, if dealer is not required to deduct tax at source and manufacturer's turnover exceeds ₹ 10 crore in the F.Y.2022-23 and value of motor vehicles sold to dealer in F.Y.2023-24 exceeds ₹ 50 lakhs
10	Sale of Motor Vehicle of value not exceeding ₹ 10 lakhs and aggregate value of all motor vehicles sold by the seller to the buyer ≤ ₹ 50 lakhs in the F.Y.2023-24	-	-	-	-

Goods	206C(1)	206C(1F)	194Q	206C(1H)
	TCS	TCS	TDS	TCS
11 Sale of Motor Vehicle of value not exceeding ₹ 10 lakhs but aggregate value of all motor vehicles sold by the seller to the buyer > ₹ 50 lakhs in the F.Y.2023-24	-	-	Yes, if turnover of buyer exceeds ₹ 10 crore in the F.Y.2022-23.	No, if buyer is required to deduct tax at source. Yes, if buyer is not required to deduct TDS and seller's turnover exceeds ₹ 10 crore in the F.Y.2022-23
12 Sale of goods other than mentioned in 1 to 11				
If aggregate value of goods sold by seller to buyer is ₹ 50 lakhs or less	-	-	-	-
If aggregate value of goods sold by the seller to buyer is more than ₹ 50 lakhs	-	-	Yes, if turnover of buyer exceeds ₹ 10 crore in the F.Y.2022-23.	No, if buyer is required to deduct tax at source. Yes, if buyer is not required to deduct TDS and seller's turnover exceeds ₹ 10 crore in the F.Y.2022-23

(7) Furnishing of copy of declaration within specified time [Section 206C(1B)]

The person responsible for collecting tax under this section shall deliver or cause to be delivered to the Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner one copy of the declaration referred to in sub-section (1A) on or before 7th of the month next following the month in which the declaration is furnished to him.

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

Any amount collected under this section shall be paid within the prescribed time to the credit of the Central Government or as the Board directs.

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

	Person collecting sums in accordance with section 206C	Circumstance		Period within which such sum should be paid to the credit of the Central Government
(1)	An office of the Government	(i)	where the tax is paid without production of an income-tax challan	on the same day
		(ii)	where tax is paid accompanied by an income-tax challan	on or before 7 days from the end of the month in which the collection is made
(2)	Collectors other than an office of the Government			within one week from the last day of the month in which the collection is made

(9) Main differences between TDS and TCS

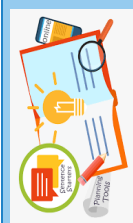
	TDS	TCS
(1)	TDS is tax deduction at source	TCS is tax collection at source.
(2)	Person responsible for paying is required to deduct tax at source at the prescribed rate.	<p>(i) Seller of certain goods is responsible for collecting tax at source at the prescribed rate from the buyer.</p> <p>(ii) Person 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.</p> <p>(iii) Authorised dealer receiving amount for remittance under the LRS of the RBI or seller of an overseas tour program package is responsible for collecting tax at source at the prescribed rate from the buyer.</p>
(3)	<p>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.</p> <p>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.</p>	<p>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.</p> <p>However, in case of sale of motor vehicle of the value exceeding ₹ 10 lakhs and sale of goods exceeding ₹ 50 lakhs other than exported goods and goods mentioned in section 206C(1), tax</p>

	collection at source u/s 206C(1F) and 206C(1H), respectively, is required at the time of receipt of sale consideration.
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Note – TCS will be dealt with in detail at the Final level.

(10) 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.
- (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.



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 This is taken care of in computation of the average rate of income-tax.	Any person responsible for paying any income chargeable under the head "Salaries"	Individual (Employee)	Average rate of income-tax	At the time of payment
192A	Premature withdrawal from Employees' Provident Fund	Payment or aggregate payment \geq ₹ 50,000	Trustees of the EPF Scheme or any person authorised under the Scheme	Individual (Employee)	10% on premature taxable withdrawal	At the time of payment
193	Interest on Securities	> ₹ 10,000 in a F.Y., in case of interest on 8% Savings (Taxable) Bonds, 2003/7.75% Securities Savings (Taxable) Bonds, 2018.	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
		> ₹ 5,000 in a F.Y., in case of interest on debentures issued by a Co. in which the public are substantially interested, paid or credited to a resident individual or HUF by an A/c payee cheque > No threshold specified in any other case.				
194	Dividend (including dividends on preference shares)	Amount or aggregate amount > ₹ 5,000 in a F.Y., in case of dividend paid or credited to an individual shareholder by any mode other than cash > No threshold in other cases	The Principal Officer of a company	Resident shareholder	10%	Before making any payment by any mode in respect of any dividend or before making any distribution or payment of dividend.

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>Amount or aggregate amount > ₹ 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> <p>> ₹ 5,000 in a F.Y., in other cases.</p>	Any person (other than an individual or HUF) whose total sales, gross receipts or turnover from business or profession do not exceed ₹ 1 crore in case of business or ₹ 50 lakhs in case of profession during the immediately preceding F.Y.) responsible for paying interest other than 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
194B	Winnings from any lottery, crossword puzzle or card game or other game of any sort or from gambling or betting of any form or nature	Amount or the aggregate amounts > ₹ 10,000 in a F.Y.	The person responsible for paying income by way of such winnings	Any Person	30%	At the time of payment
194BA	Winnings from online games	On the winnings in person's account computed in prescribed manner.	Any person responsible for paying income by way of such winnings from any online game.	Any person	30%	At the end of the F.Y. In case there is withdrawal from user account during the F.Y., tax would be deducted at the time of such withdrawal on net winnings comprised in such withdrawal. In addition, tax would also be deducted on

Section	Nature of payment	Threshold Limit for deduction of tax at source	Payer	Payee	Rate of TDS	Time of deduction
194BB	Winnings from horse race	Amount or the aggregate of amounts > ₹ 10,000 in a F.Y.	Book Maker or a person holding licence for horse racing or for arranging or betting 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	Central/State Govt., Local authority, Central/State/ Provincial Corpn., company, firm, trust, registered society, co-operative society, university established under Central/State/ Provincial Act, declared university	Any Resident contractor for carrying out work payee is an Individual or HUF	1% of sum paid or credited, if the payee is an Individual or HUF 2% of sum paid or credited, if the payee is any other person.	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
		Individual/HUF need not deduct tax where sum is or credited or paid exclusively for individual/HUF whose total sales, gross receipts or turnover from business or profession exceeds ₹ 1 crore in case of business or ₹ 50 lakhs in case of profession during the immediately preceding F.Y.	under the UGC Act, Govt. of Foreign State or a foreign enterprise,			
194D	Insurance Commission	Amount or aggregate amount > ₹ 15,000 in a F.Y.	Any person responsible for paying any income by way of remuneration or reward for soliciting or procuring insurance business	Any Resident	5%, if the payee is a non-corporate resident or 10%, if the payee is a domestic company	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 for deduction tax at	Payer	Payee	Rate of TDS	Time of deduction
194DA	Any sum under a Insurance Policy not fulfilling the conditions specified u/s 10(10D)	Amount aggregate $\geq ₹ 1,00,000$ in a financial year	Any person responsible for paying any sum under a LIP, the sum allocated way of bonus	Any person for resident	5% of amount of income comprised	At the time of payment
194G	Commission on sale of lottery tickets	$> ₹ 15,000$ in a financial year	A person responsible for paying any income way of remuneration or (by whatever called) on lottery tickets	Any person for stocking, distributing, purchasing selling lottery tickets	5%	At the time of credit such income to account of the or at the time payment, whichever earlier.
194H	Commission or brokerage	$> ₹ 15,000$ in a financial year	Any person (other than an individual HUF whose total sales, gross or turnover from business or profession do exceed ₹ 1 crore in	Any resident	5%	At the time of credit such income to account of the or at the time payment, whichever earlier.

Section	Nature payment	Threshold Limit for deduction tax at	Payer	Payee	Rate of TDS	Time of deduction
194-I	Rent	> ₹ 2,40,000 in a financial year	Any individual or HUF whose total sales, gross receipts or turnover from business or profession carried on by him do not exceed ₹ 1 crore in case of business or ₹ 50 lakhs in case of profession during the immediately preceding F.Y.) responsible for paying rent.	Any resident	For P & M equipment- 2% For land building, land appurtenant to a furniture or fittings -10%	At the time of credit such income to account of the or at the time payment, whichever 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	on \geq ₹ 50 lakh (Consideration for transfer or stamp duty value)	Any person, being a transferee (other than a person referred to in section 194LA responsible for paying compensation for compulsory acquisition of immovable property other than rural agricultural land)	Resident transferor	1% of consideration for transfer or stamp duty value, whichever is higher	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/ (other than Individual/HUF whose total sales, gross receipts or turnover from business or profession carried on by him exceeds ₹ 1 crore in case of business or ₹ 50 lakhs in case of profession during the immediately	Any Resident	5%	At the time of credit of rent, for the last month of the previous year or the last month of the 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

Section	Nature of payment	Threshold Limit for deduction of tax at source	Payer	Payee	Rate of TDS	Time of deduction
			preceding F.Y.) responsible for paying rent.			
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).	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 exceeds ₹ 1 crore in case of business or ₹ 50 lakhs in case of profession during the immediately preceding F.Y., is liable to deduct tax u/s 194J, except	Any Resident	2% - Payee engaged only in business of operation of call centre 2% - In case of fees for technical services or royalty, where such royalty is in the nature of consideration for sale, distribution or exhibition of cinematographic films 10% - Other payments	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
			where fees for professional services is credited or paid exclusively for his personal purposes.			
194K	Income on units other than in the nature of capital gains	Amount or aggregate amount > ₹ 5,000 in a F.Y.	Any person responsible for paying any income in respect of units of a mutual fund/Administrator of the specified undertaking/specified company	Any resident	10%	At the time of credit of such sum to the account of the payee or at the time of payment, whichever is earlier.
194LA	Compensation on acquisition of certain immovable property other than agricultural land situated in India	Amount or aggregate amount > ₹ 2,50,000 in a F.Y.	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

Section	Nature of payment	Threshold Limit for deduction of tax at source	Payer	Payee	Rate of TDS	Time of deduction
194M	<ul style="list-style-type: none"> - Payments to Contractors - Commission or brokerage - Fees for professional services 	> ₹ 50,00,000 in a financial year	Individual or HUF other than those who are required to deduct tax at source under section 194C or 194H or 194J	Any Resident	5%	At the time of credit of such sum or at the time of payment, whichever is earlier.
194N	Cash withdrawals	<ul style="list-style-type: none"> > ₹ 3 crore if the recipient is a co-operative society > ₹ 1 crore in case of others 	<ul style="list-style-type: none"> - 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 who is responsible for paying any sum, being the amount or the aggregate of amounts, as the case may be, in cash 	Any person	@2% of such sum In case the recipient has not filed ROI for all the 3 immediately preceding P.Y.s, for which time limit u/s 139(1) has expired, such sum shall be the amt or agg. of amts,	At the time of payment of such sum

Section	Nature of payment	Threshold Limit for deduction of tax at source	Payer	Payee	Rate of TDS	Time of deduction
			exceeding ₹ 1 crore/ ₹ 3 crore in case the recipient is a cooperative society, during the previous year, to any person from one or more accounts maintained by the recipient		<p>in cash > ₹ 20 lakh during the P.Y.</p> <p>TDS</p> <p>- @2% of the sum, where cash withdrawal > ₹ 20 lakhs but ≤ ₹ 1 crore/ ₹ 3 crore in case the recipient is a co-operative society</p> <p>- @5% of the sum, where cash withdrawal > ₹ 1 crore/ ₹ 3 crore in case the recipient is a co-operative society</p>	

Section	Nature of payment	Threshold Limit for deduction of tax at source	Payer	Payee	Rate of TDS	Time of deduction
194P	Pension (along with interest on bank account)	Basic exemption limit [₹ 3,00,000 (in case specified senior citizen pays tax under default tax regime u/s 115BAC), ₹ 3,00,000 / ₹ 5,00,000, as the case may be, if specified senior citizen has exercised the option of shifting out of the default tax regime providing u/s 115BAC] [i.e., total income after giving effect to the deduction allowable under Chapter VI-A, if any	Notified bank	Specified senior citizen where the individual, being a resident in India, who is of the age of 75 years or more at any time during the FY; - is having pension income and no other income except interest income received or receivable from any account maintained by	Rates in force, where the individual has exercised the option of shifting out of the default tax regime. Rates specified in section 115BAC, where the individual pays tax under the default tax regime.	

Section	Nature of payment	Threshold Limit for deduction of tax at source	Payer	Payee	Rate of TDS	Time of deduction
194Q	Purchase of goods	allowable should exceed the basic exemption limit. Further, in case the individual is entitled to rebate u/s 87A from tax payable, then the same should be given effect to]	Buyer, who is responsible for paying any sum to any resident for purchase of goods. Buyer means a person whose total sales, gross receipts or turnover from business exceeds ₹ 10 crores during the FY	such individual in the same specified bank in which he is receiving his pension income; and - has furnished a declaration to the specified bank.	0.1% of sum exceeding ₹ 50 lakhs	At the time of credit of such sum to the account of the seller 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
194R	Any benefit or perquisite, whether convertible into money or not, arising from business or the exercise of a profession. The provisions would apply to any benefit or perquisite, whether in cash or in	Value or aggregate of value of benefit or perquisite > ₹ 20,000 in a financial year	immediately preceding the FY in which the purchase of goods is carried out. Any person (other than an individual or HUF whose total sales, gross receipts or turnover do not exceed ₹ 1 crore in case of business or ₹ 50 lakhs in case of profession during the immediately preceding F.Y.) responsible for providing to a resident, any benefit or perquisite. In case of a company, "person responsible for paying" means the company itself	Any resident	10% of value or aggre. of value of such benefit or perquisite	Before providing such benefit or perquisite

Section	Nature of payment	Threshold Limit for deduction of tax at source	Payer	Payee	Rate of TDS	Time of deduction
	kind or partly in cash and partly in kind.		including the Principal Officer thereof.			

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% and in case of section 194-Q, 5%
- (2) Section 206AB requires tax to be deducted at source under the provisions of this Chapter on any sum or income or amount paid, or payable or credited, by a person to a specified person, at higher of the following rates –
 - (i) at twice the rate prescribed in the relevant provision of the Act;
 - (ii) at twice the rate or rates in force i.e., the rate mentioned in the Finance Act; or
 - (iii) at 5%

However, section 206AB is **not** applicable in case of tax deductible at source under sections 192, 192A, 194B, 194BA, 194BB, 194-IA, 194-IB, 194M¹¹ or 194N.

¹¹ or section 194LBC (this section will be dealt with at the Final level)

Meaning of “specified person” – A person who has not furnished the return of income for the assessment year relevant to the previous year immediately preceding the financial year in which tax is required to be deducted, for which the time limit for furnishing the return of income under section 139(1) has expired, and the aggregate of tax deducted at source and tax collected at source in his case is ₹ 50,000 or more in the said previous year.

However, the specified person would not include -

- a non-resident who does not have a permanent establishment in India; or
- a person who is not required to furnish the return of income for the assessment year relevant to the said previous year and is notified by the Central Government in this behalf.

(3) In case the provisions of section 206AA are also applicable to the specified person, in addition to the provisions of this section, then, tax is required to be deducted at higher of the two rates provided in section 206AA and section 206AB.

(4) 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 F.Y. 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, computing 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]

- | | |
|-----|---|
| (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 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)	<p>"Assessed tax" means the tax on total income determined u/s 143(1) 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, in case the assessee exercises the option of shifting out of the default tax regime provided under section 115BAC(1A).</p> <p>Tax on the total income determined under section 143(1) shall not include the additional income-tax, if any, payable u/s 140B.</p>
(5)	Where self-assessment tax is paid by the assessee u/s 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. Thereafter, interest shall be calculated at 1% on the amount by which the tax so paid together with the advance tax paid falls short of the assessed tax.

Interest for deferment of advance tax [Section 234C]

(1)	<p><u>Manner of computation of interest u/s 234C for deferment of advance tax by corporate and non-corporate assessee:</u></p> <p>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.</p>			
	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 36% of the tax due on the returned income, respectively, then, the assessee shall not be liable to pay any interest on the amount of the shortfall on those dates.</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, in case the assessee exercises the option of shifting out of the default tax regime provided under section 115BAC(1A).</p>				
(2)	<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>			
(3)	<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) the amount of dividend income other than deemed dividend referred u/s 2(22)(e).

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 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]

(1) Sale of certain goods [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
(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%

The tax should be collected at the time of debiting of the amount payable by the buyer to his account or at the time of receipt of such amount from the buyer, whichever is earlier.

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 [Section 206C(1A)].

(2) Lease or a licence of parking lot, toll plaza or mine or a quarry [Section 206C(1C)] - 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, whichever is earlier										
(3)	Sale of motor vehicle of value exceeding ₹ 10 lakhs [Section 206C(1F)] - 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.										
(4)	Remittance under LRS of RBI or purchase of an overseas tour package [Section 206C(1G)] - Every person, <ul style="list-style-type: none"> - being an authorized dealer, who receives amount under the Liberalised Remittance Scheme (LRS) of the RBI for remittance from a buyer, being a person remitting such amount, - being seller of an overseas tour programme package who receives any amount from the buyer who purchases the package has to collect tax at the time of debiting of 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. <p>Rate of TCS in case of collection by an authorized dealer/ seller of an overseas tour programme package</p> <table> <tr> <th>S. No.</th><th>Amount and purpose of remittance</th><th>Rate of TCS upto 30.9.2023</th><th>Rate of TCS on or after 1.10.2023</th></tr> <tr> <td>(i)</td><td>Where the amount is for purchase of an overseas tour programme package</td><td>5% of such amount (without any threshold limit)</td><td>5% till ₹ 7 lakhs, 20% thereafter</td></tr> </table>			S. No.	Amount and purpose of remittance	Rate of TCS upto 30.9.2023	Rate of TCS on or after 1.10.2023	(i)	Where the amount is for purchase of an overseas tour programme package	5% of such amount (without any threshold limit)	5% till ₹ 7 lakhs, 20% thereafter
S. No.	Amount and purpose of remittance	Rate of TCS upto 30.9.2023	Rate of TCS on or after 1.10.2023								
(i)	Where the amount is for purchase of an overseas tour programme package	5% of such amount (without any threshold limit)	5% till ₹ 7 lakhs, 20% thereafter								

	(ii)	(a) Where the amount is remitted for the purpose of education or medical treatment; and (b) the amount or aggregate of the amounts being remitted by a buyer is less than ₹ 7 lakhs in a financial year	Nil (No tax to be collected at source)	Nil (No tax to be collected at source)
	(iii)	(a) Where the amount is remitted for the purpose other than mentioned in (ii) above; and (b) the amount or aggregate of the amounts being remitted by a buyer is less than ₹ 7 lakhs in a financial year	Nil (No tax to be collected at source)	Nil (No tax to be collected at source)
	(iv)	(a) where the amount is remitted for the purpose of education or medical treatment; and (b) the amount or aggregate of the amounts in excess of ₹ 7 lakhs is remitted by the buyer in a financial year	5% of the amt or agg. of amts in excess of ₹ 7 lakh	5% of the amt or agg. of amts in excess of ₹ 7 lakh
	(v)	(a) where the amount is remitted for the purpose other than mentioned in (iv) above; and (b) the amount or aggregate of the amounts in excess of ₹ 7 lakhs is remitted by the buyer in a financial year	5% of the amt or agg. of amts in excess of ₹ 7 lakh	20% of the amt or agg. of amts in excess of ₹ 7 lakh
	(vi)	(a) where the amount being remitted out is a loan obtained from any financial institution as defined in section 80E, 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 ₹ 7 lakh	0.5% of the amt or agg. of amts in excess of ₹ 7 lakh

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)	<p>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 or any other person notified by the Central Government, subject to fulfillment of conditions stipulated thereunder.</p> <p>Accordingly, the CBDT has, vide notification no. 99/2022 dated 17.8.2022, notified that the provisions of section 206C(1G) would not apply to a person (being a buyer) who is a non-resident in terms of section 6 and does not have a permanent establishment in India.</p>
(5)	<p>Sale of goods of value exceeding ₹ 50 lakh [Section 206C(1H)] - Every person, being a seller, who receives any amount as consideration for sale of goods of the value exceeding ₹ 50 lakhs in a previous year, other than exported goods or goods covered in (a)/(c)/(d)], is required to collect tax at source, at the time of receipt of such amount, @0.1% of the sale consideration exceeding ₹ 50 lakhs.</p> <p>However, tax is 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.</p>
(6)	<p>In case of non-furnishing of PAN [PAN or Aadhaar number in case of section 206C(1H)] by the collectee to the collector, tax is required to be collected at the higher of –</p> <ul style="list-style-type: none"> (i) twice the rate specified in the relevant provisions of the Act; or (ii) at 5% [1%, in case tax is required to be collected at source u/s 206C(1H)]. [Section 206CC] <p>However, the maximum the rate of TCS under this section shall not exceed 20%. The provisions of section 206CC do not apply to a non-resident who does not have a permanent establishment in India.</p>
(7)	<p>Section 206CCA requires tax to be collected at source on any sum or amount received by a person from a specified person, at higher of the following rates –</p>

- (a) at twice the rate specified in the relevant provision of the Act;
- (b) at 5%

However, the maximum the rate of TCS under this section shall not exceed 20%.

In case the provisions of section 206CC are also applicable to the specified person, in addition to the provisions of section 206CCA, then, tax is required to be collected at higher of the two rates provided in section 206CC and section 206CCA.

Meaning of “specified person” – A person who has not furnished the return of income for assessment year relevant to the previous year immediately preceding the financial year in which tax is required to be collected, for which the time limit for furnishing the return of income under section 139(1) has expired, and the aggregate of tax deducted at source and tax collected at source in his case is ₹ 50,000 or more in the said previous year.

However, the specified person would not include

- a non-resident who does not have a permanent establishment in India ; or
- a person who is not required to furnish the return of income for the assessment year relevant to the said previous year and is notified by the Central Government in this behalf.



TEST YOUR KNOWLEDGE

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

Total turnover for the financial year -

Particulars	₹
2022-23	1,05,00,000
2023-24	95,00,000

Examine whether tax deduction at source provisions are attracted for the below said expenses incurred during the financial year 2023-24:

Particulars	₹
Interest paid to UCO Bank on 15.8.2023	41,000
Contract payment to Raj (2 contracts of ₹ 12,000 each) on 12.12.2023	24,000
Shop rent paid (one payee) on 21.1.2024	2,50,000
Commission paid to Balu on 15.3.2024	7,000

2. Compute the amount of tax deduction at source on the following payments made by M/s S Ltd. during the financial year 2023-24 as per the provisions of the Income-tax Act, 1961.

S. No.	Date	Nature of Payment
(i)	1-10-2023	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)	1-11-2023	Payment of fee for technical services of ₹ 25,000 and Royalty of ₹ 20,000 to Mr. Shyam who is having PAN.
(iii)	30-06-2023	Payment of ₹ 25,000 to M/s X Ltd. for repair of building.

(iv)	01-01-2024	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 or its associates.
(v)	01-01-2024	Payment of ₹ 2,30,000 made to Mr. Bharat for compulsory acquisition of his house as per law of the State Government.
(vi)	01-02-2024	Payment of commission of ₹ 14,000 to Mr. Y.

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 on 27.9.2023.
 - (b) Fee paid on 1.12.2023 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 01-01-2023.
4. Examine the applicability of tax deduction at source provisions, the rate and amount of tax deduction in the following cases for the F.Y. 2023-24:
 - (1) Payment made by a company to Mr. Ram, sub-contractor, ₹ 3,00,000 with outstanding balance of ₹ 1,20,000 shown in the books as on 31.3.2024.
 - (2) Winning from horse race ₹ 1,50,000 paid to Mr. Shyam, an Indian resident.
 - (3) ₹ 2,00,000 paid to Mr. A, a resident individual, on 22-02-2024 by the State of Uttar Pradesh on compulsory acquisition of his urban land.
5. Briefly discuss the provisions relating to payment of advance tax on income arising from capital gains and casual income.

ANSWERS

1. As the turnover of business carried on by Ashwin for F.Y. 2022-23, has exceeded ₹ 1 crore, he has to comply with the tax deduction provisions during the financial year 2023-24, subject to, 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 @10% under section 194-I as the annual rental payment exceeds ₹ 2,40,000.

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

2. (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 30.06.2023 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 or associate of such 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 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.

3. (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 in case of business or ₹ 50 lakhs in case of profession, 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, 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 if such sum or aggregate of such sum exceeds ₹ 50 lakhs during the financial year.

In the given case, the fees for professional service to Dr. Srivatsan is paid on 1.12.2023 for a personal purpose, therefore, section 194J is not attracted. Section 194M would have been attracted, if the payment or aggregate of payments exceeded ₹ 50 lakhs in the P.Y.2023-24. However, since the payment does not exceed ₹ 50 lakh in this case, there is no liability to deduct tax at source under section 194M also.

- (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.

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

$$= ₹ 19,000 \times 10\% = ₹ 1,900$$

4. (1) 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% in case the payment is made to an individual.

Since the aggregate amount credited or paid 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**

- (2) 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%.

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

- (3) 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, 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.

5. 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, 194BA 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.

[illegible]

