

E BOOK ON TDS

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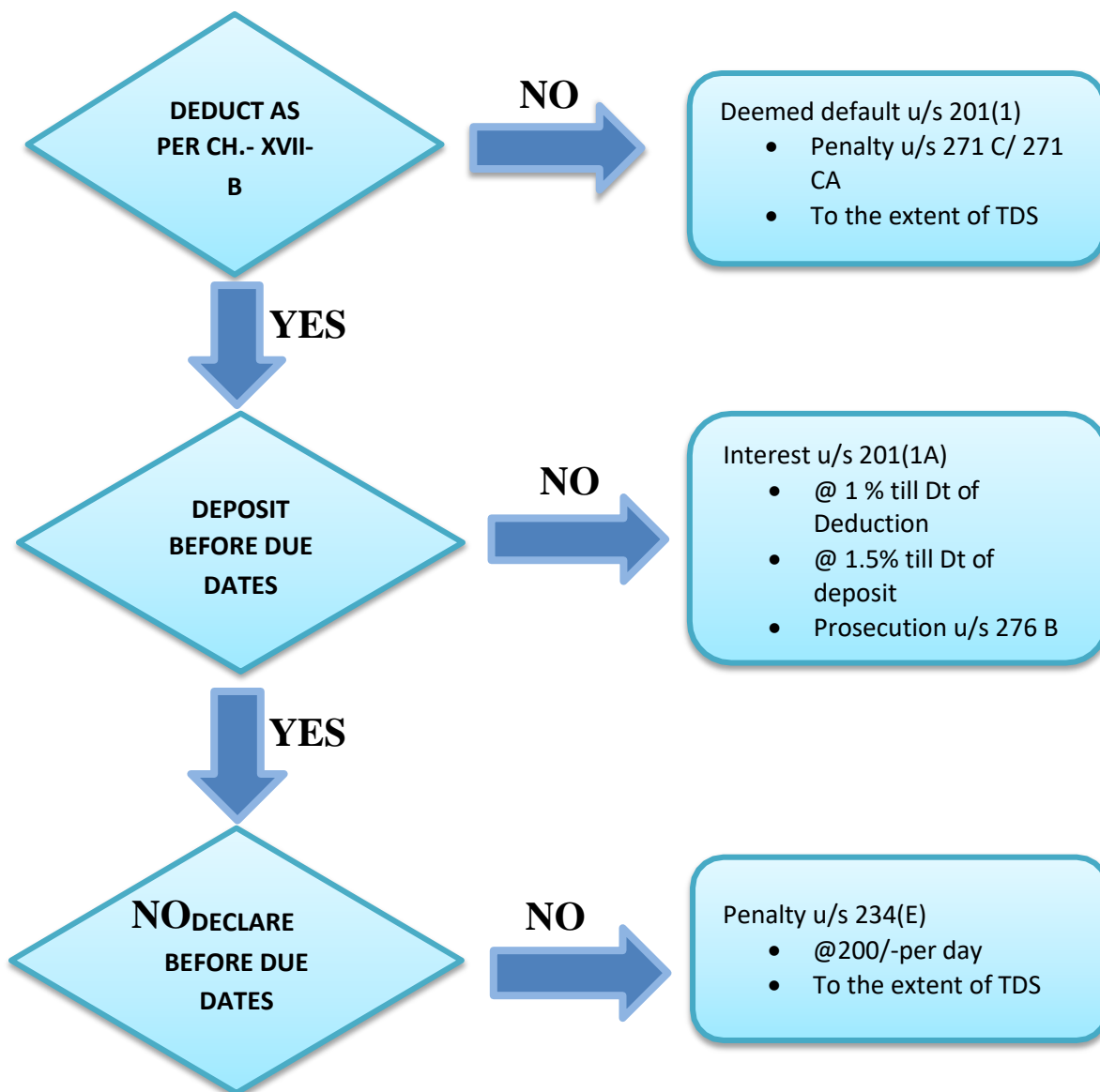
TBM

The TDS System

Deduct → **As Per Provisions of Ch. XVII-B**

Deposit → **within Due Dates**

Declare → **By Filing TDS Statements**



INTRODUCTION TO TDS

TDS stands for '**Tax Deducted at Source**'. It was introduced to collect tax at the source from where an individual's income is generated. The government uses TDS as a tool to collect tax in order to minimize tax evasion by taxing the income (partially or wholly) at the time it is generated rather than at a later date.

TDS is applicable on the various incomes such as salaries, interest received, commission received etc. TDS is not applicable to all incomes and persons for all transactions. Different rates of TDS have been prescribed by the Income Tax Act for different payments and different categories of recipients

TDS works on the concept that every person making specified type of payments to any person shall deduct tax at the rates prescribed in the Income Tax Act at source and deposit the same into the government's account.

The person who is making the payment is responsible for deducting the tax and depositing the same with government. This person is known as '**deductor**'. On the other hand, the person who receives the payment after the tax deduction is called '**deductee**'.

How TDS works

The entity making a payment (which is subject to TDS) deducts a certain percentage of the amount paid, as tax and pays the balance to the recipient. The recipient also gets a certificate from the deductor stating the amount of TDS. The deductee can claim this TDS amount as tax paid by him (i.e. the deductee) for the financial year in which it is deducted.

The deductor is duty bound to deposit the TDS with the government. Once deposited this amount reflects in the Form 26AS of individual deductees on the TRACES website linked to the income tax department's e-filing website.

Form26AS is a statement which shows the amount of tax deducted and deposited in a person's name/PAN. An individual can, therefore, view/check the TDS from incomes paid to him by viewing this Form 26AS. Each deductor is also duty bound to issue a TDS certificate certifying how much amount is deducted in the deductee's name and deposited with the government.

TDS only applicable above a threshold level

One must remember that TDS on specified transactions is deducted only when the value of payment is above the specified threshold level. No TDS will be deducted if the value does not cross the specified level. Different threshold levels are specified by the Income Tax department for different payments such as salaries, interest received etc. For example, there will be no TDS on the total interest received on FD/FDs from a single bank if it is less than Rs 10,000 in a year from that bank.

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Section 192 – TDS on Salary

1) Who is responsible to deduct tax u/s 192?

All persons paying salary are responsible to deduct TDS on income chargeable under the head -Salary. In other words none of the payer of Salary is excluded; Individual, HUF, Partnership firms, companies, cooperative societies, Trust and other artificial judicial persons have to deduct TDS on Salary.

2) Who is the payee?

Any employee having taxable income under the head -Salary shall be treated as payee for TDS u/s 192. For application of S. 192, there must exist employer employee relationship between payer and payee.

For e.g

- I. Director of company is not employee and as such no TDS u/s 192 on any amount paid to director
- II. Visiting professors are not employees and therefore no TDS u/s 192 on the amount paid by the institutions to the visiting faculty.

3) Is TDS deducted on Salary Paid to Non-resident Employees?

Yes, TDS to be deducted by employers on payments made to nonresident employee u/s 192.

4) When to Deduct TDS under Section 192?

Liability to deduct tax at source shall arise at the time of actual payment of salary and not at the time of accrual. Thus, the employer is not required to deduct tax at source when salary has not been paid but merely credited to the account of the employee. Although, as per section 15 the salary is taxable in the hands of the employee either at the time of actual receipt or at the time of accrual whichever is earlier.

5) Threshold limit

No tax is required to be deducted at source unless the estimated salary exceeds the maximum amount not chargeable to tax.

6) Rate of TDS under Section 192

Under section 192 there is no specific TDS rate. TDS to be deducted is calculated according to the tax slabs and rates thereof applicable to the financial year for which the salary is paid. The requirement of deducting TDS u/s 192 shall be worked out, after considering all the exemptions, allowances, rebate and deductions which are available to the employee.

TDS U/s 192 has to be deducted at the average of income tax computed on the basis of rates in force during the financial year. The total tax to be deducted on the estimated income of the employee for the relevant financial year is divided by the number of months of his employment. The amount so arrived is the monthly deduction of tax at source.

However, if the employee does not have PAN No., TDS shall be deducted **20%** without including Health & Education Cess, if the normal tax rate in this case is less than 20%.

7) Whether employer is also liable to deduct TDS on non-monetary perquisites?

Section 192 (1)(A) provides an option to employer to pay tax on behalf of employee on non-monetary perquisites, however it is not mandatory for the employer to pay so. For the purpose of paying tax by employer u/s 1(a) tax shall be determined at the average rate of income tax in force on the income chargeable under the head salaries including the value of non-monetary perquisites.

ILLUSTRATION:

Estimated Salary of an employee below 60 years of age is ₹8.00 lakh out of which ₹50,000/- is on account of non-monetary perquisites and the employer opts to pay the tax on such perquisites as per the provisions of income tax act. Total salary income chargeable to Tax is ₹8.00 lakhs. Employers are required to deduct perquisite tax for the A.Y. 2020-21 computed as follows:

| | |
|---|--------------------|
| Income Chargeable under the head —Salaries inclusive of all perquisites | ₹8,00,000.00 |
| Tax on Total Salary (including Health & Education Cess) | ₹65,000 |
| Average Rate of Tax [(₹65000/₹800000) * 100] | 8.125% |
| Tax payable on ₹50,000/ = (8.125% of ₹50,000) | ₹4062.5/- |
| Amount required to be deposited each month | ₹339/-(₹4062.5/12) |

The tax so paid by the employer shall be deemed to be TDS made from the salary of the employee. This TDS contributed by employer is exempt in the hands of employee.

8) Other relevant points related to section 192

- Every person responsible for paying salary income is first required to estimate the income chargeable under the head -Salaries.
- The value of the perquisites provided by the employers to their employees shall be determined under rule 3 and shall be taken in to account while estimating income under the head -Salaries.
- Further, any income falling under section 10 (income which do not form part of total income) shall not be included in computing the income from salaries for the purpose of section 192 of the Act.
- The person responsible for making payments shall also take into consideration amount deductible under section 80C, 80CCC, 80CCD, 80CCG, 80D, 80DD, 80DDB, 80E, 80EE, 80G, 80GG, 80GGA, 80TTA and 80U.

- e. Section 192(2A) provides that deduction of tax at source is to be made after allowing relief u/s 89(1) and after considering the tax on perquisites agreed to be borne by employer.
- f. Section 192(2D) further casts responsibility on the person responsible for paying any income chargeable under the head 'Salaries' to obtain from the assessee (employee), 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 –
 - i. estimating income of the assessee (employee); or
 - ii. computing tax deductible under section 192(1).
- g. Section 192 (2) provides that where an assessee is employed under more than one employer, then the assessee (employee) may choose the employer for deduction of tax at source. Thereupon, that employer shall deduct tax at source from the aggregate salary of an employee. For this purpose, employee is required to furnish details of salary due or received by him from other employer(s) in Form No. 12B to one of the employers (as chosen by him).
- h. As per the provision of section 192(3), the person responsible for paying the salary may, at the time of deducting tax at source, increase or reduce the amount to be deducted for the purpose of adjusting any excess or deficiency arising out of previous deduction or non-deduction.
- i. In case if the employee furnishes to his employer, the details regarding his losses under other heads of Income, then except of loss under the head Income from house property, no other loss shall be considered by the employer.
- j. In case if the employee furnishes to his employer, the details regarding his other incomes, investments, eligible deductions etc., then for the purpose of TDS u/s 192, the employer shall be bound to consider such information.

9) Tax to be deducted from other incomes of the employee

- The employee may declare his other incomes to the employer for the purpose of tax deduction at source under this section.
- If he wants to declare, then particulars of
 - i. other income (not being a loss) and tax deducted thereon
 - ii. the loss under the head -Income from house propertyll shall be submitted to the employer in a prescribed form and verified in a prescribed manner.
- On receipt of the same, employer shall deduct tax under section 192 after taking into account the other income.
- However, this shall not have the effect of reducing the tax deductible (except where the loss under the head -Income from house propertyll has been taken into account) from salary income below the amount that would be so deductible if the other income and tax deducted thereon had not been taken into account.

10) Whether benefit of lower deduction or no deduction of TDS is available u/s 192?

Yes. However assessee to whom the salary is payable may make an application in Form No. 13 to the Assessing Officer and if the Assessing Officer is satisfied that the total income of the

recipient justifies the deduction of income tax at any lower rate or no deduction of income-tax, he may be given such certificate as may be appropriate.

W.E.F. 1-4-2010, as per section 206AA(4), no certificate under section 197 shall be granted unless the application made in Form No.13 under that section contains the Permanent Account Number of the applicant.

11) Whether provisions of Section 192 shall also apply to salary paid by non-resident employer to a non-resident employee for services rendered in India?

Yes, Provisions of S. 192 shall apply if the salary was paid for services rendered in India even though the employers as well as employee were non-resident and the payment is made outside India.

12) Calculation of salary

Salary included all allowance and calculated after deduction of following

- 1) Leave encashment as per sec 10(10AA)
- 2) House rent allowance (HRA) as per sec 10(13A)
- 3) Interest under the head -House Propertyll
- 4) Donations under sec. 80G – The donations are made under sec 80G (other than to a notified charitable institute) then the employer should allow that donation while calculating tax deductible. When donation is made to a notified public then the employer should not allow that donation while calculating tax deductible.
- 5) Other deductions- Deductions under sections 80C, 80CCC, 80CCD, 80CCG, 80D, 80DD, 80DDB, 80E, 80EE, 80GG, 80GGA, 80TTA, 80U.

The employee needs to file form no. 12BB with the employer, if he wants employer to consider these deductions.

13) TDS on Salary to Partners

Salary or remuneration paid to partners is not taxable in hands of partners as Salary but it is considered as income from business. No employer employee relationship exists between partner and partnership firm.

Explanation 2 of section 15 says that -Any salary, bonus, commission or remuneration, by whatever name called, due to, or received by, a partner of a firm from the firm shall not be regarded as -salaryll.

Therefore no TDS is to be deducted on salary paid to the partners

Some person argues that this provision only applies on salary paid to active partners Salary paid to inactive partners is not allowed as deduction to the partnership firm under section 40(b) but still it's a business income for the partner. The above explanation doesn't differentiate between active or inactive partner and thus salary paid to any partner is not liable to TDS.

14) TDS on Pension and Family Pension

There is difference between -Pensionll and -Family Pensionll for the purposes of Income Tax Act, 1961. The Income Tax treatment for -Pensionll and -Family Pensionll is different.

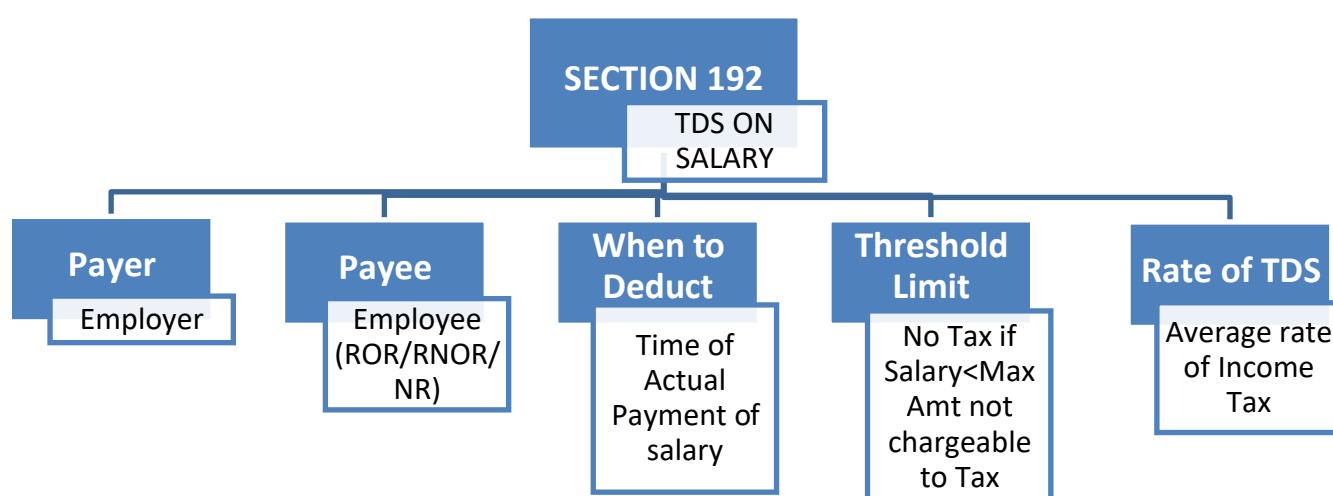
It is pertinent to point out that -Pensionll received from a former employer is taxable under the head -Salaryll since Section 17 of Income Tax Act specifically lays down in clause (ii) of sub-

section (1) that -any annuity or pension is included in -salary. Therefore, -Pension is taxed in the same way as -Salary is taxed.

On the other hand, -Family Pension is taxed under Section 56 as -Income from Other Sources. Now, Section 192 of Income Tax Act makes any income chargeable under the head -Salary subject to Tax Deduction at Source (TDS). Since pension is also considered as Salary, therefore TDS is deducted on pension also, wherever applicable as per the prevailing rates.

On the other hand, Family Pension is not -Salary but an -Income from Other Sources.

Therefore, TDS cannot be deducted on Family Pension under Section 192. Moreover, there is no other Section in the Income Tax Act which makes it mandatory to deduct TDS on family pension. Therefore, there is no TDS deduction on Family Pension.



Special Points

1. Part-Time Directors of the company, visiting professors & visiting doctors are covered u/s 194 J and not covered u/s 192. The whole-time directors are employees of the company and hence TDS is deductible u/s 192.
2. Salary paid to non- resident employee is covered u/s 192.
3. No TDS to be deducted on salary, bonus, commission or remuneration, by whatever name called, due to, or received by, a partner of a firm from the firm.
4. Pension received from former employer is covered u/s 192. Family pension is taxed under the head other sources. Therefore no TDS is deducted from family pension u/s 192.

Section 192A – TDS on Payment of Accumulated Balance Due to an Employee

1) Who is responsible to deduct tax u/s 192A?

Tax is to be deducted by the trustees of Employees' Provident Fund Scheme, 1952 or any other person authorized under the scheme to make payment of accumulated sum to employees.

2) When to Deduct TDS under Section 192A?

Tax is deductible at the time of payment.

3) Which amount is subject to tax deduction?

- a. Tax is deductible from accumulated lump sum payment when the employee has not rendered continuous service of 5 years (other than the cases of termination due to ill health, contraction or discontinuance of business, cessation of employment etc.). RPF is exempt in the hands of the employee if the employee has resigned before completion of 5 years but he joins another employer who maintains recognized provident fund, and provident fund money with the current employer is transferred to the new employer.
- b. Out of the lump sum payment, tax deduction shall be made on that portion of payment which is includible in the total income of the employee. Thus, tax deduction shall be made as under:-

| Component of lump sum payment | Is this component taxable in the hands of employee not completing continuous 5 years of service? | Is it subject to TDS if other conditions of section 192A are satisfied? |
|-------------------------------------|--|---|
| Employer's Contribution | Taxable under head "Salary" | Subject to TDS |
| Interest on Employer's Contribution | Taxable under head "Salary" | Subject to TDS |
| Employee's Contribution | Not Taxable | No TDS required |
| Interest on Employee's Contribution | Taxable under head "Other Sources" | Subject to TDS |

4) Threshold limit

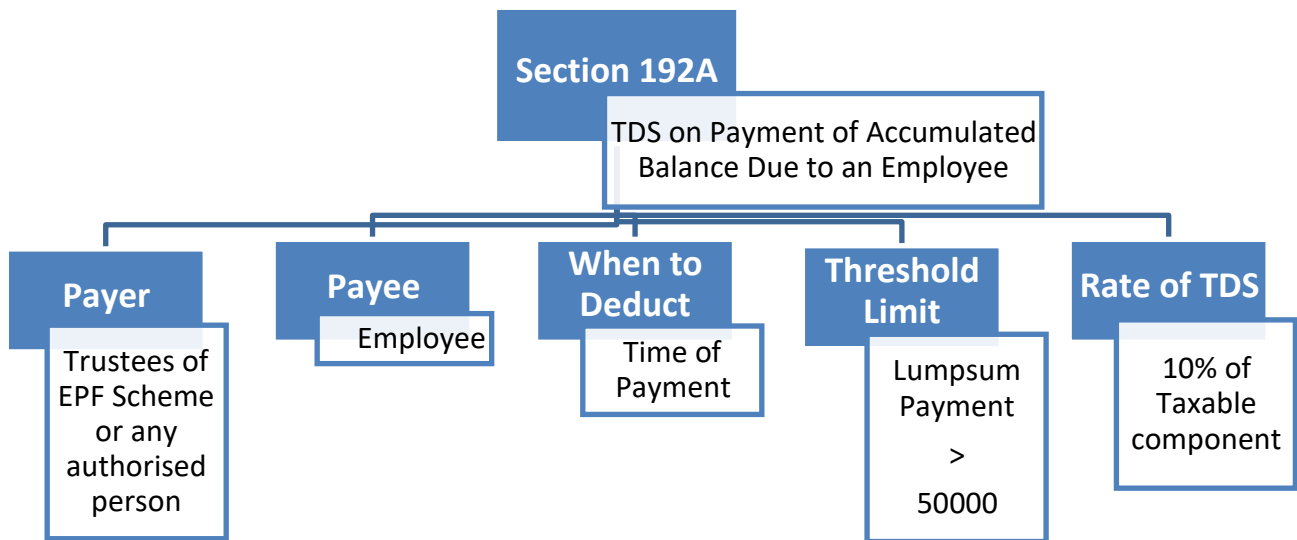
Tax is not deductible where aggregate amount of taxable component of lump sum payment is less than **₹50,000**.

5) Rate of TDS under Section 192A

Tax is deductible at the rate of 10 per cent of taxable component of lump sum payment. However, if employee fails to furnish PAN, then tax shall be deducted at maximum marginal rate.

6) No deduction of tax at source

No deduction of tax is to be made if the recipient of income furnishes a declaration in writing in duplicate in prescribed form [Form No. 15G].



Section 193 – TDS from Interest on Securities

1) Who is responsible to deduct tax u/s 193?

Any person responsible for paying any interest on securities to a resident is required to deduct tax at source.

2) When to Deduct TDS under Section 193?

Tax shall be deducted under this section, either at the time of credit to the account of the payee or at the time of payment thereof, whichever is earlier.

For this purpose, credit to -Interest payable accountll or -Suspense accountll or any other name shall be deemed to be a credit of such income to the account of the payee.

For this purpose, -paymentll can be in cash or by issue of a cheque or draft or by any other mode.

3) Meaning of interest on securities

Section 2(28B) defines interest on securities. It means:

- a) interest on any security of Central Government or State Government
- b) interest on debentures or
- c) interest on 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.

4) Rate of TDS under Section 193

As per section 193 read with Part II of First Schedule of Finance Act, tax is to be deducted @ 10% from the amount of interest.

1. No surcharge, plus Health & Education Cess shall be added to the above rates. Hence, tax will be deducted at source at the basic rate.
2. As per section 206AA(1), if the permanent account number is not provided by the deductee, the tax shall be deducted at the higher of the following rates, namely:—
 - i. at the rates specified in the relevant provisions of the Act
 - ii. at the rate or rates in force
 - iii. at the rate of 20%.
3. Further, as per section 206AA(4), no certificate under section 197 for deduction of tax at Nil rate or lower rate shall be granted unless the application made under that section contains the Permanent Account Number of the applicant.
4. Similarly, declaration under 15G/15H shall not be valid if it does not contain the permanent account number of the declarant. In case any declaration becomes invalid, the deductor shall deduct the tax @ 20%.

5) When No Tax shall be deducted U/s 193?

In the following cases tax is not to be deducted under section 193:

A. Interest payable to insurance companies, etc.:

Any interest payable to:—

- i. Life Insurance Corporation of India;
- ii. General Insurance Corporation of India or any of four companies formed under it;
- iii. Any other insurer, in respect of any securities owned by them, or in which they have full beneficial interest.

B. Interest paid or credited by widely held company not exceeding ₹ 5,000:

No tax is to be deducted at source if the following conditions are satisfied:

- i. if debentures are issued by a widely held company;
- ii. such debentures may or may not be listed on a stock exchange in India;
- iii. interest is paid/payable to an individual or HUF who is resident in India; and
- iv. interest is paid by account payee cheque; and
- v. the amount or the aggregate of the amounts of such interest paid or payable during the financial year does not exceed ₹ 5,000.

C. Any interest payable on any security issued by a company, where such security is in dematerialized form and is listed on a recognized stock exchange in India in accordance with the Securities Contracts (Regulation) Act, 1956 and the rules made thereunder.

D. Interest paid or credited on 8% saving (Taxable) Bonds 2003 issued by the Central Government provided the interest on such bonds does not exceed ₹ 10,000.

E. Where a self-declaration under Form No. 15G/15H is furnished by a particular person [Section 197A (1A), (1B) and (1C)]:

A person, other than a company or firm may furnish a declaration in writing in duplicate in new Form No. 15G to the payer to the effect that there is no tax payable on his Total Income. In this case, the payer shall not deduct any tax at source.

F. Any payment made to New Pension System Trust [Section 197A (1E)]:

No deduction of tax shall be made from any payment to any person for, or on behalf of, the New Pension System Trust referred to in section 10(44).

G. No deduction of tax from specified payment to notified institutions, association or body, etc. [Section 197A (1F)]:

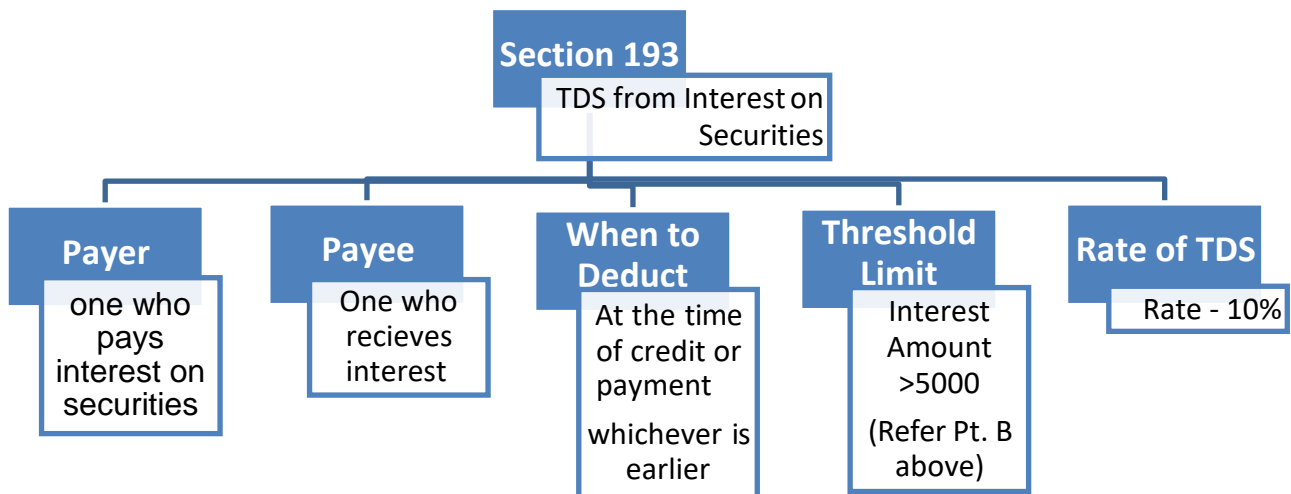
No deduction of tax shall be made from such specified payment to such institution, association or body or class of institutions, associations or bodies as may be notified by the Central Government in the Official Gazette, in this behalf. No tax shall be deducted at source from the payments of the nature specified under section 10(23DA) received by any securitization trust.

H. Certain entities required to file return under section 139(4A) or 139(4C) [Rule 28AB]:

As per rule 28AB certain entities who are required to file their return of income under section 139(4A) or 139(4C) may apply under Form No. 13 for no deduction of tax at source provided certain conditions are satisfied.

I. Certain entities whose income is unconditionally exempt under section 10:

In case of certain entities whose income is unconditionally exempt under section 10 and who are statutorily not required to file return under section 139 there will be no requirement for TDS since their income is in any way exempt.



Section 194 – TDS on payment of dividend

1) Who is responsible to deduct tax u/s 194?

The principal officer of an Indian company or a company which has made the prescribed arrangements for the declaration and payment of any dividend to a shareholder, who is resident in India, is required to deduct tax at source.

2) When to Deduct TDS under Section 194?

Such tax shall be deducted before making payment of dividend.

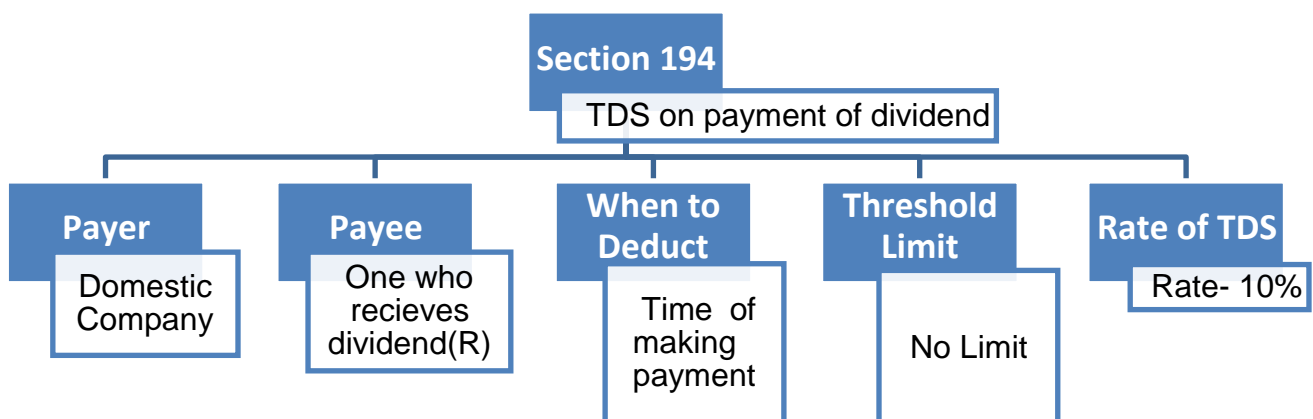
3) Rate of TDS under Section 194

Tax is to be deducted at the rate of 10%. If the recipient of income doesn't furnish his PAN to deductor then TDS is to be deducted at the rate of 20%.

4) TDS is not required to be deducted if:

- Dividend covered by section 115-O
- Declaration is made in form 15G or 15H
- Any dividend payable to LIC, GIC or its subsidiaries or any other insurer in respect of shares owned by them or in which they have full beneficial interest

Note- There is no TDS on dividend exceeding ₹10,00,000 which is taxable under section 115BBDA.



Section 194A – TDS on Interest (other than Interest on Securities)

1) Who is responsible for tax deduction (payer)?

The person (other than an individual or a Hindu Undivided Family) who is responsible for paying to a resident any income by way of interests other than 'interest on securities' is required to deduct tax thereon at the rates in force.

An individual or a HUF is liable to deduct TDS under section 194A, if total sales, gross receipts or turnover from the business or profession carried on by him exceed the monetary limits specified under clause (a) or clause (b) of section 44AB during the financial year immediately preceding the financial year in which such interest is credited or paid.

Section 44AB

Every person,—

- a) Carrying on business shall, if his total sales, turnover or gross receipts, as the case may be, in business exceed or exceeds one crore rupees in any previous year; or
- b) Carrying on profession shall, if his gross receipts in profession exceed fifty lakh rupees in any previous year;

ILLUSTRATION-

Mr. A, proprietor of AB enterprises made turnover of ₹ 150 lakhs during previous year 2017-18, his turnover for the year ended 31-03-2019 was ₹ 85 lakhs. Decide whether he is liable to deduct tax at source under section 194A in PY 2018-19?

Since Mr. A's turnover exceeds ₹ 100 lakhs in the immediately preceding financial year i.e. FY 2017-18, he is liable to deduct tax at source under section 194A in the previous year 2018-19, irrespective of his turnover being less than ₹ 100 lakhs in the Financial year 2018-19. He will not be required to deduct tax for the FY 2019-20 as his turnover for the FY 2018-19 is below ₹ 100 Lakhs. It is to be noted that if a proprietor or HUF is required to get its account audited under section 44AB clause (c) or clause (d) or clause (e) of income tax act, 1961, then TDS is not required to be deducted.

Section 44AB

Every person,—

- (c) carrying on the business shall, if the profits and gains from the business are deemed to be the profits and gains of such person under section 44AE or section 44BB or section 44BBB, as the case may be, and he has claimed his income to be lower than the profits or gains so deemed to be the profits and gains of his business, as the case may be, in any previous year; or
- (d) carrying on the profession shall, if the profits and gains from the profession are deemed to be the profits and gains of such person under section 44ADA and he has claimed such income to be lower than the profits and gains so deemed to be the profits and gains of his profession and his income exceeds the maximum amount which is not chargeable to income-tax in any previous year; or
- (e) carrying on the business shall, if the provisions of sub-section (4) of section 44AD are applicable in his case and his income exceeds the maximum amount which is not chargeable to income-tax in any previous year

Therefore if any partnership firm, LLP, Company, AOP, society pays interest exceeding the threshold limit, it is required to deduct TDS. However an individual or HUF is required to deduct TDS only if the receipts from business or profession of such individual or HUF exceeds the limits specified u/s 44AB.

2) Who is the recipient?

A resident person

3) What is the nature of payment covered?

Interest other than interest on securities

4) When is tax to be deducted?

At the time of credit or payment, whichever is earlier.

5) What is the rate of tax deduction?

i) 10%

ii) 20% (if no PAN is furnished)

No surcharge, plus Health & Education Cess shall be added to the above rates. Hence, tax will be deducted at source at the basic rate.

6) When TDS on Interest (other than Interest on Securities) under section 194A not deductible?

TDS under section 194A is not deductible where the aggregate amount of interest credited/paid (or likely to be credited/paid) during the FY does not exceed the amount given below:

| Payer | Threshold limit (₹) (w.e.f. 01.04.2019) | Threshold limit (₹) for Senior Citizen (w.e.f. 01.04.2018) |
|---|--|--|
| Banking company (on time deposit) | 40,000 | 50,000 |
| Co-operative society carrying on banking business (on time deposit) | 40,000 | 50,000 |
| Post office (on SCSS) | 40,000 | 50,000 |
| Any other person | 5,000 | 5,000 |

Time deposits shall include recurring deposits within its scope for the purposes of deduction of tax under section 194A. However, the existing threshold limit of ₹40,000 for non-deduction of tax shall also be applicable in case of interest payment on recurring deposits to safeguard interests of small depositors.

7) How threshold limit on interest income under section 194A computed?

Until 31st May, 2015, the threshold limit was computed with reference to the income credited/paid by a branch of the banking company or co-operative society, as applicable.

W.e.f. 1st June 2015, the computation of interest income for the purposes of deduction of tax under section 194A should be made with reference to the income credited/paid by the banking company or the co-operative society or the public company (i.e. all branches) which has adopted core banking solutions.

8) When provisions of under section 194A are not applicable?

Tax u/s 194A is not deductible in the following cases:

- 1) The aggregate amount of interest credited/paid (or likely to be credited/paid) during the FY does not exceed the specified threshold limit.(SEE POINT 6)
- 2) Interest is paid/credited to any banking company, co-operative bank, public financial institutions, LIC, UTI, an insurance company, co-operative society carrying the business of insurance or notified institutions.
- 3) Interest is paid/credited by the firm to its partner(s).

ILLUSTRATION-

M/s. X & Co., partnership firm, pays ₹ 15000 as interest on capital to partner Mr. R, a resident in India and ₹ 25000 as interest on capital to partner Mr. N, a non-resident.

In such a case, as per section 194A tax is not to be deducted from interest paid or payable by a partnership firm to its partner, who is resident in India. Hence, the firm need not deduct tax at source from payment of interest to its partner, Mr. R.

However, payment of interest by the firm to its non-resident partner is not governed by Section 194A. The same is governed by Section 195, which requires deduction of tax at source from interest paid or payable to any non-resident.

- 4) Interest is paid/credited by co-operative society (other than co-operative bank wef 1st June,2015)to its members [i.e. interest on time deposits /other deposits to members holding one share] or to any other co-operative society.
- 5) Interest is paid/credited in respect of deposits under the schemes of Post Office (Time Deposits), Post Office (Recurring Deposits), Post Office Monthly Income A/c, KisanVikasPatra, NSC VIII Issue, Indira VikasPatra.
- 6) Interest is paid/credited on deposits (other than time deposit made on/after July 1, 1995) with a banking company or interest paid/credited to non-members on deposit with a co-operative bank.
- 7) Interest paid/credited in respect of deposits (by non-members) with a primary agricultural credit society or primary credit society or co-operative land mortgage bank or co-operative land development bank.
- 8) Interest paid/credited by Central Govt under different provisions of Direct Taxes.
- 9) Interest paid/credited on compensation awarded by the Motor Accidents Claim Tribunal if the aggregate amount does not exceed ₹50,000. Threshold limit of ₹50,000 is applicable separately where interest is to be shared by 2 or more claimants. (W.e.f. 1st June 2015, deduction of tax u/s 194A from interest payment on the compensation amount awarded by the Motor Accident Claim Tribunal shall be made only at the time of payment, if the amount of such payment or aggregate amount of such payments during the FY exceeds ₹50,000.)

- 10) Income paid/payable by an infrastructure capital company/fund or public sector company in relation to zero coupon bonds.
- 11) Interest paid/payable by an Offshore Banking Unit on deposits made (or borrowings) on/after Apr 1, 2005, by a person who is resident but not ordinarily resident in India
- 12) Interest referred to in section 10(23FC)*.

***Section 10(23FC)-**

Any income of a business trust by way of interest received or receivable from a special purpose vehicle.

Explanation.—For the purposes of this clause, the expression “special purpose vehicle” means an Indian company in which the business trust holds controlling interest and any specific percentage of shareholding or interest, as may be required by the regulations under which such trust is granted registration.

9) When is tax deducted at nil rate or lower rate?

A. When a declaration is submitted in form 15G/15H u/s 197A:

If a declaration is submitted u/s 197A by the recipient to the payer along with his/her PAN, then no tax is deductible if the following conditions are satisfied:

- 1) Recipient is a person other than a company/firm
- 2) Tax on total income of the previous year (PY) is nil
- 3) Total income does not exceed the exemption limit (i.e. for AY 2020-21, ₹2,50,000 or ₹3,00,000 or ₹5,00,000, as applicable). This condition is not applicable if the recipient is a resident senior citizen.

Such a declaration shall be given in duplicate in form 15G (15H for senior citizens). In case of Senior Citizens Saving Scheme, 2004 (SCSS), investors can submit the declaration. Nominees of investors of SCSS can also produce the declaration at the time of payment after the death of the depositor. On submission of declaration to the bank, bank shall not deduct tax (subject to the conditions) on payment of interest

ILLUSTRATION: DIFFERENCE BETWEEN FORM 15G AND FORM 15H:-

| Age / Person | 50 years (P1) | 21 years (P2) | 65 years (P3) | 68 years (P4) |
|--|--|---|---|---|
| Salary | ₹ 1,80,000 | — | — | — |
| Pension | — | — | 1,00,000 | — |
| Fixed Deposit interest income | ₹ 85,000 | ₹ 2,60,000 | ₹ 1,80,000 | ₹ 3,30,000 |
| Total Income before allowing section 80 Deductions | 2,65,000 | 2,60,000 | 2,80,000 | 3,30,000 |
| Deductions under section 80 | ₹ 45,000 | ₹ 30,000 | ₹ 10,000 | ₹ 55,000 |
| Taxable income | ₹ 2,20,000 | ₹ 2,30,000 | ₹ 2,70,000 | ₹ 2,75,000 |
| Minimum exempt income | ₹ 2,50,000 | ₹ 2,50,000 | ₹ 3,00,000 | ₹ 3,00,000 |
| Eligible to submit Form 15G | Yes | No | No | No |
| Eligible to submit Form 15H | No | No | Yes | Yes |
| Explanation | Form 15G can be submitted as age is less than 60 years. Total tax is nil and interest income is less than minimum exempt income. | Form 15G cannot be submitted since interest income is more than the basic exemption limit | Form 15H can be submitted if age is more than 60 years and tax calculated on total income is nil. | Form 15H can be submitted as age is more than 60 years and tax calculated on total income is nil. Form 15H can be submitted although interest income exceeds basic exemption limit. |

B. When an application is submitted in form 13 u/s 197:

As per provisions of section 197, the recipient can apply in **form no.13** to the Assessing Officer to get a certificate authorizing the payer to deduct tax at lower rate (or deduct no tax, if certain conditions are satisfied). There is no time limit for application and it can be filed at any time before actual deduction of tax. If the recipient does not have PAN, he cannot apply for the certificate.

The certificate shall be issued, directly to the person responsible for paying income, on a plain paper, under an advice to the applicant. The certificate cannot be issued with retrospective effect. The recipient may furnish copy of such certificate to the person responsible for paying the income for lower/no deduction of tax at source.

10) TDS under Section 194A on Interest payable by consignors to their commission agents

Tax is to be deducted at source even where such interest is paid under an arrangement whereby the commission agent retains for himself/herself the interest due to him/her at the time of paying to the consignor the moneys due to him/her on account of the consignment.

11) TDS under Section 194A on Cheque discounting charges

Provisions of sec 194A are not applicable in case of cheque discounting charges as such charges are different from interest payments.

12) Whether Tax shall be deducted under section 194A of the act on interest on Fixed Deposits made in the name of Registrar General of Court?

- **The CBDT has made following observation in its Circular No. 23/2015, dated 28-12-2015 on the above issue:**

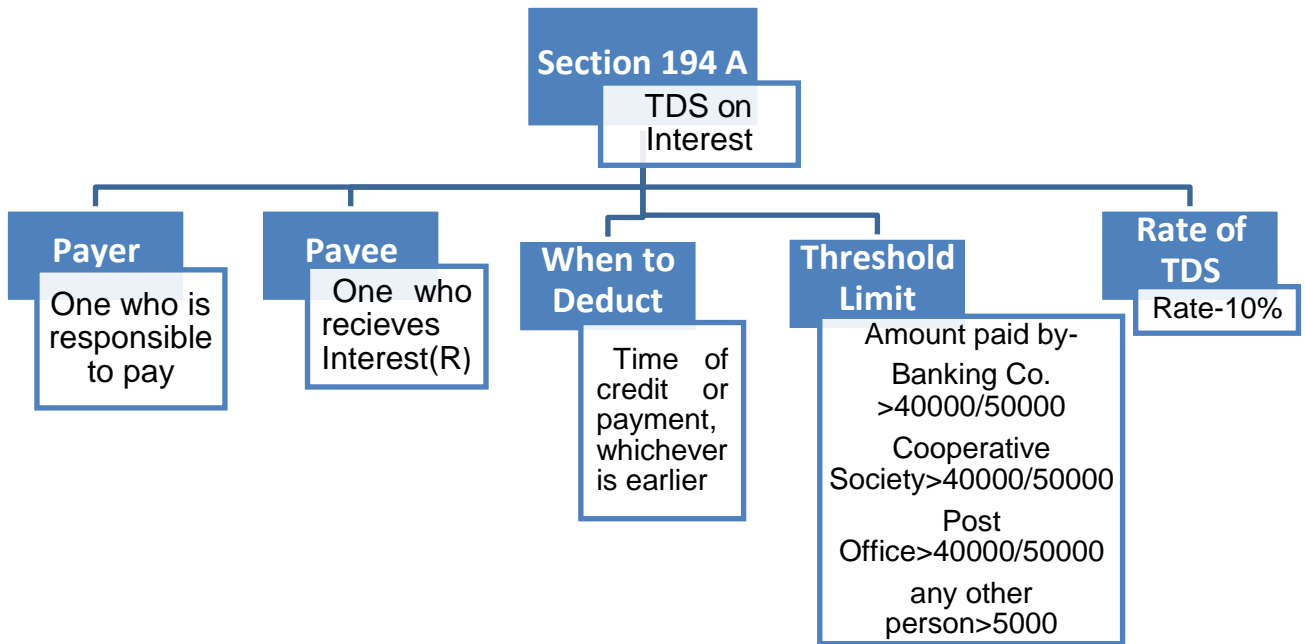
In the case of **UCO Bank in Writ Petition No. 3563 of 2012** (available on NJRS at 2014) and **CM No. 7517/2012** vide judgment dated 11/11/2014, the Hon'ble Delhi High Court has held that the provisions of section 194A do not apply to fixed deposits made in the name of Registrar General of the Court on the directions of the Court during the pendency of proceedings before the Court. In such cases, till the Court passes the appropriate orders in the matter, it is not known who the beneficiary of the fixed deposits will be. Amount and year of receipt is also unascertainable. The Hon'ble High Court thus held that the person who is ultimately granted the funds would be determined by orders that are passed subsequently. At that stage, undisputedly, tax would be required to be deducted at source to the credit of the recipient. The High Court has also quashed Circular No. 8 of 2011.

- **Clarification from CBDT:**

The Board has accepted the aforesaid judgment. Accordingly, it is clarified that interest on FDRs made in the name of Registrar General of the Court or the depositor of the fund on the directions of the Court, will not be subject to TDS till the matter is decided by the Court. However, once the Court decides the ownership of the money lying in the fixed deposit, the provisions of section 194A will apply to the recipient of the income.

In whose name TDS shall be made when interest income accrued to minor child and both the parents have deceased?

The Principal Director General of Income tax (Systems) has, in exercise of the powers delegated by the CBDT under Rule 31A (5), specified that in case of minors where both the parents have deceased, TDS on the interest income accrued to the minor is required to be deducted and reported against PAN of the minor child unless a declaration is filed under Rule 37BA (2) that credit for tax deducted has to be given to another person.



Section 194B – TDS on winnings from Lottery, Game Shows, and Puzzle etc.

1) Who is responsible to deduct tax u/s 194B?

The person responsible for paying to any person any income by way of winnings from any lottery or crossword puzzle, card game and other game of any sort in an amount exceeding ₹ 10,000 shall, deduct income-tax thereon at the rates in force.

Therefore, no tax is to be deducted where the amount of winning from each lottery, crossword puzzle, card game, etc. does not exceed ₹ 10,000.

Provided that if the winning is wholly in kind or it is partly in kind & partly in cash and the cash balance is not sufficient enough to meet the TDS liabilities, then Payer shall release the prize only if either-

- (a) He has collected the amount equivalent to TDS amount from the payee.
- (b) He insists the payee to make the payment of TDS on his own & submit the proof to the payer.

2) When to Deduct TDS from winning from Lottery, Card Games etc. Under Section 194B?

At the time of payment of such income. Where lottery or prize money, etc. is paid in instalments, the deduction of tax is to be made at the time of actual payment of each such instalment. No Deduction/Expenditure is allowed from such Income. No deduction under section 80C or 80D or any other deduction/allowance is allowed from such income.

3) Rate of TDS under Section 194B

Rate of TDS is 30%.

No surcharge and Health & Education Cess shall be added. Hence, TDS shall be deductible at basic rates.

ILLUSTRATION-

A T.V. channel pays ₹ 8 lakh as prize money to the winner of a quiz programme, “Kaun banega Crorepati”? Whether T.V. channel is responsible to deduct tax at source on the prize money so distributed?

The prize money so distributed falls within the meaning of -winning from any card game and other game of any sort and therefore, under section 194B, the person responsible for paying the same, shall at the time of payment; deduct tax at 30% provided prize money exceeds ₹ 10,000.

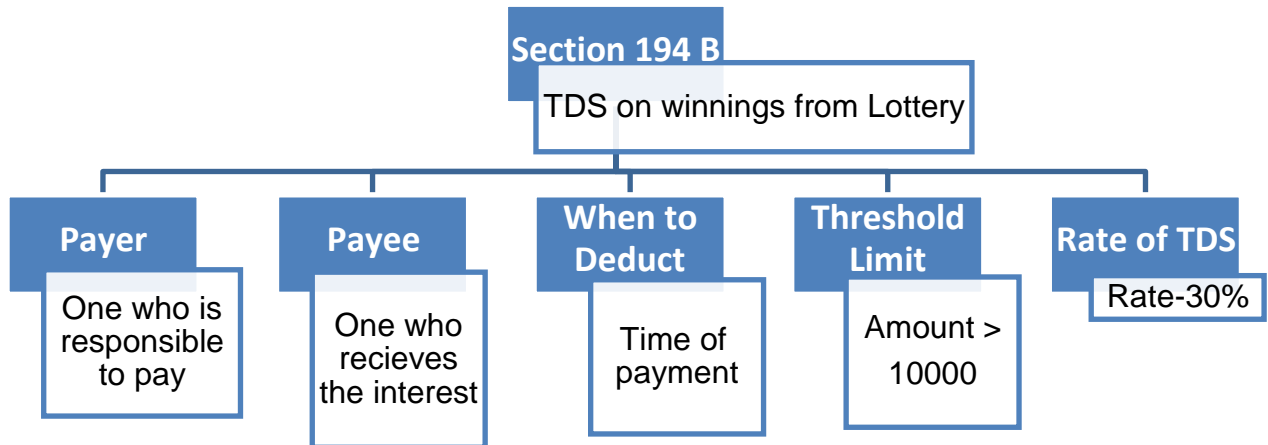
Considering the above, T.V. channel is responsible to deduct tax at source on the prize money so distributed under section 194B of the Act.

4) No TDS on Bonus or Commission payable to Lottery Agents

If out of winning amount of lottery, etc., any bonus or commission is paid/payable to lottery agents or sellers of lottery tickets, or sales made by them, no income tax is to be deducted for that amount paid and tax will therefore be deducted after deducting such bonus and commission.

ILLUSTRATION-

Mr. M wins a lottery price of ₹ 1,10,000. A sum of ₹ 6,000 is deducted for payment to the lottery agent. Tax will be deducted on ₹ 1,04,000 after allowing bonus/ commission paid to agent.



Section 194BB – TDS on Winning from Horse Races

1) Who is responsible to deduct tax u/s 194BB?

Any person, who is responsible for paying to any person any income by way of winnings from any horse race an amount exceeding ₹10,000 (~~₹5,000~~ upto 31.5.2016) shall deduct income-tax at the rates in force.

Any person here means a book maker or a person to whom a licence has been granted by the Government under any law for the time being in force for horse racing in any race course or for arranging for wagering or betting in any race course.

2) When to Deduct TDS under Section 194BB?

At the time of payment of such income.

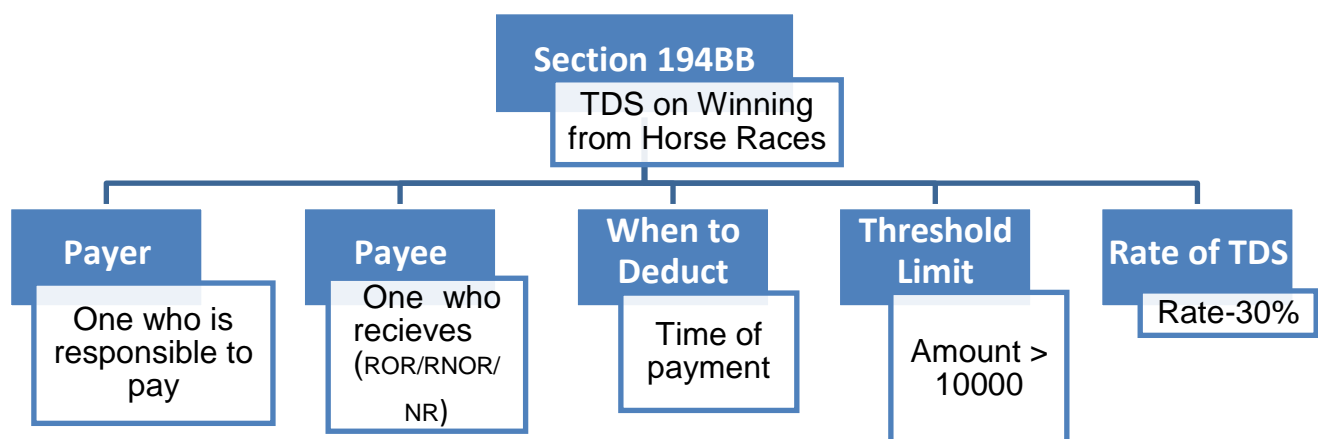
3) Rate of TDS under Section 194BB

Rate of TDS is 30%.

No surcharge and Health & Education Cess shall be added. Hence, TDS shall be deductible at basic rates.

4) Is it possible to get the payment without Tax Deduction or with Lower Tax Deduction under this section?

Not Possible



Section 194C – TDS on Payment to Contractor

1) Who is responsible to deduct tax u/s 194C?

Any person, other than an Individual or HUF, responsible for making payment to a resident contractor or sub-contractor for carrying out any work (including supply of labour) is liable to deduct tax at source under Section 194C.

However, an Individual or HUF, AOP/BOI who is liable to tax audit of accounts under clause (a) or (b) of Section 44AB during the financial year immediately preceding the financial year in which such sum is credited or paid, shall deduct tax under section 194C.

2) Which works contract is covered under Section 194C?

It includes the following:

a) Advertising

b) Broadcasting and telecasting including production of programs for such broadcasting or telecasting

c) Carriage of goods and passengers by any mode other than railways

d) Catering

e) Manufacturing or supplying a product in accordance with requirement or specification of a customer using material purchased from such customer. However, it will not include material purchased from person other than customer.

f) Supply of labour for works contract.

3) When to Deduct TDS under Section 194C?

Any person responsible for making payment to resident contractor/sub-contractor should deduct tax at the time of actual payment to the payee or at the time of credit to the accounts of the payee, whichever is earlier.

5) Rate of TDS under Section 194C

A. 1%, if payment is made to an Individual or HUF

B. 2%, if payment is made to any other person

The tax shall be deducted at these rates without including the surcharge, Health & Education Cess @ 4%.

However, if PAN of recipient is not available, then tax shall be deducted at the rate of 20% in accordance with the provisions of Section 206AA.

In the case of work contract being manufacturing or supplying product according to the specification of customer (by using material purchased from such customer), TDS shall be deducted on the invoice value excluding the value of material purchased from such customer, if such value is mentioned separately in the invoice. Where the material component has not been separately mentioned in the invoice, TDS shall be deducted on the whole of the invoice value.

6) When is TDS under Section 194C not applicable?

Tax is not required to be deducted in the following cases:

- If amount is payable to a person who is engaged in business of plying, hiring or leasing goods carriages and he does not own more than 10 goods carriage vehicle's, during the financial year. Such exemption is provided only if the recipient furnishes his PAN and payer intimate's the details to IT Dept. in TDS Return.
- If amount paid or credited does not exceed ₹ 30,000 in a single payment and ₹ 1,00,000 in aggregate during the financial year.
- If the payment or amount credited to the contractor is for personal use.

7) Will Tax be Deductible at Source on the GST amount charged in the bill?

No tax is to be deducted on the "GST on services" component if separately charged in the bill. GST for these purposes shall include IGST, CGST, SGST and UTGST.

8) TDS at lower rate

According to Section 194C where the AO is satisfied that the total income of contractor or sub-contractor justifies the deduction of income-tax at any lower rate or no deduction of income-tax, as the case may be, the AO shall, on application made by the contractor or sub-contractor in this behalf give to him such certificate as may be appropriate.

ILLUSTRATION 1 – A, an individual whose total sales in business during the year ending March 31, 2018 was ₹1.25 crore, paid ₹ 8 lakhs by cheque on February 15, 2019 to a contractor for construction of his business premises in full and final settlement. No amount was credited earlier to the account of the contractor in the books of A.

An individual is required to deduct tax at source if he was subject to tax audit in the preceding financial year. In the given case, since Mr. A was subject to tax audit in Financial year 31.03.2018(Preceding year), he is required to deduct tax at source on payment made to contractor i.e., on ₹ 8 Lakhs at the applicable rate in force.

ILLUSTRATION 2 -

| | Situations | Whether TDS to be deducted |
|----|--|---------------------------------|
| 1. | Single contract of ₹ 30,000 in the year | No |
| 2. | Two contracts of ₹ 30,000 each in the year | No |
| 3. | Three contracts of ₹ 40,000 each in the year | Tax to be deducted on ₹1,20,000 |
| 4. | Single contract of ₹ 40,000 in the year | Yes |
| 5. | Five contracts of ₹ 14000 each in the year | No |
| 6. | Six contracts of ₹ 20000 each in the year | Tax to be deducted on ₹1,20,000 |
| 7. | Five contracts of ₹ 20,000 each in the year | No |

ILLUSTRATION 3- AB Ltd has made following payments on various dates to CD Ltd. towards work done under different contracts

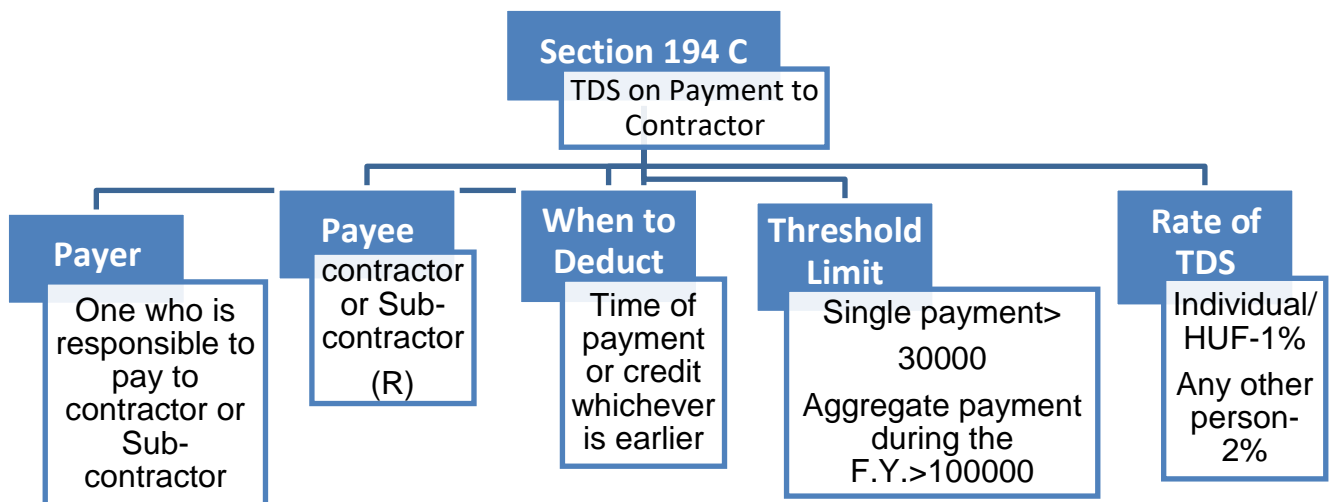
| Contract Number | Date of Payment | Amount (₹) |
|-----------------|-----------------|------------|
| 1. | 05.05.2018 | 20000 |
| 2. | 06.06.2018 | 15000 |
| 3. | 08.08.2018 | 25000 |
| 4. | 10.12.2018 | 25000 |
| 5. | 29.01.2019 | 17000 |

In present case, though the value of each contract does not exceed ₹30,000 the aggregate amount exceeds ₹1,00,000 during the financial year. Hence, AB Ltd is required to deduct tax at source on the whole amount of ₹ 1,02,000 from the last payment of ₹17000.

ILLUSTRATION 4- A LTD. has entered into a contract to buy shirts from B Ltd. as per the designs & specifications given to it. For this A Ltd. sold necessary raw material to B Ltd. For the previous year 2018-19, B Ltd. has raised following invoices on A ltd.

| Date | Invoice no. | Qty. | Value of Raw Material | Labour Charges | Total Bill ₹ |
|----------|-------------|--------|-----------------------|----------------|--------------|
| 14/10/18 | 1020/18-19 | 10,000 | - | - | 60,000 |
| 31/11/18 | 1255/18-19 | 20,000 | 80,000 | 45,000 | 1,25,000 |

In present case A Ltd. is required to deduct TDS on ₹ 60000 for the invoice no. 1020/18-19 while in invoice no. 1255/18-19 TDS to be made on ₹45,000 only.



Section 194D – TDS on Insurance Commission

1) Who is responsible to deduct tax u/s 194D?

The tax must be deducted by the entity that makes the payment to the resident person, as remuneration/ rewards, by the way of commission or for the following purposes:

- Soliciting or obtaining insurance business
- Continuance, renewal or revival of policies of insurance.

2) When to Deduct TDS under Section 194D?

The tax on insurance commission under Section 194D is to be deducted at the earlier of following events:

- At the time of credit of commission in the account of the payee, or
- The payment in cash or cheque or in kind.

3) Rate of TDS under Section 194D

- TDS u/s 194 D on Insurance Commission made to a resident whether they are individual, company or any other category of persons is deducted at the rate of 5%.
- Surcharge or H&E Cess will not be added to these rates. Therefore, the tax will be deducted at source at the basic rates mentioned above.
- The rate of TDS will be 20% in cases where the deductee has not quoted PAN.

4) When is TDS not liable to be deducted under 194D?

There are 2 instances when TDS is not deducted under Section 194D:

1. Commission paid does not exceed Rs 15,000
2. Self-declaration under Form 15G/ 15H

5) Non-deduction or lowered rate of tax deduction

An individual who receives a commission can make an application in Form 13 to the Assessing Officer for a certificate authorizing the payer not to deduct tax or to deduct tax at a lower rate. In accordance with section 206AA(4), no certificate under Section 197 for non-deduction or lowered rate of deduction will not be given unless the application also provides the PAN of the applicant.

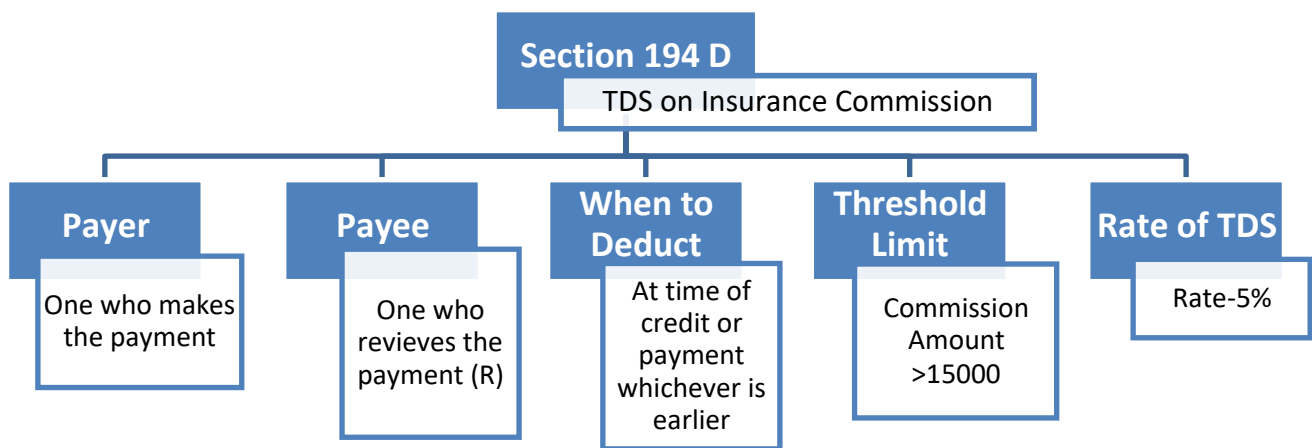
6) Reinsurance not covered by section 194D

Reinsurance differs from insurance in a number of ways and the most important is that there is no contractual relationship between the Direct Insured and the Reinsurer.

There are separate contracts involved—one between the Insured and the Insurer and another between the Insurer and the Reinsurer. Insurer has to pay all valid claims to the insured, irrespective of whether the insurer can recover the same from his reinsurer.

When an Reinsurance company gets business from insurance company at premium less -Commission, the -Commission is not subject to TDS under section 194D, as it is not payable to an agent for procuring insurance business.

Similarly, when -Profit Commission is payable by an Reinsurance Company to an insurance company, after the expiry of the term of insurance, in respect of such cases where there is no claim during the operation of the reinsurance treaty, TDS under section 194D is not required.



Section 194DA – TDS on Payment in respect of Life Insurance Policy

1) Who is responsible to deduct tax u/s 194DA?

Any person responsible for paying to a resident any sum under a life insurance policy, including the sum allocated by way of bonus on such policy, other than the amount not includible in the total income under section 10(10D), shall deduct income-tax thereon.

2) When to Deduct TDS under Section 194DA?

Tax shall be deducted at the time of payment thereof.

3) Rate of TDS under Section 194DA

The rate of tax u/s 194DA is ~~4% on Total payment~~ 5% on -only Income Part of the payment made under LIP. [Applicable from September 1, 2019] (That is after deducting the amount of insurance premiums paid by the insured person from the total sum received from Insurance Company). In case if deductee does not provide the PAN details with the Life Insurance Companies, then there will be a TDS of **20%**.

4) Threshold Limit

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

ILLUSTRATION- Mr. Sham took insurance policy on 26th July, 2015 for ₹ 2,20,000/-. He paid premium of ₹ 55,000/- every year. On 25th July, 2020 he received ₹ 2,50,000/- (including bonus) as the maturity proceeds. State whether TDS provisions are applicable or not.

Policy is taken after 1st April, 2012. Hence, amount of deduction allowed on premium should not exceed 10% of the sum assured. In this case, the sum assured was ₹ 2,20,000/- so amount of premium should not exceed ₹ 22,000/-. However actual premium paid (₹ 55,000/-) is more than ceiling limit (₹ 22,000/-). Hence, the proceeds are taxable.

As per Section 194DA, since the proceeds are more than ₹ 1,00,000/- TDS provisions are applicable. Hence the insurance company will deduct TDS @ 5% of ₹ 30,000/- i.e. ₹ 1,500/- while making the payment of the maturity proceeds.

5) Exemptions u/s 10 [10(D)]

As per sec 10 [10(D)] of the Income Tax Act any sum received under the Life Insurance Policy including the sum allocated by way of bonus on such policy is exempted whether received from Indian or a Foreign Company. However, this section has following exceptions to it:

- Any sum received under section 80DD (3) or 80DDA (3).
- Any sum received under a Keyman Insurance Policy.
- If Policy is bought after 1st April 2003 but before 31st April 2012: the premium paid is 20% more than the sum insured.

- If Policy is bought after 1st April 2012: the premium paid is 10% more than the sum insured.
- Life insurance policy bought for the persons with disability or person with severe disability as per section 80U or those suffering from ailments or disease as specified in section 80DDB after 1st April 2013 if premiums are more than 15% of sum assured.

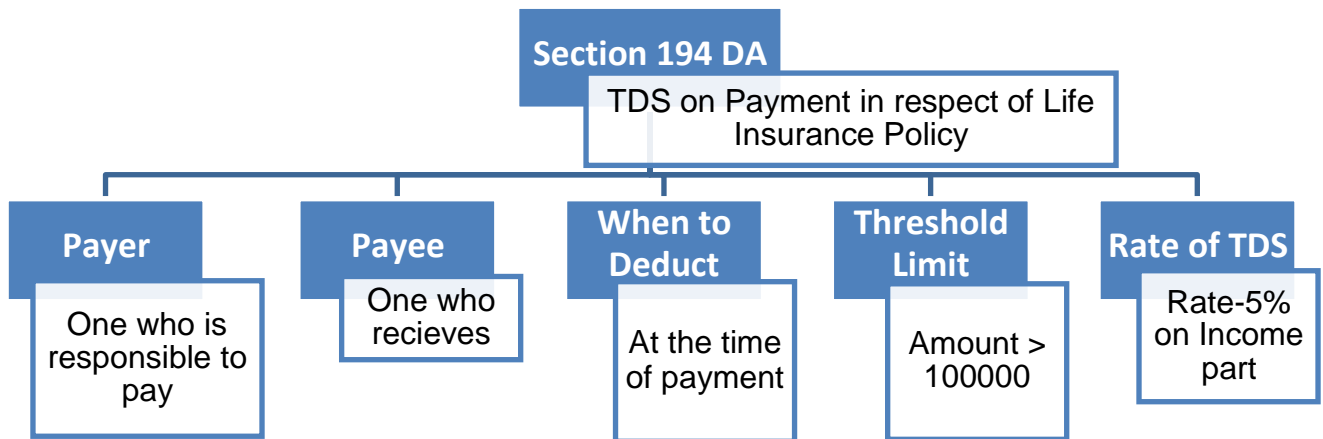
There is no maximum limit for claiming the exemption under Sec 10 [10(D)] unless the above-mentioned conditions are not fulfilled. Also, the above exceptions are not applicable on death claims or any amount received on the death of the insured.

6) Points to be kept in mind

- For the purpose of calculating the actual capital sum assured, the following shall not be taken into the account:
 - the value of any premiums agreed to be returned; or
 - any benefit by way of bonus or otherwise, over and above the sum actually assured, which is to be or may be received under the policy by any person.
- Any amount received from the Foreign Life insurance company is also eligible for deduction.
- Keyman insurance policy means a life insurance policy taken by a person on the life of another person who is connected to the business as an employee or other capacities, either in the present or in the past.
- It may be noted that while computing the amount taxable out of the maturity proceeds, the premium paid by the assessee shall be excluded
- **Deduction U/s. 80C in respect of life insurance premium**
 - Person Covered:**
Individual and Hindu undivided family
 - Eligible Amount:**
 - Any sum paid or deposited in the previous year by the assessee as **Life insurance premium** to effect or keep in force insurance on life of
 - (a) Self, spouse and any child in case of individual and
 - (b) Any member in case of HUF.
 - In case of Life Insurance Policy other than contract for deferred annuity, the amount of any premium or other payment made is restricted to:
 - i. Policy Issued before 01.04.2012 – 20% of Capital Sum Assured
 - ii. Policy Issued on or after 01.04.2012 – 10% of Capital Sum Assured
 - iii. Policy Issued on or after 01.04.2013 in case of persons with disability or person with severe disability as per section 80U or those suffering from ailments or disease as specified in section 80DDB – 15% of Capital Sum Assured
 - Actual Capital Sum Assured in relation to Life Insurance Policy means the minimum amount assured under the policy on happening of the insured event at any time during the term of the policy, not taking into account –
 - i. The value of any premium agreed to be returned, or
 - ii. Any benefit by way of bonus or otherwise over and above the sum actually assured which may be received under the policy by any person.

Other points in relation to 80C:

- Deduction U/s. 80C, in addition to life insurance premium, also includes any sums paid or deposited as Deferred Annuity, Contribution to Provident Fund, Subscription to Certain Equity Shares or Debentures, tuition fees etc.
- **Extent of Deduction-** 100% of the amount invested or ₹ 1,50,000 whichever is less. However, as per sections 80C, 80CCC and 80CCD shall be restricted in aggregate to ₹ 1,50,000.



Section 194E – TDS on Payments to Non-Resident Sportsmen or Sports Association

1) Who is responsible to deduct tax u/s 194E?

Any person responsible for making following payment shall deduct tax at source:-

| Payee | Nature of income |
|---|---|
| (a) Non – resident foreign citizen sportsman (including an athlete) | Income is by way of- a. participation in India in any game (other than card game or gambling, etc.); or b. advertisement; or c. contribution of articles relating to any game or sport in India in newspapers, magazines or journals |
| (b) Non – resident sports association or institution | Any amount guaranteed to be paid or payable in relation of any game (other than card game, etc.) or sport played in India. |
| (c) Non- resident foreign citizen entertainer | Income is from his performance in India. |

2) When to Deduct TDS under Section 194E?

Tax is to be deducted at the time of credit of such income to the account of the payee or at the time of payment, whichever is earlier.

For this purpose, -paymentll can be in cash or by issue of a cheque or draft or by any other mode.

3) Rate of TDS under Section 194E

The rate of tax deduction u/s 194E is 20% (Plus Surcharge and Health & Education Cess @ 4%)

Section 194 E

TDS on Payments to Non-Resident Sportsmen or Sports Association

Payer

One who is responsible to pay

Payee

- a) Non – resident foreign citizen sportsman
- b) Non – resident sports association or institution
- c) Non- resident foreign citizen entertainer

When to Deduct

Time of credit or payment whichever is earlier

Threshold Limit

No limit

Rate of TDS

Rate- 20% (plus Schg & H& E cess)

Section 194EE – TDS on Payments in respect of Deposit under National Savings Scheme

1) Who is responsible to deduct tax u/s 194EE?

The person responsible for paying to any person any amount standing to the credit of such person under National Savings Scheme (to which section 80CCA was applicable) together with interest accrued thereon, shall deduct income-tax thereon on such amount at the time of its payment.

2) When to Deduct TDS under Section 194EE?

Tax is deductible at the time of payment.

3) Rate of TDS under Section 194EE

Rate of TDS under Section 194EE will be 10%

4) When No TDS is Deductible under Section 194EE?

In the following cases, Tax is Not Deductible :

1. PAYMENT UP TO ₹ 2,500 –

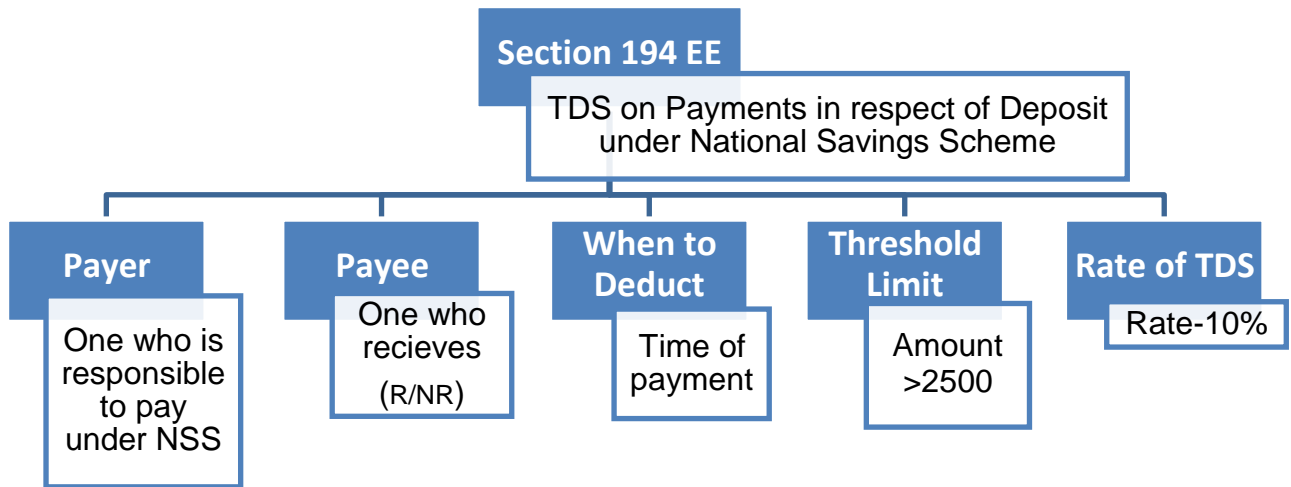
Where the amount of payment or the aggregate amount of payments in a financial year is less than ₹ 2,500, tax is not deductible under section 194EE.

2. PAYMENT TO LEGAL HEIRS -

Where the payment is made to the heirs of the deceased assessee (depositor), no tax shall be deducted at source.

3. DECLARATION TO THE PAYER IN FORM NO. 15G OR 15H [Section 197A]

If a declaration is submitted under section 197A by the recipient to the payer, then no tax is deductible in a few cases.



Section 194F – TDS on Payments on account of repurchase of units by Mutual Fund or Unit Trust of India

1) Who is responsible to deduct tax u/s 194F?

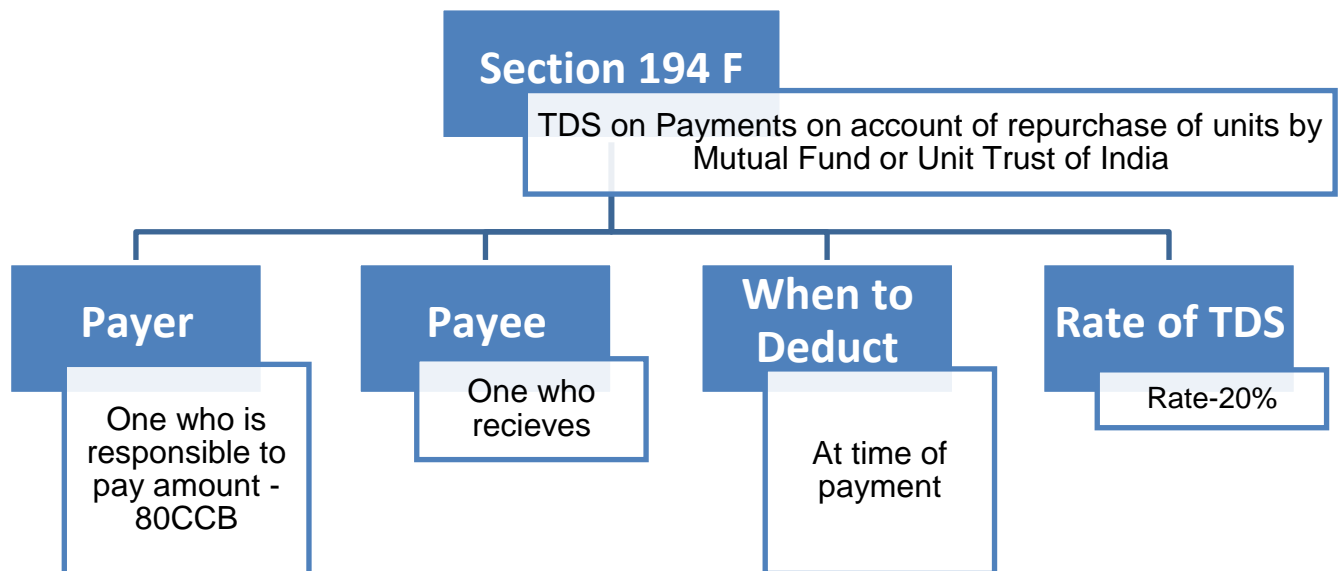
The person responsible for paying to any person any amount referred to in section 80CCB.

2) When to Deduct TDS under Section 194F?

Tax is deductible at the time of payment.

3) Rate of TDS under Section 194F

The rate of tax deduction u/s 194F is 20%.



Section 194G – TDS on Commission on Sale of Lottery Tickets

1) Who is responsible to deduct tax u/s 194G?

Any person responsible for paying any income by way of commission, remuneration or prize (by whatever name called) on stocking, distributing, purchasing or selling lottery tickets, shall be responsible to deduct tax at source.

2) When to Deduct TDS under Section 194G?

Tax shall be deducted under this section, either at the time of credit to the account of the payee or at the time of payment thereof, whichever is earlier.

For this purpose, credit to -Suspense account or any other name shall be deemed to be a credit of such income to the account of the payee.

For this purpose, -payment can be in cash or by issue of a cheque or draft or by any other mode.

3) Rate of TDS under Section 194G

The rate of tax deduction u/s 194G is **5%**

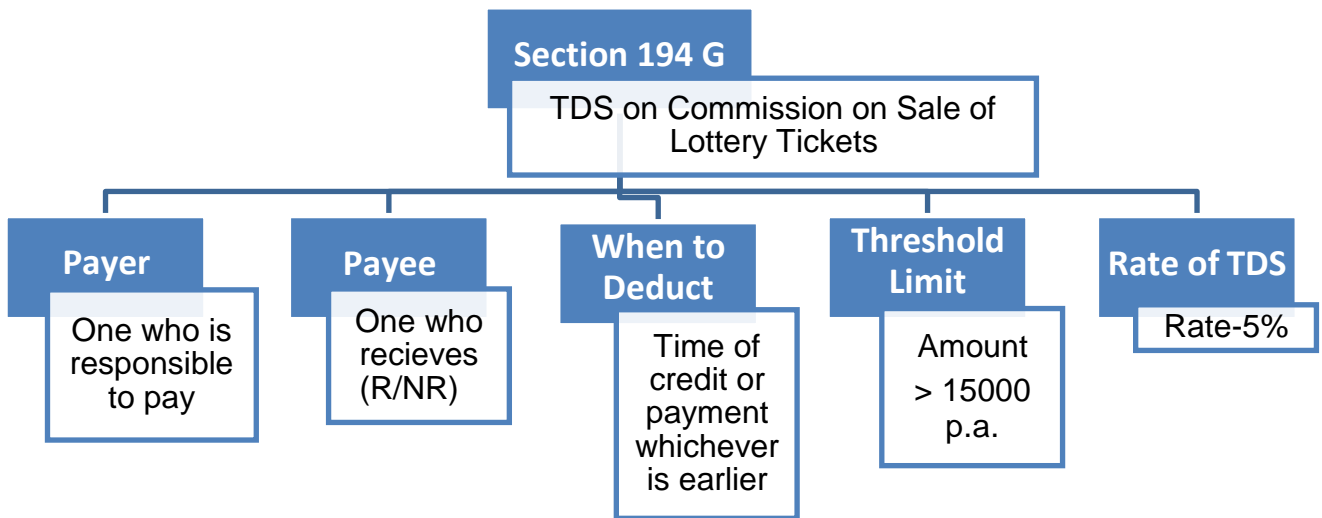
- No surcharge and Health & Education Cess shall be added to the above rates. Hence, tax will be deducted at source at the basic rate.
- The rate of TDS will be 20% in all cases, if PAN is not quoted by the deductee.

4) Threshold limit

Tax is required to be deducted under this section only if payment is exceeding **₹ 15,000**.

5) Where TDS under Section 194G is either Not to be Deducted or to be Deducted at Lower Rate [Section 197]

The assessee can make an application in Form No. 13 to the Assessing Officer and obtain from him such certificate as may be appropriate authorising the payer to deduct tax at nil rate or at lower rate. As per section 206AA(4), no certificate under section 197 for deduction of tax at Nil rate or lower rate shall be granted unless the application made under that section contains the Permanent Account Number (PAN) of the applicant.



Section 194H – TDS on Commission and Brokerage

1) What is the meaning of words “Commission or brokerage” for the purpose of section 194H?

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

- (a) for services rendered (not being professional services), or
- (b) for any services in the course of buying or selling of goods, or
- (c) in relation to any transaction relating to any asset, valuable article or thing, not being securities.

2) Who is responsible to deduct tax u/s 194H?

Any person, (other than individual or a Hindu undivided family) who is responsible for paying, to a resident, any income by way of commission (not being insurance commission referred to in section 194D) or brokerage, shall, deduct income-tax thereon.

However An individual or a HUF is liable to deduct TDS under section 194H, if total sales, gross receipts or turnover from the business or profession carried on by him exceed the monetary limits specified under clause (a) or clause (b) of [section 44AB](#) during the financial year immediately preceding the financial year in which such commission is credited or paid.

3) When to Deduct TDS under Section 194H?

It will be deducted at the time of credit of such income to the account of the payee or to any account, whether called suspense account or by any other name or at the time of payment, of such income in cash or by the issue of a cheque or draft or by any other mode, whichever is earlier.

4) Rate of TDS under Section 194H

The rate of TDS is 5%. No surcharge and Health & Education Cess @ 4% shall be added to the above rates. Hence, the tax will be deducted at source at the basic rate. The rate of TDS will be 20% in all cases if PAN is not quoted by the deductee.

5) Under what circumstances TDS u/s 194H is not deductible?

- No deduction shall be made under this section in a case where the amount or the aggregate amounts of such income to be credited or paid during the financial year does not exceed INR 15,000
- The Person can make an application to the assessing officer under section 197 for deduction of tax at NIL rate or at a lower rate.
- Any brokerage or commission amount paid by BSNL/MTNL to their public call office franchisees.

6) Additional Points

- **Commision recieved by Travel Agents liable to TDS U/s 194H-**

Commission and supplementary commission received by the travel agents from Airlines are liable to tax deduction at source under section 194H.

- **SIM Cards -**

Discount given by a mobile cellular operator to its distributors in the course of selling of SIM cards and recharge coupons under pre-paid scheme of getting a connection is, in substance, a payment for services to be rendered by distributors to the assessee and covered by section 194H.

- **Advertisement Commission paid by Doordarshan to its Agents-**

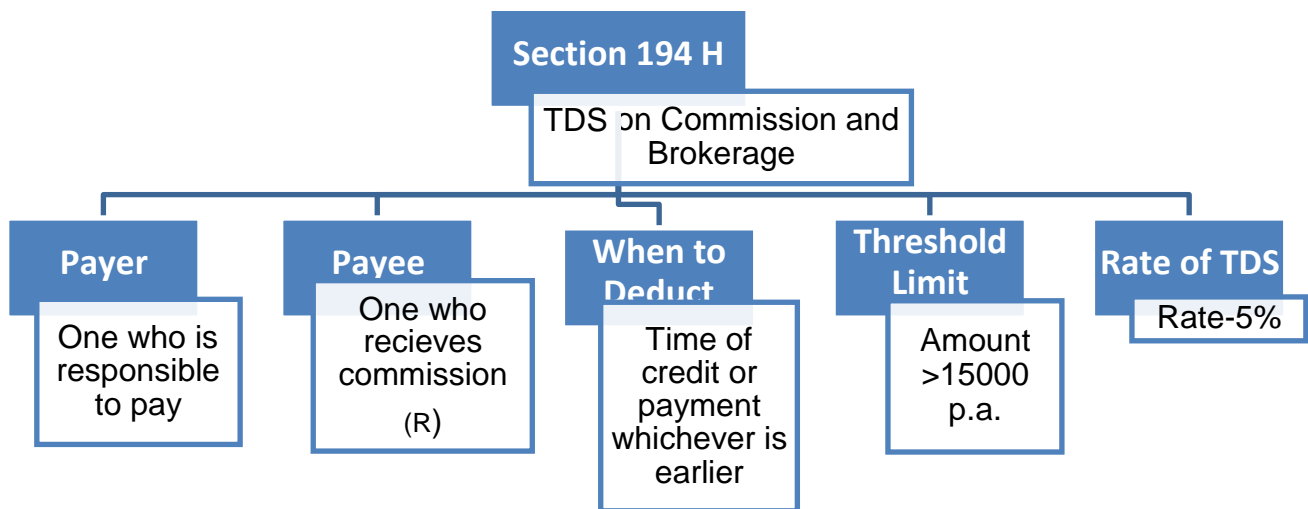
Advertisement commission paid by Doordarshan to its agents is subject to tax deduction at source under section 194H.

- **Discount given to Stamp Vendors -**

No TDS is applicable on discount given to Stamp Vendors for purchasing stamps in bulk quantity.

- **Payment made by Television Channels/Newspapers to Advertising Agency -**

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 trade discount but not commission.



Section 194I – TDS on Rent

1) What is the meaning of „rent“ according to Section 194-I?

- ‘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.
- Sub-letting is also covered.
- No TDS on ‘Refundable Deposits’. However, ‘Non- Refundable Deposits’ shall attract TDS under this section. Moreover, where any such rent is credited to ‘suspense account’ or to any other account shall also be liable to deduct tax at source.

2) What Payment is Covered u/s 194I?

Rent includes service charges: - Service charges payable to business Centre’s are covered under the definition of rent, as they cover payments by whatever named called.

TDS requirement where rent not payable on monthly basis: - Sec. 194I does not mandate that the tax deduction should be made on a month-to-month basis. Therefore, if the crediting of the rent is done on a quarterly basis, the deduction at source will have to be made on a quarterly basis only. Where the rent is paid on a yearly basis, deduction also will have to be made once a year on the basis of the actual payment or credit.

Charges regarding cold storage facility: - In the case of cold storage where milk, ice cream, and vegetables, are stored, the payment may be styled as charges for use of plant and not for use of the building. The arrangement between customer & cold storage owners is contractual in nature, as the contract includes provision of cooling facilities, security services and other miscellaneous utilities. Therefore TDS is to be deducted u/s 194C, and not u/s 194I.

Hall rent paid by an association for use of it:- Since the association is assessed as an association of persons and not as an individual or HUF, the obligation of tax deduction will be there, provided payment for the use of hall exceeds ₹2,40,000

Payments to hotels for holding seminars including lunch:- Where hotels do not charge for use of premises but charge for catering/meal only, the provisions of Sec. 194I would not apply. However, Sec.194C would apply for catering part.

3) Who is responsible to deduct tax u/s 194I?

The person (not being an Individual or HUF) who is responsible for paying any income to a resident by way of rent is liable to deduct tax at source.

However an individual or a Hindu undivided family, whose total sales, gross receipts or turnover from the business or profession carried on by him exceed the monetary limits specified under clause (a) or clause (b) of section 44AB during the financial year immediately preceding the financial year in which such income by way of rent is credited or paid, shall be liable to deduct income-tax under this section.

In case the aggregate of the amount of such income credited/paid or likely to be credited/paid during the financial year by the aforesaid person to the account of or to the payee exceeds ₹2,40,000/- [Including Advance Rent & Arrears of Rent] (w.e.f. 01/04/2019).

TDS threshold for deduction of tax on rent is increased from ₹1,80,000 to ₹ 2,40,000 for FY2019-20.

4) When to Deduct TDS under Section 194I?

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

5) Rate of TDS under Section 194I

| No. | Nature of Payment | TDS % |
|-----|--|-------|
| 1. | Rent of Plant, Machinery or Equipment | 2 % |
| 2. | Rent of land, building or furniture or fitting | 10 % |

- No surcharge and Health & Education Cess shall be added to the above rates. Hence, tax will be deducted at source at the basic rate.
- The rate of TDS will be 20% in all cases, if PAN is not quoted by the deductee.

6) Under what circumstances TDS u/s 194I is not deductible?

Amount payable/paid not exceeding ₹ 2,40,000 during the financial year- No tax is required to be deducted in case the amount of rent due or paid does not exceed ₹2,40,000.

Sharing or proceeds of film exhibition between a film distributor and a film exhibitor owning a cinema theatre- In case of a film exhibitor and film distributor contract, the share of the exhibitor is on account of composite services. The distributor does not take cinema building on lease or sub-lease or tenancy or under an agreement of similar nature. The payment made is not rental in nature.

Where the payee is the Government at agency- A person making payment to Government is not required to deduct tax at source under Section 196. The payments made to statutory authorities and local authorities are exempt from tax and hence not tax deductible.

7) Will tax be deducted from GST included in rent?

GST paid by the tenant does not partake the nature of income of landlord. The landlord only acts as a collecting agency for Government for collection of GST. Therefore tax deduction at source (TDS) under Sec. 194-I of the Income-tax Act would be required to be made on the amount of rent paid/payable without including GST.

ILLUSTRATION-

Ram Limited has taken a 3500 Sq. ft. flat on rent from Sham Limited to set up its Branch office. The rent payable to Sham Limited for the flat is ₹65,000 per month plus applicable GST. Ram Limited wishes to know whether tax is required to be deducted at source under Section 194-I from gross amount of rent including GST?

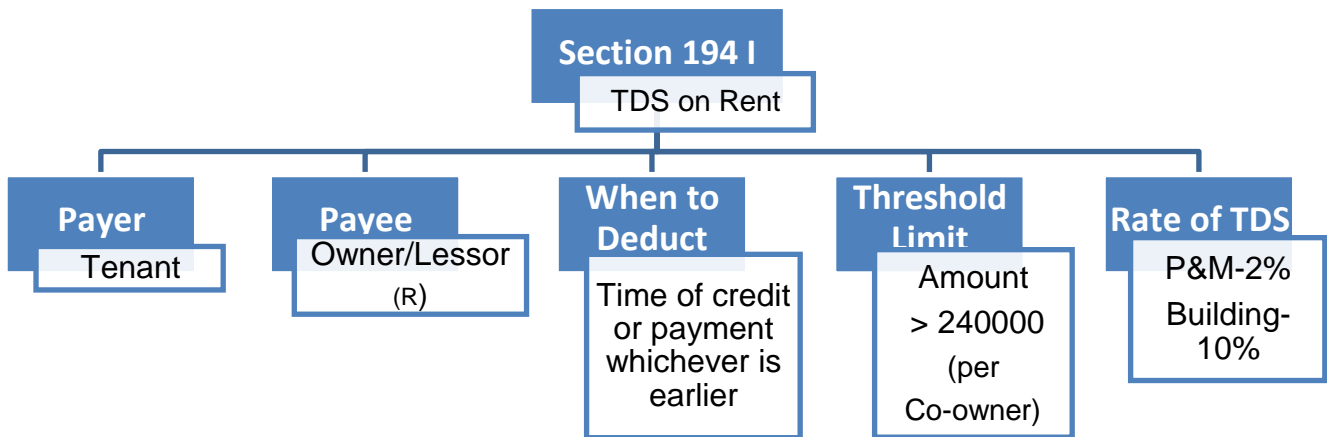
Vide Circular No. 23/2017 the CBDT has clarified as under:

In the light of the fact that even under the new GST regime, the rationale of excluding the tax component from the purview of TDS remains valid, the Board hereby clarifies 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 under Chapter XVII-B of the Act on the amount paid or payable without including such GST on services' component.

Therefore, in the given case, the TDS is not to be deducted on the gross amount including GST. It shall be deducted only on the rent excluding GST i.e. ₹ 7,80,000.

8) Whether the limit of ₹ 2,40,000 for non-deduction of tax at source applicable in case of each co-owner?

Where the share of each co-owner in the property is definite and ascertainable, the limit of ₹2,40,000 will be applicable to each co-owner separately.



Section 194IA – TDS on Purchase of Immovable Property

1) Who is responsible to deduct tax u/s 194IA?

Any person, being a transferee responsible for paying (other than the person referred to in section 194LA) to a resident transferor any sum by way of consideration for transfer of any immovable property (other than agricultural land), is liable to deduct tax at source under this section.

Therefore, if the immovable property is purchased from a non-resident person for any value, no TDS is required to be deducted under this section. However, TDS shall be deducted under Section 195.

ILLUSTRATION:

Mr. Singh, non-resident, sold his building situated at Nakodar, Punjab to Mr. Sharma for a total consideration of ₹ 1.35 crore.

In such a case, Mr. Sharma will make the payment to Mr. Singh after deduction of tax @20% plus surcharge and Health & Education Cess @ 4% (on the LTCG computed) under Section 195. Section 194-IA does not apply where the payment is made to a non-resident.

ILLUSTRATION:

Mr. Kumar, resident in India, sold his house situated in Rajasthan, to Mr. Gupta who is resident of USA for a total consideration of ₹ 2 crores.

In such a case, Mr. Gupta is required to deduct TDS @ 1% under section 194-IA while making payment to Mr. Kumar.

2) When to Deduct TDS under Section 194IA?

Tax shall be deducted under this section, either at the time of credit to the account of the payee or at the time of payment thereof, whichever is earlier.

For this purpose, -paymentll can be in cash or by issue of a cheque or draft or by any other mode.

3) Threshold Limit u/s 194IA

No tax is deductible where the consideration paid or payable for the transfer of an immovable property is less than ₹ 50,00,000.

4) Rate of TDS under Section 194IA

Tax shall be deducted at the rate of 1%.

- No surcharge and Health & Education Cess shall be added to the above rates. Hence, tax will be deducted at source at the basic rate.
- The rate of TDS will be 20% in all cases, if PAN is not quoted.

5) Other key points related to section 194IA

- Provisions of section 203A (pertaining to TAN) shall not apply to a person required to deduct tax under this section.

- the provisions of section 194-IA shall not apply if a person acquires agricultural land in India. However, TDS is required to be deducted on payment made for purchase of an agricultural land which falls in definition of capital asset if purchase price is Rs 50 lakhs or more.

ILLUSTRATION:

Mr. R, a resident, acquired agricultural land from Mr. Q for a consideration of ₹ 75 Lakhs. In such a case, Mr. R is not required to deduct Tax at source under Section 194-IA from the consideration of ₹ 75 Lakhs paid to Mr. Q for transfer of agricultural land, since the same is specifically excluded from the scope of immovable property for the purpose of tax deduction under section 194 IA.

- For deduction of tax at source under this section, location of immovable property is not relevant. Such property may or may not be situated in India. The main requirement to attract this section is that transferor shall be resident in India.
- In case the immovable property is partly financed by bank/lender then TDS will be required to be deducted by the transferee on the entire amount of consideration irrespective of the amount of financing. As per section 194IA -any person, being a transferee...ll is liable to deduct tax at source. When any loan availed from bank, the Bank can't be said to be transferee even if it is providing funds to the buyer. Therefore, the whole TDS will be deducted by the buyer from the amount paid by him to seller and the bank will not be held responsible to deduct TDS on payment made by him on buyer's behalf.

ILLUSTRATION:

If M purchased an immovable property of ₹ 60 lakh which is financed by bank for ₹ 40 lakhs and he has contributed ₹ 20.00 lakh. The TDS is to be deducted and deposited by Mr M is ₹ 60 lakhs @ 1% = ₹ 60,000/-. So Bank will pay to the transferor ₹ 40 lakhs and Mr M will pay ₹ 19.40 lakhs (₹ 20 lakhs – ₹ 0.60 lakhs). If the payment is made in installments then the amount shall be deductible in proportionate to the installment paid.

ILLUSTRATION:

ABC Pvt. Ltd. acquired the land situated at Ganga expressway from Sultan builders and issued 20,00,000 equity shares having face value of ₹10 each at premium of ₹ 10 each in consideration of the land.

In such a case, ABC Pvt. Ltd. is required to deduct TDS @ 1% on ₹ 4,00,00,000 at the time of issue of shares. Grossing up shall be done if the agreement specifies that the burden of TDS shall be borne by the buyer.

- 6) While the builder allotted a Flat, the consideration includes payment for Car Parking, Permanent Membership of Club, Electricity meter & line laying charges and other incidental charges. Whether the consideration includes above payment for TDS? [Applicable from September 1, 2019]**

TDS is applicable on these payments, since these payments are part of consideration and condition for transfer of immovable property. However if any refundable deposit is made for maintenance of Flat / club and other facilities, the same cannot be considered for TDS.

ILLUSTRATION:-

Mr. A Purchased a residential house property for ₹ 2 crores, which comprised of following consideration:

- 1. Towards purchase of immovable property: ₹ 160 lakhs**
- 2. Towards car parking: ₹ 20 lakhs**
- 3. Towards water and electricity facility: ₹ 20 lakhs**

If payment is made on or before June 30, 2019, Mr. X shall deduct tax at the rate of 1% on ₹ 160 lakhs i.e. ₹ 1,60,000. If payment is made on or after September 1, 2019, the tax shall deducted on total consideration of ₹ 200 lakhs, i.e. ₹ 2,00,000.

7) Whether provision will apply in case of transfer of Share in a society resulting in transfer of rights in the property?

On reasonable interpretation of the provision, it should apply on transfer of share. Transfer of share in the society effectively results in transfer of immovable property and such transfer for a consideration shall be interpreted and all the provisions of section 194IA are applicable.

8) Whether purchase of property in auction by a bank or financial institution pursuant to default in payment of loan by the owner of the property will be subject to TDS under Section 194IA?

This is a situation where, the sale of immovable property by the bank or financial institutions will be on behalf of the defaulter and the defaulter is the transferor. Under provisions of income tax act, such auction sale, the defaulter borrower shall be liable to pay capital gain tax on sale of the property. Therefore the provisions of section 194IA for deduction of tax at source shall be applicable.

9) Applicability of Section 194IA, where there is more than 1 buyer or seller

- Where there is more than one buyer and the purchase price of each buyer is less than ₹ 50 Lakhs but the aggregate sale consideration of the property exceeds ₹ 50 Lakhs, Section 194IA would become applicable. Hence TDS on property would be required to be deducted by each buyer on his portion of purchase price.

ILLUSTRATION-

Mr Q & R are jointly buying a flat. Payment of consideration is ₹70 lakhs. Which is to be paid by Mr Q ₹ 35 lakh and Mr R is to be paid ₹ 35 lakhs.

In such a case, as the consideration of the immovable property is more than the threshold limit of ₹ 50 lakhs the TDS provisions u/s 194 IA is applicable. So Mr Q and Mr R are required to deduct tax at source @ 1% on payment of ₹ 35 lakhs.

- Similarly, if there is more than one seller in single sale deed in respect of that property and the aggregate consideration for the property, exceeds ₹ 50 Lakhs although the share of each co-owner is less than ₹ 50 Lakhs, Section 194IA would become applicable. Hence, the TDS on property would be required to be deducted by the buyer.
- In the above cases, i.e., where there is more than 1 buyer/ 1 seller, Form 26Q has to be filled in separately for each buyer-seller combination.

(A) In case of one buyer but two sellers: Two challan-cum-statement in Form no. 26QB will have to be submitted.

(B) In case of two buyers and two sellers: Four challan-cum-statement in Form no. 26QB will have to be submitted.

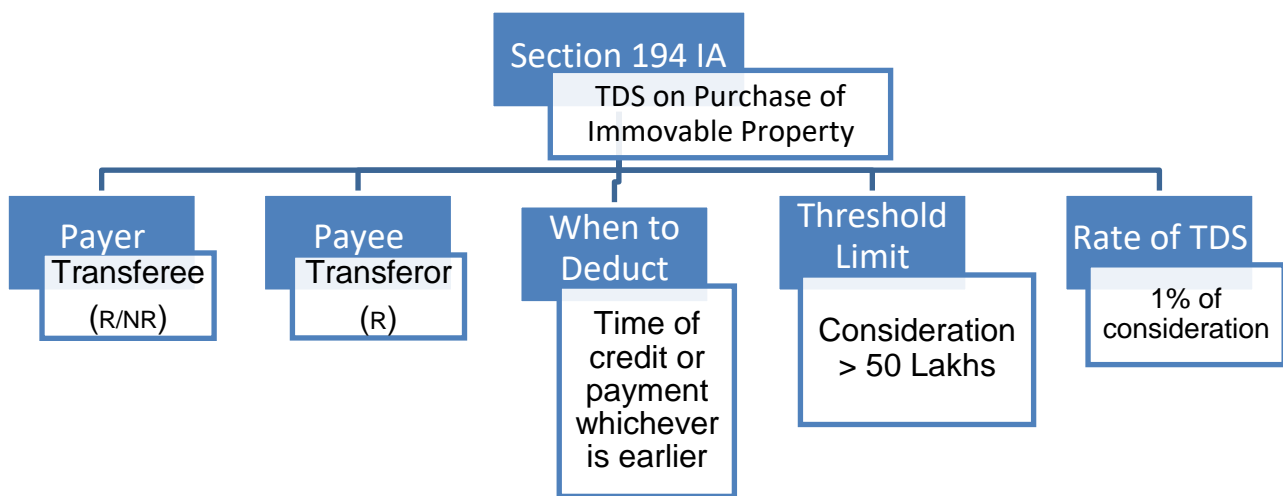
10) What to consider:- Total consideration or Stamp Duty Value?

TDS is to be deducted on Total consideration and Stamp Duty Value is not to be considered.

ILLUSTRATION-

Mr. Vibhuti, resident in India, owned a house in Bihar. He sold the house to Mr. Tiwari, resident of Bihar for a total consideration of ₹ 46.50 Lakhs. However, the stamp duty value of the said property is ₹ 53.50 Lakhs.

In such a case, Mr. Tiwari is not required to deduct TDS under section 194-IA since the total consideration does not exceed ₹ 50 Lakhs.



Section 194IB – TDS on Rent of Property

1) Who is responsible to deduct tax u/s 194IB?

Any person, being an individual or a Hindu undivided family (not covered under section 194I), responsible for paying to a resident any income by way of rent exceeding ₹ 50,000 for a month or part of a month during the previous year, shall deduct income-tax thereon at the rates in force. For the purposes of this section, -rentll 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.

2) When to Deduct TDS on rent of property under Section 194IB?

The income-tax referred above shall be deducted on such income at the time of credit of 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 a cheque or draft or by any other mode, whichever is earlier.

3) Rate of TDS under Section 194IB

Section 194-IB provides that tax at a rate of 5% should be deducted by the Tenant, Payer or Lessee at the time of making payment of rent to, Lesser, Landlord or Payee.

The tax so deducted has to be deposited to the Government Account through online by any of the authorized bank branches.

The provisions of section 203A relating to requirement of obtaining TAN No. shall not apply to a person required to deduct tax in accordance with the provisions of this section.

In case, the tax is required to be deducted as per the provisions of section 206AA, such deduction shall not exceed the amount of rent payable for the last month of the previous year or the last month of the tenancy, as the case may be.

ILLUSTRATION-

Mr. Shan, a salaried employee, pays rent of Rs 62,000 per month to Mr. Rehan. Is he required to deduct Tax at source for the financial year 2019-2020?

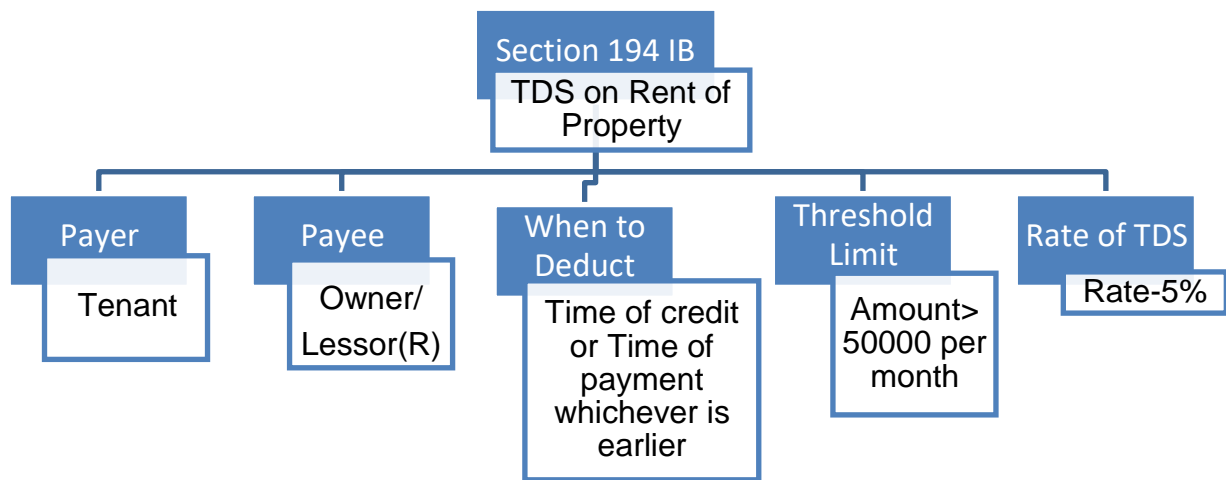
Mr. Shan pays rent exceeding Rs 50,000 per month in the financial year; therefore he is liable to deduct tax at source @5% of such rent. Thus, Rs 37200 ($\text{Rs}62000 \times 5\% \times 12$ months) has to be deducted from rent payable for March, 2020.

- **In above case if Mr. Shan vacated the premises on 30th November 2019, what will be his liability?**

If Mr. Shan vacated the premises on 30th November 2019, then tax of Rs 24800 ($\text{Rs}62000 \times 5\% \times 8$ months) has to be deducted from the rent payable for November 2019.

- In above case if Mr. Shan vacated the premises on 31st March 2020, but Mr. Rehan did not furnish his PAN, what will be his liability?

If Mr. Rehan does not provide his PAN to Mr. Shan then tax of ₹ 148800 (₹.62000*20%*12months) or rent of that month i.e.62000 whichever is less has to be deducted from the rent payable for March, 2020.



Section 194IC – TDS on Payment Made Under Specified Agreement

1) Who is responsible to deduct tax u/s 194IC?

Any person responsible for paying to a resident any sum by way of consideration under the specified agreement under section 45(5A) i.e. under the Joint Development Agreement, shall deduct tax at source.

2) What is meant by the Joint Development Agreement?

Joint Development Agreement is an agreement between two people i.e. the owner of the land or building and another person who is given the permission to build a real estate project and in return, he or she must give a share to the owner or the payment in cash must be done.

3) Rate of TDS under Section 194IC

Given below is the rate of tax that must be deducted under the section 194IC-

- 10 percent if the receiver has the PAN
- 20 percent, if there is no PAN of the receiver.

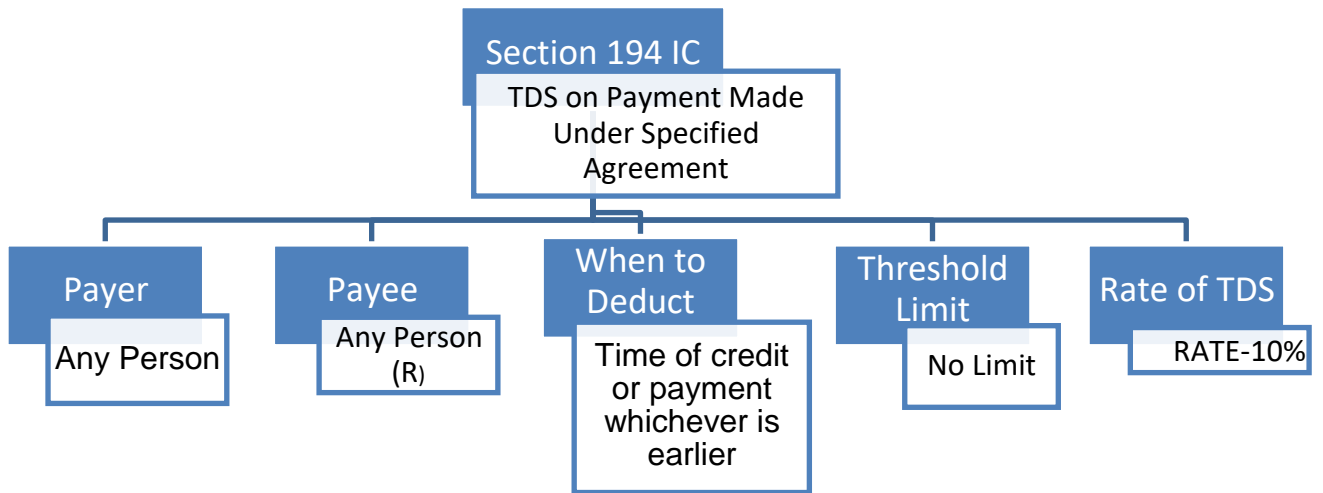
4) Under what circumstances TDS u/s 194IC is not deductible?

Tax deduction at source shall not be made in respect of that part of consideration which is in kind under the specified agreement.

5) When to Deduct TDS under Section 194IC?

Tax shall be deducted under this section, either at the time of credit to the account of the payee or at the time of payment thereof, whichever is earlier.

For this purpose, -paymentll can be in cash or by issue of a cheque or draft of by any other mode.



Section 194J – TDS on Professional or Technical Fees

2) Who is responsible to deduct tax u/s 194J?

Any person, not being an individual or a HUF, who is responsible for paying to a **resident** any sum by way of:-

1. Fees for professional Services
2. Fees for technical services
3. Royalty
4. Any sum referred to in clause (va) of section 28

clause (va) of section 28

“any sum, whether received or receivable, in cash or kind, under an agreement for—

(a) not carrying out any activity in relation to any business; or

(b) not sharing any know-how, patent, copyright, trade-mark, licence, franchise or any other business or commercial right of similar nature or information or technique likely to assist in the manufacture or processing of goods or provision for services

5. 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.

However, an individual or a HUF is liable to deduct TDS under section 194J, if total sales, gross receipts or turnover from the business or profession carried on by him exceed the monetary limits specified under clause (a) or clause (b) of section 44AB during the financial year immediately preceding the financial year in which such sum for professional or technical services is credited or paid.

ILLUSTRATION-

XYZ Co., a partnership firm took consultancy from an engineer located at Sydney. The firm has paid fees of ₹ 80000 to the engineer. Should the firm deduct Tax at source under section 194J from the fees paid to the engineer?

In this case, the professional fees are paid to non-resident and hence, tax is not to be deducted under section 194J. However, section 195 requires deduction of tax at source from payment made to non-resident if such payment is chargeable to tax. Hence, the firm may require to deduct tax at source under section 195. For such purpose provisions of tax treaty was to be considered.

3) Threshold limit for deducting tax

- Tax has to be deducted in case the payment is greater than ₹ 30,000 during the year. Such ₹30,000 is the maximum limit which is applicable to each item or payment independently. e.g. Firm XYZ paid ₹ 25,000/- as fees for technical services and ₹ 20,000/- as professional charges to Mr. Red. Here firm XYZ is not liable to deduct TDS from payments made to Mr.

Red as ₹ 30,000/- limit is separate for each item, namely fees for technical services and professional charges.

- TDS under this section is also applicable on commission or remuneration or fees given to a company's director. In these cases, the ₹30,000 limit is not applicable.

3) When to Deduct TDS under Section 194J?

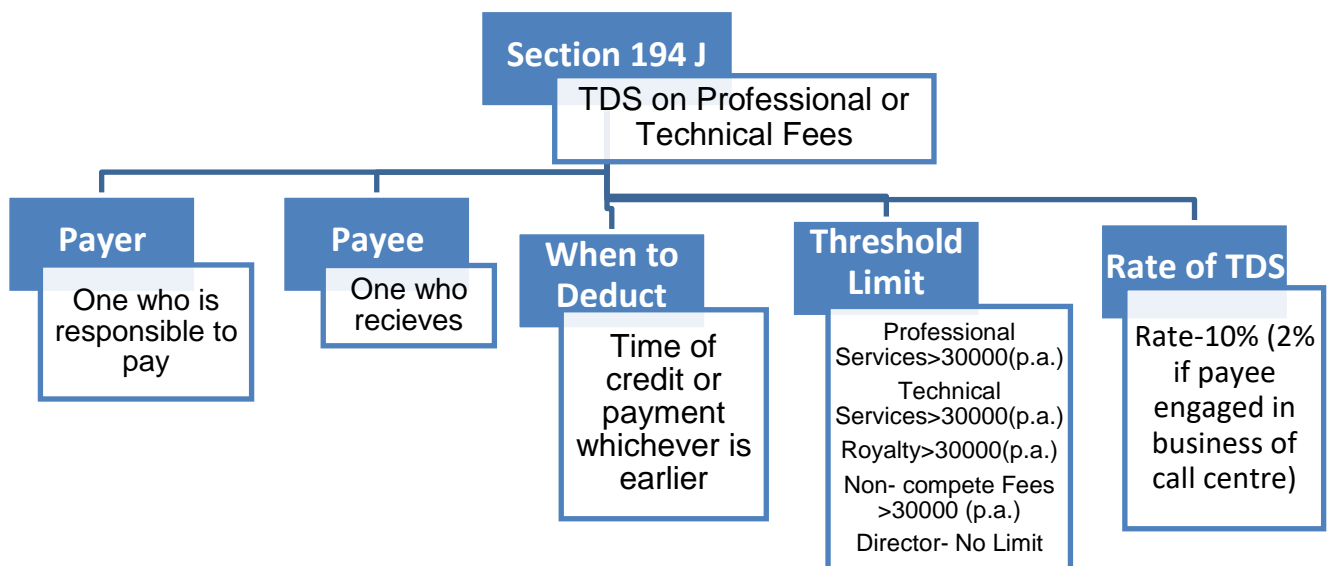
The tax should be deducted at the time of passing such entry in the accounts or making the actual payment of the expense, whichever earlier.

4) Rate of TDS under Section 194J

Any payment covered under this section shall be subject to TDS at the rate of 10%. However, w.e.f. 01.04.2017, the tax on payments made to operators of call centres shall be deducted at a reduced rate of 2%. In case the payee does not furnish his PAN then the rate of deduction would be 20%.

5) Applying for TDS at a Lower Rate

According to Section 197, the person receiving payment can apply for a reduction of rate in TDS, through filling in the Form 13 and sending it to the assessing officer. If approved by the officer, a certificate stating a deduction in the TDS is issued to the assessee.



Section 194LA – TDS on Payments of Compensation on Acquisition of certain Immovable Property

1) Who is responsible to deduct tax u/s 194LA?

Any person, who is responsible for paying, on or after 1.10.2004, to a resident, any sum, being in the nature of compensation or the enhanced compensation or the consideration or the enhanced consideration on account of compulsory acquisition, under any law for the time being in force, of any immovable property (other than agricultural land) shall, deduct income-tax thereon.

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

2) When to Deduct TDS under Section 194LA?

Tax is deductible at the time of payment of aforesaid sum in cash or by issue of a cheque or draft or by any other mode, whichever is earlier.

3) Rate of TDS under Section 194LA

The rate of tax deduction u/s 194LA is 10% of such compensation.

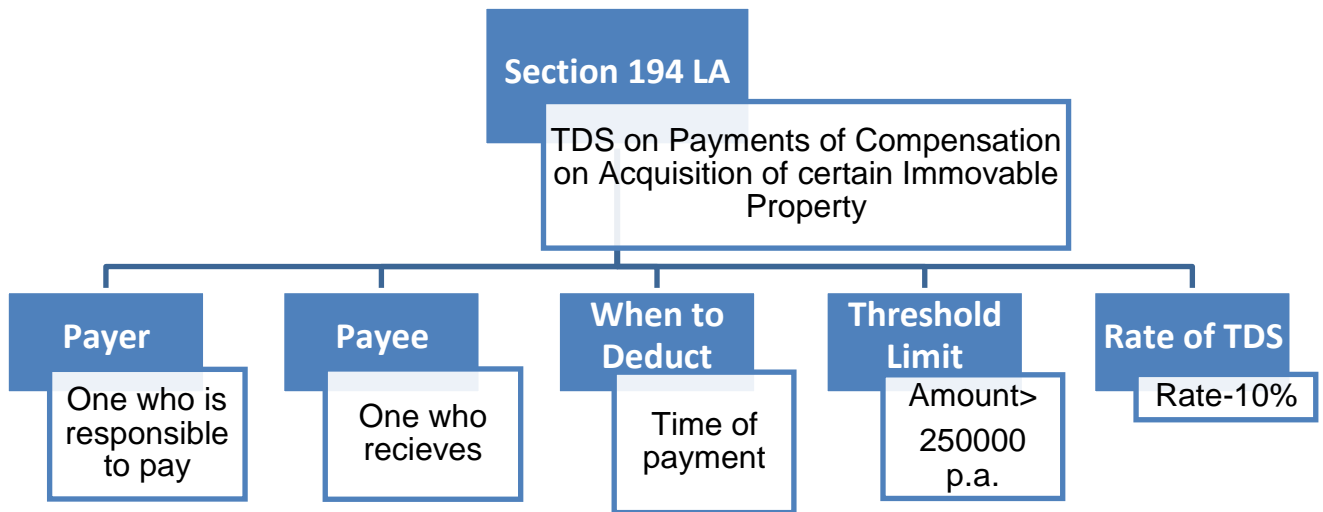
1. No surcharge and Health & Education Cess shall be added to the above rates. Hence, tax will be deducted at source at the basic rate.
2. The rate of TDS will be 20% in all cases, if PAN is not quoted by the deductee

4) Where No TDS under Section 194LA is to be Deducted?

- No deduction shall be made under this section in a case where the amount of such payment or as the case may be, the aggregate amount of such payments to a resident during the financial year does not exceed ₹2,50,000.
- No deduction shall be made under this section where such payment is made in respect of any award or agreement which has been exempted from levy of income-tax under section 96 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013.

5) Other key points related to section 194LA

Agricultural land for the purpose of this section means agricultural land in India situated in any area. Therefore, tax cannot be deducted in respect of compensation payable on account of compulsory acquisition of agricultural land situated in urban area.



Section 194LB – TDS on Income by way of Interest from Infrastructure Debt Fund

1) Who is responsible to deduct tax u/s 194LB?

Any person who makes payment of interest [which is payable by an infrastructure debt fund, as per section 10(47)] to a non-resident (not a company/ foreign company) is required to deduct tax at source.

2) When to Deduct TDS under Section 194LB?

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

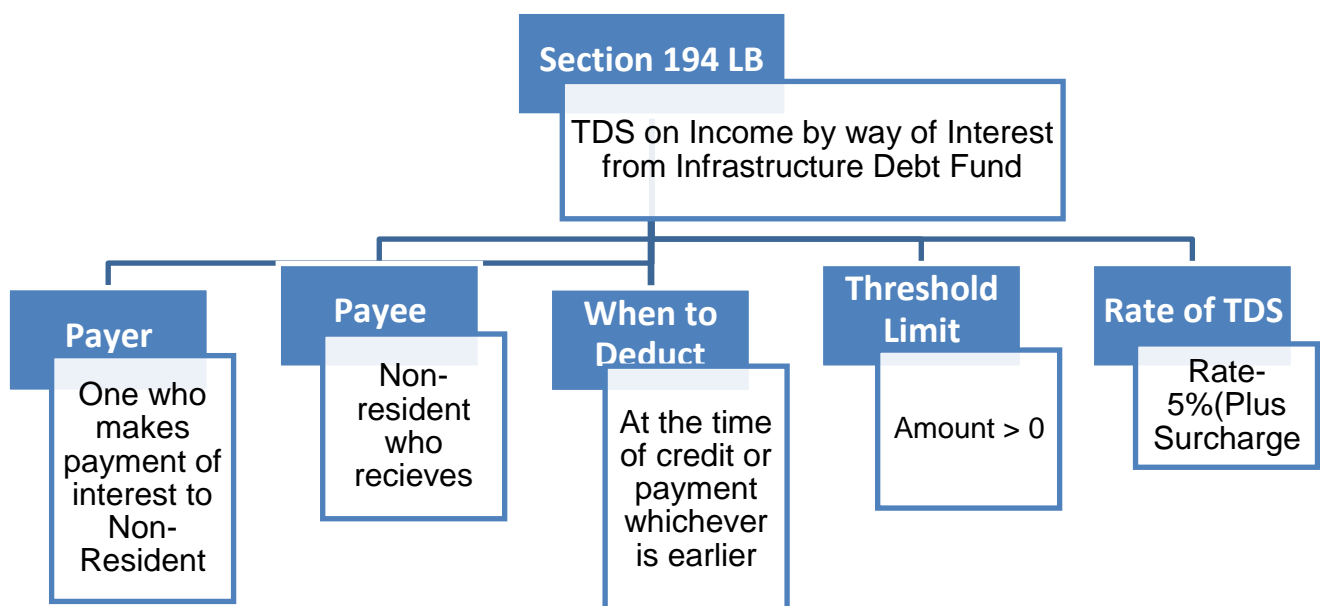
3) Rate of TDS under Section 194LB

The rate of TDS shall be 5% of such gross interest plus surcharge.

1. Surcharge shall be added if applicable.
2. Health & Education Cess @ 4% shall be added to the above rates plus surcharge if applicable.
3. The provisions of section 206AA shall not apply to a non-resident, not being a company, or to a foreign company, in respect of payment of such interest subject to such conditions as may be prescribed.

4) Is it possible to get the payment without Tax Deduction or with Lower Tax Deduction under this section?

Tax cannot be deducted at lower rate. Hence, section 197 shall not be applicable in this case.



Section 194LBA – TDS on Certain Income from Units of a Business Trust

1) Who is responsible to deduct tax u/s 194LBA?

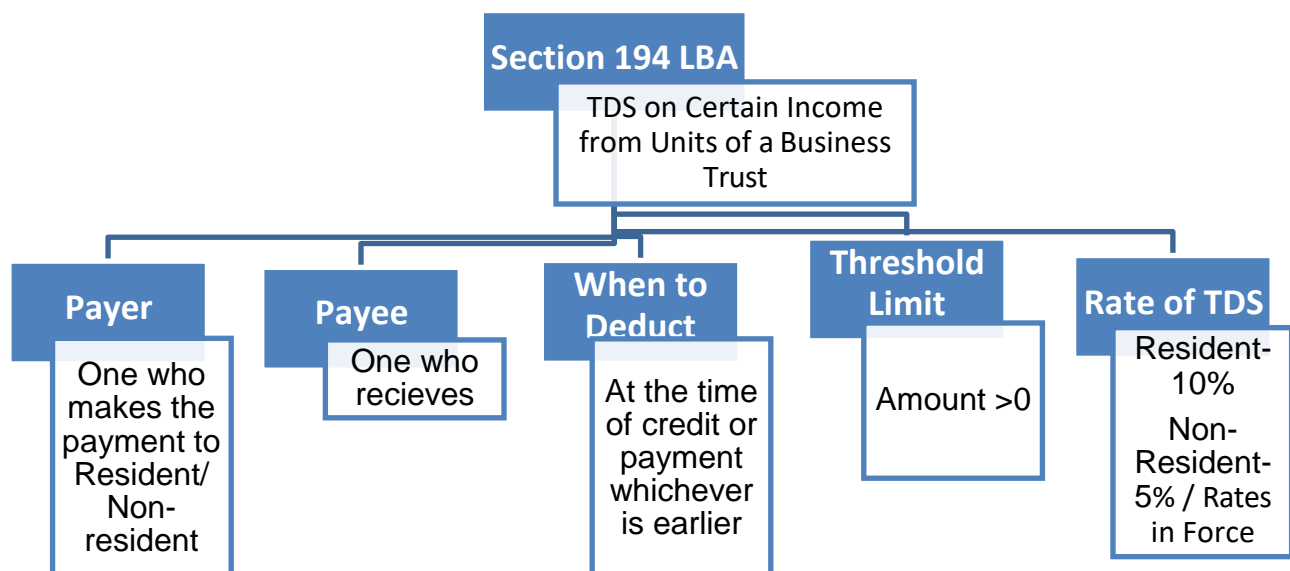
Any person who makes payment of income [as per section 115UA] which is payable by a business trust to its unit holder is required to deduct tax at source. Such unit holder can be a resident, non-resident (but not a company).

2) When to Deduct TDS under Section 194LBA?

The time of deduction is earlier of, the credit of income to the account of the payee (receiver) or actual payment (in cash, cheque, draft or another mode).

3) Rate of TDS under Section 194LBA

| S.No. | Particulars | Rate |
|-------|--|----------------|
| 1. | Distribution of income referred u/s 10(23FC) & 10(23FCA) to resident | 10% |
| 2. | Distribution of income referred u/s 10(23FC) to non-resident | 5% |
| 3. | Distribution of income referred u/s 10(23FCA) to non-resident | Rates in Force |



Section 194LBB – TDS on Income in Respect of Units of Investment Fund

1) Who is responsible to deduct tax u/s 194LBB?

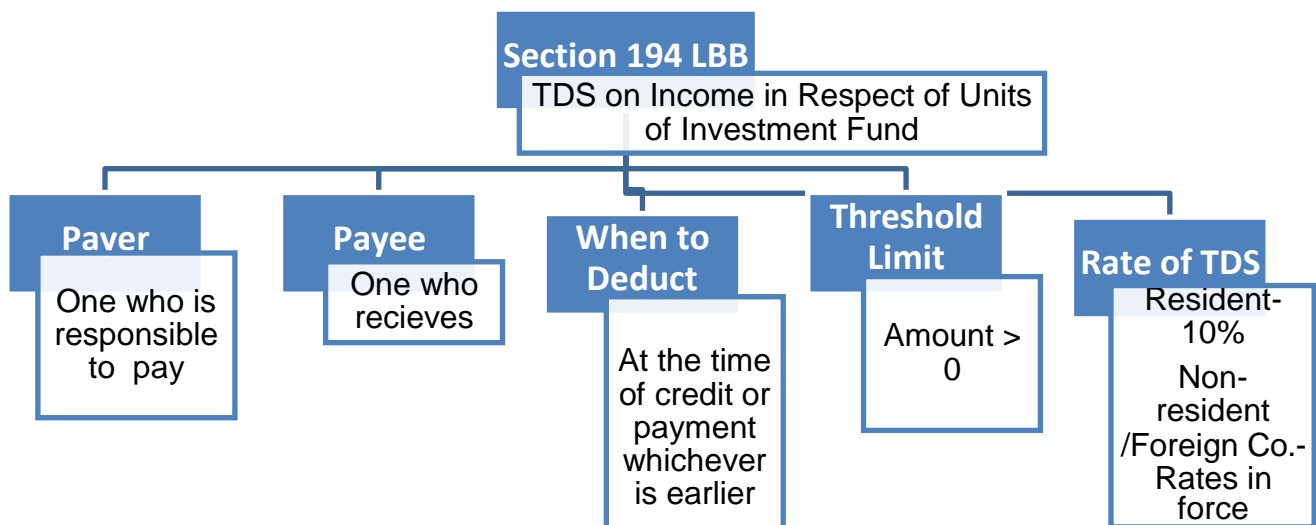
Any person who gives an income (as referred u/s 115UB) to a unit holder in respect of units held in an investment trust has to deduct tax under this section.

2) When to Deduct TDS under Section 194LBB?

The time of deduction is earlier of, the credit of income to the account of the payee (receiver) or actual payment (in cash, cheque, draft or another mode).

3) Rate of TDS under Section 194LBB

The rate of tax u/s 194LBB is 10% (if the payee is resident) and if the payee is non-resident (not a company) or a foreign company then tax will be as per the rates in force during FY.



Section 194LBC – TDS on Income in Respect of Investment in Securitization Trust

1) Who is responsible to deduct tax u/s 194LBC?

Any person who gives income to an investor with respect to investment in securitization trust is required to deduct tax under this section.

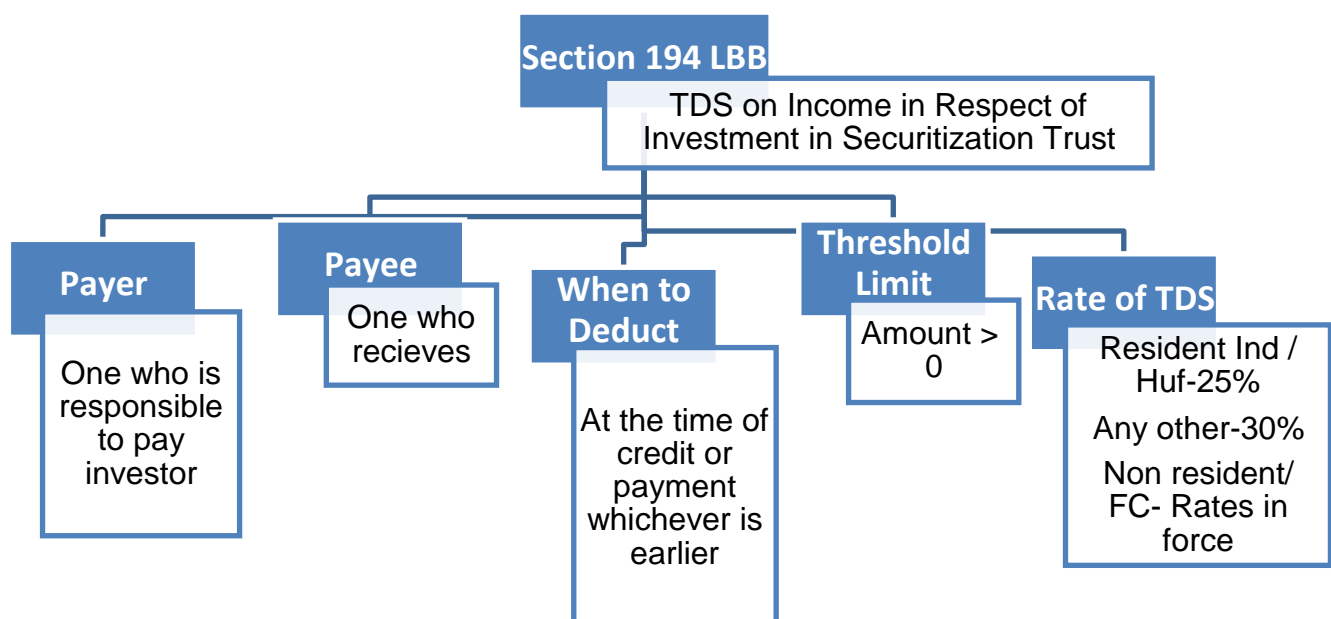
2) When to Deduct TDS under Section 194LBC?

The time of deduction is earlier of, the credit of income to the account of the payee (receiver) or actual payment (in cash, cheque, draft or another mode).

3) Rate of TDS under Section 194LBC

The rate of tax u/s 194LBC is:

- 25% (if the payee is resident Individual & HUF)
- 30% (if the payee is resident other than individual or HUF)
- At the rates in force [if the payee is non-resident (not being a company) or foreign company].



Section 194LC – TDS on Income by way of Interest from Indian Company or Business trust

1) Who is responsible to deduct tax u/s 194LC?

If an Indian company or a business trust pays income by way of interest to non-resident (not being a company) or foreign company, has to deduct TDS under this section.

2) Nature of Payment

- Interest payable by an Indian Company or a Business Trust in respect of monies borrowed by it in foreign currency from a source outside India,—
 - a. under a loan agreement at any time on or after the 1st day of July, 2012 but before the 1st day of July, 2020; or
 - b. by way of issue of long-term infrastructure bonds at any time on or after the 1st day of July, 2012 but before the 1st day of October, 2014; or
 - c. by way of issue of any long-term bond including long-term infrastructure bond at any time on or after the 1st day of October, 2014 but before the 1st day of July, 2020, as approved by the Central Government in this behalf.

- Interest payable in respect monies borrowed by it from a source outside India by way of issue of rupee denominated bond before the 1st day of July, 2020.

3) When to Deduct TDS under Section 194LC?

At the time of credit of such income to the account of payee or at the time of payment whichever is earlier.

For this purpose, -paymentll can be in cash or by issue of a cheque or draft of by any other mode.

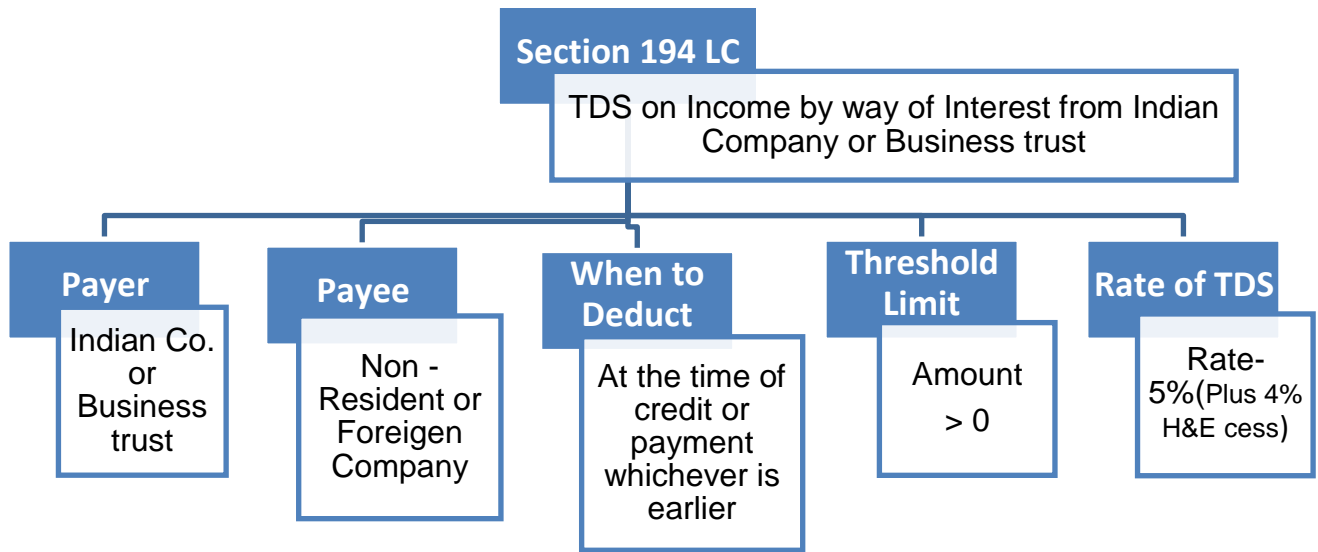
4) Rate of TDS under Section 194LC

The rate of tax u/s 194LC is 5% (plus Health & Education Cess @ 4%).

5) Other key points related to section 194LC

- Interest does not exceed the amount of interest calculated at the rate approved by Central Government in this behalf after considering the terms of bond or loan and its repayment.

- The provisions of section 206AA shall not apply in respect of payment of interest on long-term infrastructure bonds, as referred to in this section.



Section 194LD – TDS on Income by way of Interest on certain Bonds / Government Securities

1) Who is responsible to deduct tax u/s 194LD?

Any person who is responsible for paying to a person being a Foreign Institutional Investor or a Qualified Foreign Investor any income by way of interest.

2) Nature of Payment

Interest payable on or after the 1st day of June, 2013 but before the 1st day of July, 2020 in respect of investment made by the payee in—

- (i) a rupee denominated bond of an Indian company ; or
- (ii) a Government security.

3) When to Deduct TDS under Section 194LD?

At the time of credit of such income to the account of payee or at the time of payment whichever is earlier.

For this purpose, -paymentll can be in cash or by issue of a cheque or draft of by any other mode.

4) Rate of TDS under Section 194LD

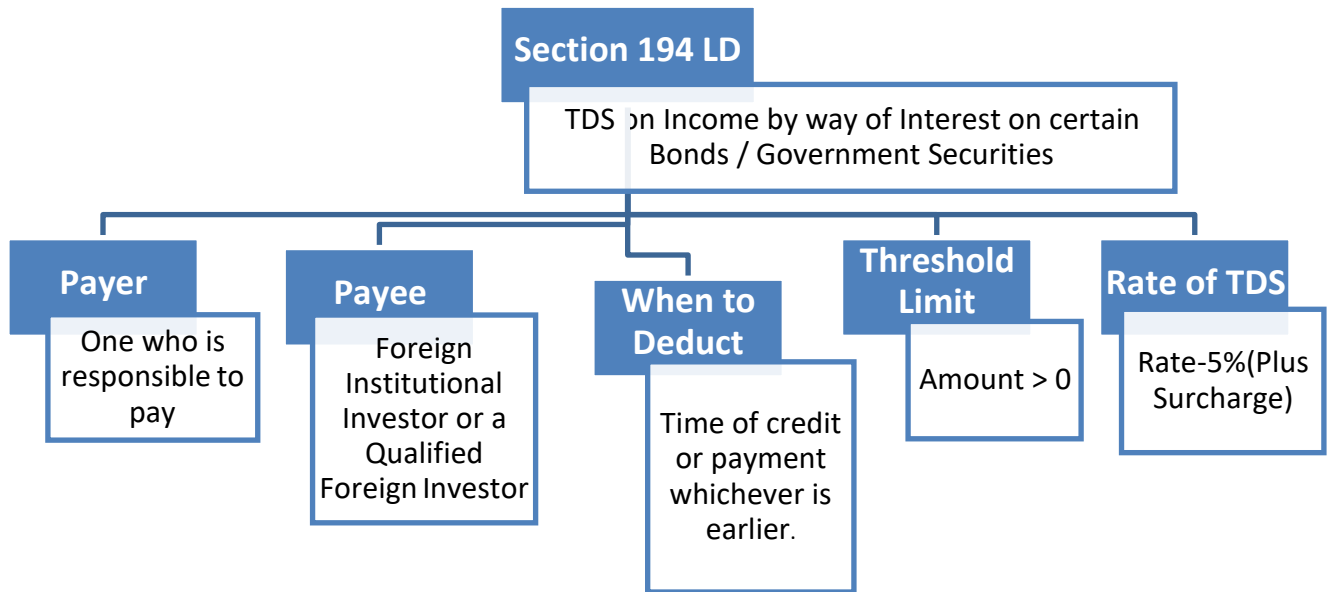
The rates of TDS shall be 5%.

- Surcharge, wherever applicable plus Health & Education Cess @ 4% shall be added to the above rates.
- The rate of TDS will be 20% in all cases, if PAN is not quoted by the deductee.
- The provisions of section 206AA shall not apply to a non-resident, not being a company, or to a foreign company, in respect of income by way of interest under this section subject to such conditions as may be prescribed.

5) Other key points related to section 194LD

- Rate of interest in respect of rupee denominated bond of an Indian company shall not exceed the rate as may be notified by the Central Government in this behalf.
- "Foreign Institutional Investor" shall have the meaning assigned to it in clause (a) of the Explanation to section 115AD.
- "Government security" shall have the meaning assigned to it in clause (b) of section 214b of the Securities Contracts (Regulation) Act, 1956.
- "Qualified Foreign Investor" shall have the meaning assigned to it in the Circular No. Cir/IMD/DF/14/2011, dated the 9th August, 2011, as amended from time to time, issued by the Securities and Exchange Board of India, under section 11 of the Securities and Exchange Board of India Act, 1992.

- If tax is deductible under this section, then provisions of section 195 and Section 196D are not applicable in respect of such payment.



Section 194M – TDS on payments of certain Sums by Individual and HUF

[Applicable from September 1, 2019]

1) Why Section 194M is introduced?

As per the existing provisions of Section 194C, Section 194H and Section 194J, an individual or HUF, who are not liable to tax audit under Section 44AB(a)/44AB(b), shall not be required to deduct tax under these provisions. Thus, no tax is required to be deducted by an individual or HUF from payment made to contractor or professional in the following cases:

- Payment made for services received exclusively for personal purposes
- Payment made for services received for business or profession if payer is not subjected to tax audit u/s 44AB(a)/(b).

Due to this exemption, substantial payments made by individuals or HUFs in respect of contractual work, commission or for professional service were out of the purview of TDS, leaving a loophole for possible tax evasion.

2) Who is responsible to deduct tax u/s 194M?

Any person, being an individual or a Hindu undivided family (other than those who are required to deduct income-tax as per the provisions of section 194C, 194H or section 194J) responsible for paying any sum to any resident shall deduct TDS.

3) When to Deduct TDS under Section 194M?

TDS shall be deducted at the time of credit of such sum or at the time of payment of such sum in cash or by issue of a cheque or draft or by any other mode, whichever is earlier

4) Rate of TDS under Section 194M

The rate of tax deduction u/s 194M is 5% of such sum.

5) Nature of work performed

Payment should be for carrying out any work (including supply of labFour for carrying out any work) in pursuance of a contract or by way of fees for professional services or by way of commission during the financial year

For the purposes of this section,—

- a) **-contract** shall have the meaning assigned to it in clause (iii) of the Explanation to section 194C;
- b) **- commission or brokerage** shall have the meaning assigned to it in section 194 H
- c) **-professional services** shall have the meaning assigned to it in clause (a) of the Explanation to section 194J;
- d) **-work** shall have the meaning assigned to it in clause (iv) of the Explanation to section 194C.

6) Threshold Limit of TDS under Section 194M

TDS shall be deducted only when such sum, or aggregate of such sums, exceeds fifty lakh rupees in a year. However, in order to reduce the compliance burden, it is proposed that such individuals or HUFs can deposit the tax deducted using their PAN and shall not be required to obtain TAN.

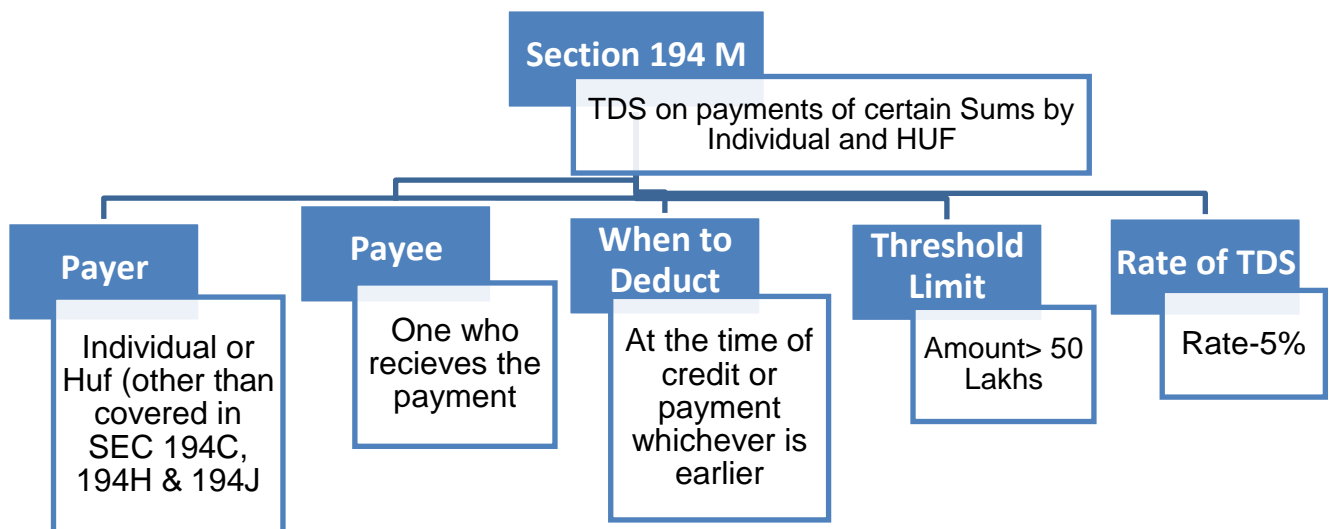
ILLUSTRATION-

Mr. XYZ, a salaried employee, acquired a plot of land on June 1, 2019 for ₹ 60 lakhs. For construction of a building on such land he paid ₹ 75 lakhs to a contractor on December 10, 2019, ₹ 65 lakhs to interior decorator on January 2, 2020 and ₹ 40 lakhs to another contractor for painting on March 15, 2020.

The tax be deducted by Mr. A has been enumerated in below table.

| Particular | Amount paid | Section | Rate of Deduction | Amount of TDS |
|---------------------|-------------|---------|-------------------|---------------|
| Acquisition of land | 60,00,000 | 194-IA | 1% | 60,000 |
| Construction | 75,00,000 | 194M | 5% | 3,75,000 |
| Interior Decoration | 65,00,000 | 194M | 5% | 3,25,000 |
| Painting * | 40,00,000 | - | - | - |

* Since amount paid is less than ₹ 50 lakhs no tax is required to be deducted



Section 194N – TDS on cash withdrawal from banks/post offices

[Applicable from September 1, 2019]

1. Who is responsible to deduct tax u/s 194N?

Every person, being,—

- (i) a banking company to which the Banking Regulation Act, 1949 (10 of 1949) applies (including any bank or banking institution referred to in section 51 of that Act);
- (ii) a co-operative society engaged in carrying on the business of banking; or
- (iii) a post office,

who is responsible for paying any sum, or, as the case may be, aggregate of sums, in cash, in excess of one crore rupees during the previous year, to any person (herein referred to as the recipient) from one or more accounts maintained by the recipient with it .

2. Who is the Payee?

TDS deduction on cash withdrawal u/s 194N is applicable to all taxpayers, including

- An Individual
- A Hindu Undivided Family (HUF)
- A Company
- A partnership firm or an LLP
- A local authority
- An Association of Person (AOPs) or Body of Individuals (BOIs)

3. Are there any exemptions to TDS on cash withdrawal u/s 194N?

No tax shall be deducted if amount is withdrawn from the bank or post office by following recipients:

1. Central or State Government
2. Banks
3. Co-op. Banks
4. Post Office
5. Banking correspondents
6. White label ATM operators
7. Other persons notified by the Govt. in consultation with the RBI

4. When to Deduct TDS under Section 194N?

At the time of payment of such sum

5. Rate & Threshold limit of TDS under Section 194N

Deducts an amount equal to two per cent of sum exceeding one crore rupees

6. Is this section applicable to Non-resident ?

The section applies to cash withdrawals made by resident as well as Non-resident. Therefore, if a NRI withdraws an amount of ₹ 150 lakhs on 15.02.2020 from his NRE Account maintained in India, the bank shall deduct TDS of ₹1,00,000

7. Applicability of section when amount is withdrawn from one or more account maintained with same bank/cooperative bank?

| Date of cash withdrawn | Cash withdrawn from saving account | Cash withdrawn from current account |
|--|------------------------------------|-------------------------------------|
| 01-04-2019 | 20,00,000 | 20,00,000 |
| 05-07-2019 | 5,00,000 | 10,00,000 |
| 31-08-2019 | 4,00,000 | 25,00,000 |
| 01-09-2019 | 50,00,000 | 45,00,000 |
| 01-03-2020 | 65,00,000 | 20,00,000 |
| Total amount withdrawn In Financial Year 2019-20 | | |
| - Up to 31-08-2019 | 29,00,000 | 55,00,000 |
| - 01-09-2019 onwards | 1,15,00,000 | 65,00,000 |
| Tax to be deducted | 328000{ (26400000-10000000)*2%} | |

As Section 194N has been inserted in Income-tax Act with effect from 01-09 2019, the tax shall be required to be deducted only after the said date. However, for the purpose of calculation of threshold limit of ₹ 1 crore, the aggregate amount of cash withdrawn from one or more accounts during the previous year shall be considered.

1) Applicability of section when amount is withdrawn from different branches of same bank?

The limit of Rs 1 crore has to be seen for cash withdrawals made from all branches of a bank.

Illustration-

ABC LTD has withdrawn cash from following branches of Bank of India during the financial year on -

| Dates | Branch | Amount |
|------------|-------------------|----------|
| 01.07.2019 | Delhi Branch | ₹70Lakhs |
| 01.10.2019 | Kolkata Branch | ₹80Lakhs |
| 01.12.2019 | Chandigarh Branch | ₹90Lakhs |

In this case the bank shall deduct TDS on 01.10.2019 at the rate of 2% on ₹50,00,000/- (1.50 crores –1 crore) i.e. ₹1,00,000/- from the payment of ₹80,00,000/-.

Similarly bank shall deduct TDS on 01.12.2019 at the rate of 2% on ₹90,00,000/- i.e. ₹1,80,000/- from the payment of ₹90,00,000/-.

2) Applicability of section when amount is withdrawn from different banks?

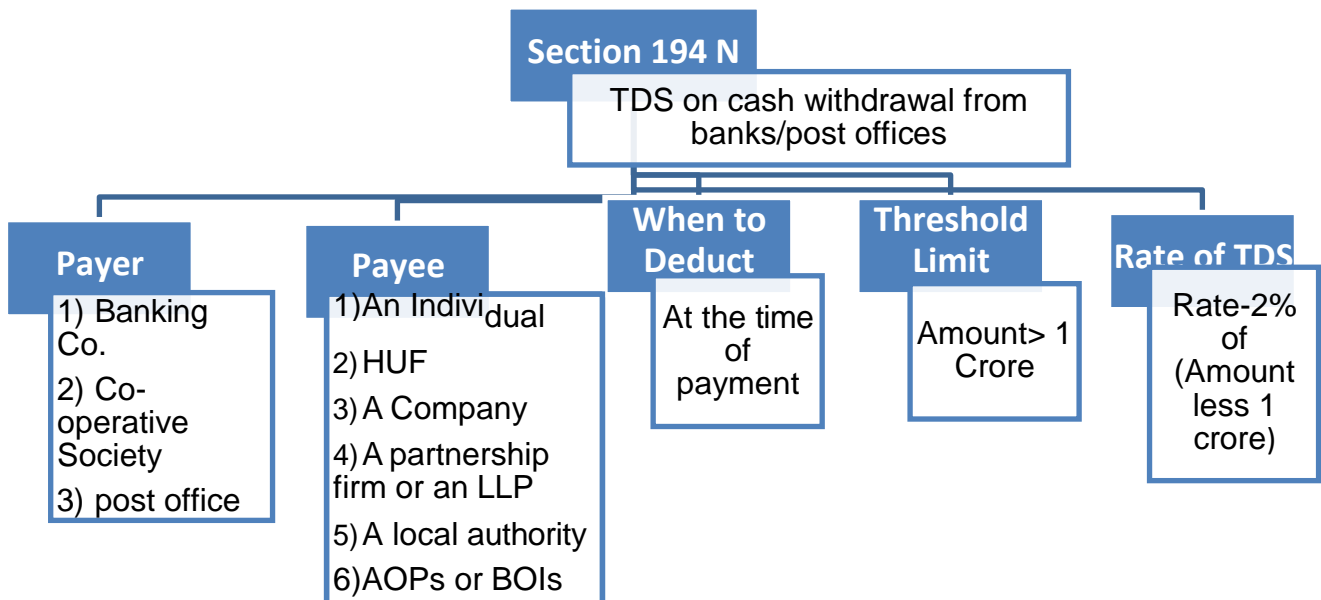
.The cash withdrawals from two different banks shall not be aggregated for the limit of ₹ 1 Crore.

Illustration-

ABC LTD has withdrawn cash from following Banks during the financial year on –

| Dates | Bank | Amount |
|------------|---------------|----------|
| 01.07.2019 | HDFC BANK | ₹70Lakhs |
| 01.08.2019 | SBI BANK | ₹70Lakhs |
| 01.12.2019 | BANK OF INDIA | ₹70Lakhs |

In this case neither of the banks is liable to deduct TDS under Section 194N.



Section 195 – TDS on Non-Resident Payments

1) Who is responsible to deduct tax u/s 195?

Any person responsible for paying to a non-resident, not being a company, or to a foreign company, shall deduct income-tax thereon at the rates in force.

2) Nature of Payment

a) Any interest (not being interest referred to in section 194LB, 194LC and 194LD)

b) Any other sum chargeable under the provision of this Act (not being income chargeable under the head -Salaries)

3) When to Deduct TDS under Section 195?

At the time of credit of such income to the account of payee or at the time of payment, whichever is earlier.

For this purpose credit to -Interest payable account or -Suspense account or any other name shall be deemed to be a credit of such income to the account of the payee.

For this purpose, -payment can be in cash or by issue of a cheque or draft or by any other mode.

If interest is payable by the Government or a public sector bank or a public financial institution, then tax deduction shall be made only at the time of payment thereof in cash or by cheque or draft or any other mode.

4) Threshold limit

No threshold limit. However, tax shall be deducted on sum chargeable to tax. Therefore, if no sum is chargeable to tax in India, then no tax is required to be deducted.

5) Rate of TDS under Section 195

Rates prescribed under the Act has to be increased by surcharge and plus Health & Education Cess @ 4% at the prescribed rate. If the payment is being made as per DTAA rates, then there is no need to add surcharge and plus Health & Education Cess. The rates are as follows:

| Particulars | TDS Rates |
|---|-----------|
| Income in respect of investment made by a NRI | 20% |
| Income by the way of long term capital gains in Section 115E | 10% |
| Income by way of long- term capital gains referred to in Sec 112A in excess of Rs. 1,00,000/- | 10% |
| Short term Capital Gains under section 111A | 15% |
| Any other income by way of long term capital gains | 20% |
| Interest payable on money borrowed in foreign currency | 20% |
| Income by way of royalty payable by government or an Indian Concern | 10% |
| Income by way of fees for technical services payable by Government or an Indian Concern | 10% |
| Any other Income | 30% |

6) Other Points

(1) Liability to deduct tax at source irrespective of residential status and location

For the removal of doubts, it is hereby clarified that the obligation to deduct tax under this section applies and shall be deemed to have always applied and extends and shall be deemed to have always extended to all persons, resident or non-resident, whether or not the non-resident person has—

- i. a residence or place of business or business connection in India; or
- ii. any other presence in any manner whatsoever in India.

(2) Procedure to be adopted by the person responsible for making payment when whole sum payable to non-resident is not chargeable.

Where the person responsible for paying any such sum chargeable under this Act (other than salary) to a non-resident considers that the whole of such sum would not be income chargeable in the case of the recipient, he may make an application to the Assessing Officer to determine for determination of appropriate proportion of sum so chargeable.

Thereafter, assessing officer shall determine the appropriate proportion of such sum so chargeable, by general or special order.

Upon such determination, tax shall be deducted under this section only on that proportion of the sum which is so chargeable.

(3) Payee is entitled to obtain certificate from assessing officer for receiving interest or other sum without deduction of tax.

Subject to rules made in this behalf, any person entitled to receive any interest or other sum on which income-tax has to be deducted under this section, may make an application in the prescribed form to the Assessing Officer for the grant of a certificate authorizing him to receive such interest or other sum without deduction of tax.

Where any such certificate is granted, every person responsible for paying such interest or other sum to the person to whom such certificate is granted shall, so long as the certificate is in force, make payment of such interest or other sum without deducting tax thereon.

(4) Furnishing information by the person responsible for making payment

The person responsible for paying to a non-resident or to a foreign company, any sum shall furnish the information relating to payment of such sum, in such form and manner, as may be prescribed.

Such information has to be furnished whether or not any sum is chargeable under the provisions of this Act.

(5) Mandatory application to the assessing officer by the person responsible for making payment to non-resident or foreign company:

The Board may, by notification in the Official Gazette, specify a class of persons or cases, where the person responsible for paying to a non-resident or to a foreign company, any sum, whether or not chargeable under the provisions of this Act, shall make an application to the Assessing Officer to determine, by general or special order, the appropriate proportion of sum chargeable, and upon such determination, tax shall be deducted under this section on that proportion of the sum which is so chargeable.

Section 195A – Income Payable “Net Of Tax”

In a case other than that referred to in sub-section (1A) of section 192, Where under an agreement or arrangement, the tax chargeable on any income which is subject to tax deduction, is to be borne by the payer of income, then while deducting tax, such income shall be increased to such amount as would, after deduction of tax, be equal to the net amount payable under such agreement or arrangement.

Section 196B – TDS on long term capital gains (LTCG) from units referred to in section 115AB

1) Who is responsible to deduct tax u/s 196B?

Any person responsible for making payment to **Offshore Fund**.

2) Nature of Payment

- a) Income from units referred to in section 115AB
- b) Long-term capital gain arising from transfer of such units

3) When to Deduct TDS under Section 196B?

At the time of credit of such income to the account of payee or at the time of payment, whichever is earlier.

For this purpose, -paymentll can be in cash or by issue of a cheque or draft of by any other mode.

4) Rate of TDS under Section 196B

The rate of tax deduction u/s 1946B is 10 %(+SC+H&E Cess)

Section 196C – TDS on Income from foreign currency bonds or GDRs

1) Who is responsible to deduct tax u/s 196C?

Any person responsible for making payment to **Non-resident**.

2) Nature of Payment

- (a) Interest on notified bonds referred to in section 115AC
- (b) Dividends on Global Depository Receipts referred to in section 115AC
- (c) Long-term capital gain arising from transfer of such bonds or Global Depository Receipts

3) When to Deduct TDS under Section 196C?

At the time of credit of such income to the account of payee or at the time of payment, whichever is earlier.

For this purpose, -paymentll can be in cash or by issue of a cheque or draft of by any other mode.

4) Rate of TDS under Section 196C

The rate of tax deduction u/s 1946C is 10%(+ SC+H&E Cess)

5) Other key point related to Section 196C

No deduction shall be made in respect of dividend referred to in section 115-O.

Section 196D – TDS on Income of foreign institutional investors from securities

1) Who is responsible to deduct tax u/s 196D?

Any person responsible for making payment to **Foreign Institutional Investor**

2) Nature of Payment

Income in respect of securities referred to in section 115AD (not being interest referred to in section 194LD)

3) When to Deduct TDS under Section 196D?

At the time of credit of such income to the account of payee or at the time of payment, whichever is earlier.

For this purpose, -paymentll can be in cash or by issue of a cheque or draft or by any other mode.

4) Rate of TDS under Section 196D

The rate of tax deduction u/s 1946D is 20%(+ SC+H&E Cess)

5) Other key point related to Section 196D

No deduction shall be made in respect of capital gains arising from transfer of such securities.

Section 197 – Certificate For Deduction at Lower Rate

2) What is Section 197?

Section 197 of the Income Tax Act, 1961 allows the taxpayer the facility of **NIL or Lower** tax rate deduction of TDS (or TDS exemption). In order to apply for this you need to submit Form 13 to the assessing officer. Also, this section strikes a delicate balance between the requirement of cash flow to the taxpayer and realizing the government dues at the earliest.

3) Income Covered Under Section 197

Section 197 application can be made by the recipient of income in case of the following category of receipts where TDS is required to be made under the following Sections:

- Section 192 – Salary income
- Section 193 – Interest on securities
- Section 194 – Dividends
- Section 194A – Interest other than interest on securities
- Section 194C – Contractors income
- Section 194D – Insurance commission
- Section 194G – Commission/remuneration/prize on lottery tickets
- Section 194H – Commission or brokerage
- Section 194-I – Rent
- Section 194J – Fee for Professional or technical services
- Section 194LA – Compensation on acquisition of immovable property
- Section 194LBB – Income in respect of units of investment fund
- Section 194LBC – Income in respect of investment in securitization trust
- Section 194M – Contractors income, Commission, Fee for Professional or technical services
- Section 195 – Income of non-residents

4) Eligibility for Making an Application Under Section 197

Application can be made where income of any person attracts TDS as per above mentioned sections and income of the recipient justifies non-deduction or lower deduction of income tax based on his estimated final tax liability.

5) Timeline for Making the Application

Income-tax provision does not provide for a deadline to make an application under Section 197. However, as TDS is made on income of on-going financial year it is advisable to make an application at the beginning of financial year in case of regular income throughout the financial year and as and when the need arises in case of one-off incomes.

6) Validity of an Application Made Under Section 197

Section 197 is issued for a particular financial year and stands valid from the date of issue and throughout the financial year unless cancelled by the assessing officer (TDS) before the expiry.

7) Procedure for Making the Application Under Section 197

- An application for nil/lower deduction of TDS using the FORM 13 is required to be filed with the Assessing Officer(TDS) for seeking permission. Such Form 13 can be filed either online or manually.
- If the applicant satisfies the AO, he would process the issue of the certificate;
- The copy of this certificate can be attached to the invoice given to the deductor, and he can use this to justify the lower tax deduction.

Section 197A – No Deduction to be Made In Certain Cases

1) What is Section 197A?

If a declaration (form no. 15G and 15 H) is submitted under section 197A by the recipient to the payer, then no tax is deductible in a few cases.

The payer shall submit the declaration to the Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner, on or before

| S.No | Date of ending of the quarter of the financial year | Due Date For Government | Due Date for others |
|------|---|-------------------------------------|-------------------------------------|
| 1 | 30 th June | 31 st July of the F.Y. | 15 th July of the F.Y. |
| 2 | 30 th September | 31 st Oct of the F.Y. | 15 th Oct of the F.Y. |
| 3 | 31 st December | 31 st Jan of the F.Y. | 15 th Jan of the F.Y. |
| 4 | 31 st March | 15 th April of Next F.Y. | 30 th April of Next F.Y. |

2) Conditions for submitting declaration and Its applicability

| | Section 192A | Interest on Securities(Sec 193) | Dividend(Sec 194) and NSS (Sec 194EE) | Interest other than interest on Securities(Sec 194A) | Insurance Commission (Section 194 D) | Section 194 DA | Section 194I Rent |
|--|--|----------------------------------|---------------------------------------|---|--------------------------------------|------------------------------|------------------------------|
| Condition 1- Who is recipient | Other than a company or firm | Other than a company or firm | Resident Individual | Other than a company or firm | Other than a company or firm | Other than a company or firm | Other than a company or firm |
| Condition 2- What is tax on total estimated income of the previous year? | Nil | Nil | Nil | Nil | Nil | Nil | Nil |
| Condition 3- How much is total of income covered by sections 192A,193,194A,194EE, 194D,194 DA and194I ? | Not to exceed the amount of exemption limit. | | | | | | |

Section 198 – Tax Deducted at Source shall be deemed to be income received

Tax deducted at source shall be deemed to be income received. Accordingly, it shall be considered for the purpose of computing the income of assessee.

E.g. Mr. C received interest of ₹ 54,000/- after deduction of ₹ 6,000/- as TDS. The income of Mr. C will be ₹ 60,000/- i.e including the portion of TDS.

However in the following two cases, Tax deducted will not form part of income-

- TDS contributed by the employer on non-monetary perquisites provided to employee u/s 192(1A).
- TDS deducted by banks, post offices, cooperative banks u/s 194N

Section 199 – Credit For Tax Deducted

- In pursuance of rules framed under section 199 of the Income Tax act, credit for tax deducted at source shall be given to the deductee for the assessment year for which such income is assessable.
- Where tax has been deducted at source and paid to the Central Government, and the income is assessable over a number of years, credit for tax deducted at source shall be allowed in the same proportion in which such income is offered for taxation.
- If the income on which tax has been deducted is assessable in the hands of a person other than the deductee, then tax credit will be given to such other person if deductee files a declaration with the deductor to that effect. Such declaration shall contain the name, address, PAN of the person to whom credit is to be given and reasons for giving credit to such person.

Section 200(1) and (2) – Time Limit for Deposit of Tax Deducted at Source

Time limit for deposit of tax deducted at source with Government is as under:

| Different situations | Time limit |
|---|--|
| i. Tax is deducted by an office of the Government and tax is paid (a) Without production of an income-tax challan (b) By income- tax challan | Tax shall be deposited on the same day on which tax is deducted. Tax shall be deposited on or before 7 days from the end of the month <ul style="list-style-type: none"> • in which it was deducted. Or • Income tax due under section 192(1A) |
| ii. Tax is deducted by other than the office of the government (a) Where the amount is credited in the month of march (b) Where amount is credited before 1 st March. | Tax shall be deposited by 30 th April Tax shall be deposited within 7 days from the end of month <ul style="list-style-type: none"> • in which it was deducted. Or • Income tax due under section 192(1A) |
| iii. Tax is deducted by a person under section 194IA, 194IB &194M | Tax shall be deposited within 30 days from the last date of month in which tax was deducted. |
| iv. Tax is deducted by a person other than the office of the Government and the Assessing Officer (with prior approval of Joint Commissioner) has permitted quarterly deposit of tax deducted under sections 192,194A, 194D and 194H. | <ul style="list-style-type: none"> • For the quarter ending 30th June: - Tax shall be deposited by 7th July. • For the quarter ending 30th September: - Tax shall be deposited by 7th October. • For the quarter ending 31st December: - Tax shall be deposited by 7th January. • For the quarter ending 31st March: - Tax shall be deposited by 30th April. |

Section 200(3) – Forms And Time Limit For Submitting Quarterly Statement of Tax Deduction (TDS Returns)

Forms for quarterly statement of tax deduction

Any person deducting any sum in accordance with the foregoing provisions of this Chapter shall pay within the prescribed time, the sum so deducted to the credit of the Central Government or as the Board directs. Further, quarterly TDS Return is required to be filed by the assessee who has deducted the TDS. TDS Returns include fields like TAN No., TDS Payment, amount deducted, type of payment, PAN No. etc.

| Form No. | Particulars |
|-----------|--|
| Form 24Q | Statement for tax deducted at source from salaries |
| Form 26Q | Statement for tax deducted at source on all payments except salaries |
| Form 27Q | Statement for deduction of tax from interest, dividend or any other sum payable to non-residents |
| Form 26QB | For Section 194IA separate return is not required, challan cum return to be filed on Form 26QB to be deposited within a period of 30 days(w.e.f.01.06.2016) from the end of the month in which the deduction is made |

Time Limit for filing the above quarterly statements of tax deduction (popularly known as TDS Returns)

A return of TDS is a comprehensive statement containing details of payment made and taxes deducted thereon along with other prescribed details. As per section 200(3) of the Act, the Due Date for filing TDS Return (both online as well as physical w.e.f. 01.06.2016) is as follows:

| Quarter ending on | Due Date |
|----------------------------|--|
| 30 th June | 31 st July of the financial year |
| 30 th September | 31 st October of the financial year |
| 31 st December | 31 st January of the financial year |
| 31 st March | 31 st May of the financial year immediately following the financial year in which deduction is made |

Note: 'Nil' TDS return is not mandatory, however to facilitate the deductors and update data government has provided a facility for declaring nil TDS return.

Section 203 – TDS Certificate

Issue of TDS Certificate

Every person deducting tax at source is required as per Section 203 to furnish a certificate to the payee to the effect that tax has been deducted along with certain other particulars. This certificate is usually called the TDS certificate. Even the banks deducting tax at the time of payment of pension are required to issue such certificates. In case of employees receiving salary income including pension, the certificate has to be issued in Form No.16. In all other cases, the TDS certificate is to be issued in Form 16B. The certificate is to be issued in the deductor's own stationery. However, there is no obligation to issue TDS certificate in case of tax at source is not deducted /deductible by virtue of claims of exemptions/ deductions.

Form and Time Limit for issue of TDS Certificates

| Form No. | Periodicity | Due Date |
|------------------------------|-------------|--|
| Form No.16 and Form No. 12BA | Annual | On or before May 31 of the financial year immediately following the financial year in which tax is deducted. |
| Form No.16A | Quarterly | Within 15 days from the due date of furnishing quarterly TDS returns. |
| Form No.16B | - | Within 15 days of furnishing challan in Form No.26QB |

Issue of Duplicate Certificate

Where the original TDS certificate is lost, the deductee can approach the deductor for issue of a duplicate TDS certificate. The deductor may issue a duplicate certificate in Form No. 16 or Form 16A as the case may be. However such a certificate has to be certified as duplicate by the deductor. Further, the deductor may, at his option, use digital signatures to authenticate such certificates. In case of issue of such certificates the deductor shall ensure that-

- a) The provisions of sub-rule (2) of Rule 31 regarding specification of TAN, PAN of deductee, book identification number; Challan identification number; receipt number of relevant quarterly statements etc. are complied with;
- b) Once the certificate is digitally signed, the contents of the certificates are not amendable to change; and
- c) The certificates have a control number and a log of such certificates is maintained by the deductor.

Section 200A – Processing of statements of tax deducted at source

Where a statement of tax deduction at source or a correction statement has been made by a person deducting any sum (hereafter referred to in this section as deductor) under section 200, such statement shall be processed in the following manner:

- a. the sums deductible under this Chapter shall be computed after making any arithmetical error or an incorrect claim, apparent from any information in the statement.
- b. the interest, if any, shall be computed on the basis of the sums deductible as computed in the statement;
- c. the fee, if any, shall be computed in accordance with the provisions of section 234E;
- d. the sum payable by, or the amount of refund due to, the deductor shall be determined after adjustment of the amount computed under clause (b) and clause (c) against any amount paid under section 200 or section 201 or section 234E and any amount paid otherwise by way of tax or interest or fee;
- e. an intimation shall be prepared or generated and sent to the deductor specifying the sum determined to be payable by, or the amount of refund due to, him under clause (d); and
- f. the amount of refund due to the deductor in pursuance of the determination under clause (d) shall be granted to the deductor.

Provided that no intimation under this sub-section shall be sent after the expiry of one year from the end of the financial year in which the statement is filed.

Section 201 - Consequences of Non-Compliance to TDS

Where any person, including the principal officer of a company, who is required to deduct any sum in accordance with the provisions of this Act; or referred to in sub-section (1A) of section 192, being an employer, does not deduct, or does not pay, or after so deducting fails to pay, the whole or any part of the tax, as required by or under this Act, then, such person, shall, without prejudice to any other consequences which he may incur, be deemed to be an **assessee in default** in respect of such tax. A deductor would broadly face the following consequences:

| Sr. No. | Consequence | Section |
|---------|--------------------------|------------------------------------|
| 1. | Interest | 201(1A) |
| 2. | Penalty | 201(1),271C,271CA,271H, 272A,272BB |
| 3. | Fees | 234E |
| 4. | Prosecution | 276B,276BB |
| 5. | Disallowance of expenses | 40(a)(i)/(ii) |

The same is divided into following parts:

- Provisions applicable to person deemed to be an “assessee in default”.
- Provisions applicable to a person not deemed to be an “assessee in default”.
- Penalties applicable, whether the Assessee is in default or not.
- Consequences for failure to furnish statements and other penalties.

A. Provisions applicable to person deemed to be an “assessee in default”

Levy of interest:-

- As per section 201 of the Income-tax Act, if a deductor fails to deduct tax at source or after the deducting the same fails to deposit it to the Government's account then he shall be deemed to be an assessee-in-default and liable to pay simple interest as follows:
 - i. at 1% for every month or part of a month on the amount of such tax from the date on which such tax was deductible to the date on which such tax is deducted; and
 - ii. at 1.5% for every month or part of a month on the amount of such tax from the date on which such tax was deducted to the date on which such tax is actually paid.
- Levy of interest is mandatory in nature: Levy of interest u/s. 201(1A) is mandatory and that the interest is to be paid whether the Assessee is an assessee in default or not.
- Interest – deduction as business expenditure: Whether the interest paid u/s 201(1A) can be claimed as deductible expenditure - Relying on the various judgments, it has been held that the interest paid u/s 201(1A) takes colour from its principal amount i.e., income tax and hence such interest cannot assume the character of business expenditure and hence is not allowable.

Levy of Penalty:

- Where a person is deemed to be an Assessee in default u/s. 201(1) then the Assessee is liable to pay penalty u/s. 221 in addition to the tax and interest u/s. 201(1A). The amount of penalty payable shall not exceed the amount of tax in arrears. Once a default occurs, penalty is payable even where the Assessee has subsequently paid the tax in arrears, whether before or after the imposition of the penalty. However, the Assessee is to be granted a reasonable opportunity of being heard to prove to the satisfaction of the ITO that the default was for good and sufficient reason.
- The term ‘good and sufficient reasons’ is not defined and depends upon the facts of each case. The following reasoning / circumstances have been considered as a good and sufficient reason by the courts:
 - ✓ TDS post deduction was not paid by the Assessee on account of a financial stringency. It was held as a good and sufficient reason in the matter of Sequoia Construction Co. Limited (Delhi High Court) (158 ITR 496).
 - ✓ Fair and honest estimate based on backdrop of various judicial decisions is a good and sufficient reason - Nestle India (ITAT Delhi)
 - ✓ However, TDS not deducted based on the ignorance - it was ‘not’ held to be a case of good and sufficient ground - Tata Chemicals Limited (Mum ITAT).

Disallowance of expenditure:

- As per section 40(a)(i) of the Income-tax Act, any sum (other than salary) payable outside India or to a non-resident, which is chargeable to tax in India in the hands of the recipient, shall not be allowed to be deducted if it is paid without deduction of tax at source or if tax is deducted but is not deposited with the Central Government till the due date of filing of return. However, if tax is deducted or deposited in subsequent year, as the case may be, the expenditure shall be allowed as deduction in that year.
- TDS is to be deducted and deposited before 7th of next month (or 30th April in case of payment in March) on sum payable as salary to any non-resident. Otherwise 100% of expense will be disallowed and shall not be allowed even if deposited after the due date.
- Similarly, as per section 40(a)(ia), any sum payable to a resident, which is subject to deduction of tax at source, would attract 30% disallowance if it is paid without deduction of tax at source or if tax is deducted but is not deposited with the Central Government till the due date of filing of return. However, where in respect of any such sum, tax is deducted or deposited in subsequent year, as the case may be, the expenditure so disallowed shall be allowed as deduction in that year.
- **Note:** If the Assessee after deduction of TDS does not pay the same, then as per sub-section (2) of section 201, for the amount of tax not paid together with the simple interest - a charge is created on the assets of the person.

B. Provision applicable to a person not to be treated as “assessee in default”

A deductor who fails to deduct the whole or any part of the tax on the sum paid to a resident or on the sum credited to the account of a resident shall not be deemed to be an assessee-in-default in respect of such tax if such resident:

- k. 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 deductor furnishes a certificate to this effect in Form No.26A from a chartered accountant.

Levy of interest: Levy of interest u/s. 201(1A) is mandatory in nature and that the interest (as discussed earlier) is to be paid whether the Assessee is an assessee in default or not.

Levy of Penalty: Penalty u/s. 221 is not payable where a person is not deemed to be an Assessee in default.

Disallowance of expenditure: Finance Act, 2012 w.e.f. 1.7.2012 has inserted second proviso to section 40(a)(ia), where it is provided that if a person is not an assessee in default as per section

201(1) then for the purpose of section 40(a)(ia) it will be deemed that the Assessee has deducted and paid the TDS on such amount and consequently no disallowance ought to be carried out. Hence if a person is not deemed to be an assessee in default then there will be no disallowance u/s. 40(a)(ia).

Note: The proviso is inserted only with context to section 40(a)(ia) and there is no such amendment to section 40(a)(i). Therefore the provision of disallowance specified u/s 40(a)(i) would be applicable.

As per section 40(a)(i) of the Income-tax Act, any sum (other than salary) payable outside India or to a non-resident, which is chargeable to tax in India in the hands of the recipient, shall not be allowed to be deducted if it is paid without deduction of tax at source or if tax is deducted but is not deposited with the Central Government till the due date of filing of return. However, if tax is deducted or deposited in subsequent year, as the case may be, the expenditure shall be allowed as deduction in that year.

C. Penalties, whether the Assessee is in default or not

Section 271C Specific Penalty: It is a specific provision dealing with levy of penalty on failure to deduct the tax at source. Penalty u/s 271C is payable only where a person fails to deduct the tax as required to be deducted. The amount of penalty payable u/s. 271C is equal to the amount of the tax which the person has failed to deduct. Penalty u/s. 271C is not imposable if the Assessee proves the reasonable cause u/s 273B for the failure of the person to deduct TDS.

Issue: Where there is default in deduction of TDS penalty is payable under sec.271C or sec. 221 or both?

→Section 271C is a specific provision dealing with assessee's failure of non-deduction or short-deduction of tax, therefore, to the extent a default is covered by the specific provision of section 271C, such default cannot be subject-matter of penalty under section 221(1).

Section 276B Prosecution: The assessee could also be prosecuted for the non-complying with the requirements of deducting and paying the TDS. However, the criminal proceedings can be initiated only when the default is of non-payment and not where the default is restricted to non-deduction of TDS. The prosecution u/s.276B is rigorous imprisonment for at least 3 months and upto 7 years along with amount to be paid as fine.

Note: No Prosecution where Penalty dropped.

D. Consequences for failure to furnish statements and other penalties

Section 271H [Penalty]:

- The provisions of section 271H levying the penalty are applicable in case of failure to deliver a quarterly statements being TDS/TCS Returns u/s. 200(3) / 206C(3) respectively, before the due of date of filing said returns; or submitting incorrect information in the statement. The penalty will be imposed minimum of ₹ 10,000/- to maximum ₹ 1,00,000/-.
- **Note:** No Penalty u/s 271H if there is Reasonable Cause for failure.
- **Exception** – No penalty shall be levied for the failure to submit the statement if it is proved that the statement has been delivered / submitted before the expiry of one year from the due date of filing the said return u/s. 200(3)/206C(3).

Section 234E [Fees]:

- The provision of section 234E of the Act provides for levy of a fee of ₹ 200/- for each day's delay in filing the statement of TDS. It is to be paid before the furnishing of the return of TDS. However, the amount of fee liable to be paid shall not exceed the amount of TDS.
- **Note:** The levy of the fee u/s. 234E mandatory in nature irrespective of the fact that there exists a reasonable cause of failure.

Section 272BB:

Section 272BB provides for imposition of penalty on non-compliance of provisions of section 203A. Therefore a penalty will be imposed where a person fails to:

- obtain the tax deduction account number or tax collection account number;

or

- fails to quote such number as required

The amount of penalty payable u/s. 272BB is be ₹10,000/-.

Note: No order imposing the penalty shall be passed unless an opportunity of being heard is given in the matter to such person.

Section 203A – Tax Deduction and Collection Account Number

- Every person, deducting tax or collecting tax, who has not been allotted a tax deduction account number or, as the case may be, a tax collection account number, shall, within one month from the end of the month in which tax was deducted or collected, apply to the Assessing Officer for the allotment of a "tax deduction and collection account number".
- The above number shall be quoted in -
 - a. all challans for the payment of tax deducted at source or tax collected at source.
 - b. all TDS or TCS certificates issued under the Act
 - c. all the TDS and TCS returns prepared and delivered under the Act
 - d. all other documents pertaining to such transactions as may be prescribed in the interests of revenue.
- The provisions of this section shall not apply to such person, as may be notified by the Central Government in this behalf.

Section 206AA – Mandatory Requirement of Furnishing PAN

1) What is Section 206AA?

Section 206AA has been inserted to provide that any person whose receipts are subject to deduction of tax at source i.e. the deductee, shall mandatorily furnish his PAN to the deductor failing which the deductor shall deduct tax at source at higher of the following rates –

- a. applicable rate of TDS or
- b. at the rate of 20%

2) Additional points related to Section 206AA

- No certificate under section 197 will be granted by the Assessing Officer unless the application contains the PAN of the applicant.
- Tax is required to be deducted at the rates (as suggested under this section) also in cases where the deductee files a declaration in Form 15G or 15H (under section 197A) but does not provide his PAN.
- 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 highest of the two rates specified above.
- 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.
- These provisions will also apply to non-residents or foreign company where tax is deductible on payments or credits made to them. However, the provisions of this section shall not apply to a non-resident or to a foreign company, in respect of—
 - (i) payment of interest on long-term bonds as referred to in section 194LC; and
 - (ii) any other payment subject to such conditions as may be prescribed.

3) Relaxation from deduction of tax at higher rate under section 206AA

Accordingly, the CBDT has, vide this notification, inserted Rule 37BC to provide that the provisions of section 206AA shall not apply to a non-corporate non-resident, or to a foreign company not having PAN in respect of payments in the nature of interest, royalty, fees for technical services and payments on transfer of any capital asset, if the deductee furnishes the following details and documents to the deductor:

- Name, e-mail id, contact number;
- address in the country or specified territory outside India of which the deductee is a resident;
- a certificate of his being resident in any country or specified territory outside India from the Government of that country or specified territory, if the law of that country or specified territory provides for issuance of such certificate;

- Tax Identification Number of the deductee in the country or specified territory of his residence. In case no such number is available, then a unique number on the basis of which the deductee is identified by the Government of that country or specified territory of which he claims to be a resident.

Section 206C – Tax Collection at Source

1) Applicability and Rate [Section 206C(1)/(1C)/(1F)]

Section 206 C(1)

- Every person, being a Seller, shall collect from the Buyer a tax , at a specified rate on the purchase value of such specified goods-

| Specified goods | Rate of TCS |
|--|-------------|
| 1. Alcoholic liquor for human consumption(other than Indian made foreign liquor) | 1% |
| 2. Tendu leaves | 5% |
| 3. Timber obtained under a forest lease | 2.50% |
| 4. Timber obtained by any mode other than under a forest lease | 2.50% |
| 5. Any other forest produce (not being timber or tendu leaves) | 2.50% |
| 6. Scrap | 1% |
| 7. Minerals, being coal or Lignite or iron ore | 1% |

- Tax has to be collected by the seller at the time of debiting of the amount payable by the buyer to the account of the buyer or at the time or receipt of such amount from the buyer in cash or by issue of cheque or draft, or by any other mode, whichever is earlier.
- “Seller”** means-
 - the Central Government,
 - a State Government
 - any local authority
 - corporation
 - authority established by or under a Central, State or Provincial Act
 - any company
 - firm
 - Co – operative society.
 - Individual or a HUF whose books of account are required to be audited under section 44AB (a)/ (b) during the financial year immediately preceding the financial year in which goods are sold.
- “Buyer”** means 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 section 206C(1) or the right to receive any such goods. However, buyer does not include the following:
 - 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.
 - a buyer in the retail sale of such goods purchased by him for personal consumption.

- **“Scrap”** means 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. Accordingly, following would not be covered within the meaning of scrap and therefore not subject to tax collection at source.
 - b. Scrap or waste not arising from manufacture or mechanical working of material. (e.g. old newspapers)
 - c. Scrap or waste which is usable as such.
- **No collection of tax** shall be made from a resident buyer who purchases goods (which are to be utilized) for the purposes of **manufacturing, processing or producing any article or thing or for the purpose of generation of power and not for the purpose of trading**. For this purpose, resident buyer shall give a declaration in Form No. 27 C to the seller in duplicate. The seller shall deliver one copy to the Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner on or before the **seventh day of the month next following the month** in the declaration is furnished to him.

Section 206C (1C).

- Every person, who grants a lease or a license or enters into a contract or otherwise, transfers any right or interest in
 - a. any parking lot or
 - b. toll plaza or
 - c. mine or quarry,to another person (hereafter referred to as -licensee or leasee) for the use of such parking lot or toll plaza or mine or quarry, for the purpose of business, shall collect tax at source at the rate of **2%**.
 - ✓ The provisions of this section shall not apply to mining and quarrying of mineral oil, petroleum and natural gas.
 - ✓ The provisions of this section shall not apply if the licensee or lessee is a public sector company.
- Tax has to be collected by the seller at the time of debiting of the amount payable by the licensee or leasee to the account of the licensee or leasee or at the time of receipt of such amount from the licensee or leasee in cash or by issue of cheque or draft, or by any other mode, whichever is earlier.

Section 206C(1F)

- Every person, being seller, who receives any amount as consideration for sale of a motor vehicle of the value exceeding **ten lakh rupees**, shall collect tax from buyer at the rate of **1%** of sale consideration.
- Tax shall be collected at the time of receipt of amount from the buyer.
- **“Buyer”** means buyer of motor vehicle of the value exceeding ten lakh rupees. However, the tax collection at source shall not be made in relation to sale of motor vehicle of the value exceeding ten lakh rupees to the following class or classes of buyers, namely:-
 - (a) the Central Government, a State Government and an embassy, a High Commission, legation, commission, consulate and the trade representation of a foreign State
 - (b) a local authority
 - (c) a public sector company which is engaged in the business of carrying passengers

- “Seller” means-
 - a. the Central Government,
 - b. a State Government
 - c. any local authority
 - d. corporation
 - e. authority established by or under a Central, State or Provincial Act
 - f. any company
 - g. firm
 - h. Co – operative society.
 - i. Individual or a HUF whose books of account are required to be audited under section 44AB (a)/ (b) during the financial year immediately preceding the financial year in which goods are sold.

2) CBDT Clarification relating to certain issues with respect to Section 206C(1F)

Question 1: Whether tax collection at source ('TCS') at the rate of 1 % is on sale of Motor Vehicle at retail level or also on sale of motor vehicles by manufacturers to dealers/distributors?

Answer: To bring high value transactions within the tax net, section 206C of the Act has been amended to provide that the seller shall collect the tax at the rate of one per cent from the purchaser on sale of motor vehicle of the value exceeding ten lakh rupees, 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,

Question 2: Whether TCS at the rate of 1 % is on sale of Motor Vehicle is applicable only to Luxury Cars?

Answer: No, As per sub section (1F) of Section 206C of the Act the seller shall collect the tax at the rate of one per cent from the purchaser on sale of any motor vehicle of the value exceeding ten lakh rupee s,

Question 3: Whether TCS at the rate of 1 % is applicable in the case of sale to Government Departments, Embassies, Consulates and United Nation Institutions for sale of motor vehicle or any other goods or provision of services?

Answer: Government, institutions notified under United Nations (Privileges and Immunities) Act 1947, and Embassies, Consulates, High Commission, Legation, Commission and trade representation of a foreign State and shall not be liable to levy of TCS at the rate of 1 % under sub-section (1F) of section 206 C of the Act.

Question 4: Whether TCS is applicable on each sale of motor vehicle or on aggregate value of sale during the year?

Answer: Tax is to be collected at source at the rate of 1 % on sale consideration of a motor vehicle exceeding ten lakh rupees. It is applicable to each sale and not to aggregate value of sale made during the year.

Question 5: whether TCS at the rate of 1 % on sale of motor vehicle is applicable in case of an individual?

Answer: The definition of "Seller" as given in clause (c) of the Explanation below subsection (II) of section 206C shall be applicable in the case of sale of motor vehicles also Accordingly, an individual who is liable to audit as per the provisions of section 44AB of the Act during the financial year immediately preceding the financial year in which the motor vehicle is sold shall be liable for collection of tax at source on sale of motor vehicle by him.

Question 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?

Answer: The provisions of TCS on sale of motor vehicle exceeding ten lakh rupees is not dependent on mode of payment. Any sale of Motor Vehicle exceeding ten lakh would attract TCS at the rate of 1%.

The above percentages referred to in section 206C(1),206C(1C) and 206C(1F) shall be increased by a surcharge and health & education cess for assessment year 2020-21 as under:

| Where buyer is: | Applicability of Surcharge & Education Cess |
|---|--|
| 1. Foreign Company | The rates of TCS shall be increased by: (A) Surcharge of 2%(where the payment collected or to be collected from buyer and which is subject to tax collection during the financial year exceeds Rs 1 crore but does not exceeds Rs 10 crores) (B) Surcharge of 5%(where the payment collected or to be collected from buyer and which is subject to tax collection during the Financial year exceeds Rs 10 crores); and (C) Health & education cess of 4% in all cases. |
| 2. Individual or HUF or AOP or BOI being non- resident other than foreign Company | The rates of TCS shall be increased by: (A) Surcharge of 10%/15%/25%/37%(where the payment collected or to be collected from buyer and which is subject to tax collection during the financial year exceeds Rs 50 lakhs but upto Rs 1 crore/exceeds Rs 1 crore but upto Rs 2 crores/exceeds Rs 2 crores but upto Rs 5 crores/exceeds Rs 5 crores); and (B) Health & education cess of 4% in all cases. |
| 3. Co-operative Society or firm, being a non- resident | The rates of TCS shall be increased by: (A) Surcharge of 12%(where the payment collected or to be collected from buyer and which is subject to tax collection during the financial year exceeds Rs 1 crore) (B) Health & education cess of 4% in all cases. |

3) Collection of the tax at any lower rate than the relevant rate specified

Where the Assessing Officer is satisfied that the total income of the buyer or licensee justifies the collection of the tax at any lower rate than the relevant rate specified, the Assessing Officer shall, on

an application made by the buyer or licensee in Form No.13 in this behalf, give to him a certificate for collection of tax at such lower rate.

Where such certificate is given, the person responsible for collecting the tax shall, until such certificate is cancelled by the Assessing Officer, collect the tax at the rates specified in such certificate. The certificate shall be issued directly to the person responsible for collecting the tax under advice to the buyer who made an application for issue of such certificate.

4) Time Limit for deposit of tax

The Tax so collected shall be deposited to the credit of Central Govt. within 7 days from the end of the month in which tax was required to be collected.

5) TCS Return

TCS return shall be submitted in form no. 27 EQ within the time limit give below:-

| Quarter ending | Due Date |
|----------------------------|--|
| 30 th June | 15 th July of the financial year |
| 30 th September | 15 th October of the financial year |
| 31 st December | 15 th January of the financial year |
| 31 st March | 15 th May of the financial year immediately following the financial year in which deduction is made |

3) Certificate of tax collection at source

Certificate of tax collection at source shall be issued within 15 days from the due date of furnishing quarterly TDS/TCS returns.

4) Credit for TCS

The amount collected under this section is deemed to be a payment of tax on behalf of the person from whom the amount has been collected. A tax credit is given to him for the amount so collected in the assessment for which the income is assessable.

5) Processing of statements of tax collected at source [Section 206CB]

- Where a statement of tax collection at source or a correction statement has been made by a person collecting any sum (herein referred to as collector) under section 206C, such statement shall be processed in the following manner, namely:—
 - (a) the sums collectible under this Chapter shall be computed after making the following adjustments, namely:—
 - (i) any arithmetical error in the statement;
 - (ii) an incorrect claim, apparent from any information in the statement;
 - (b) the interest, if any, shall be computed on the basis of the sums collectible as computed in the statement;
 - (c) the fee, if any, shall be computed in accordance with the provisions of section 234E;
 - (d) the sum payable by, or the amount of refund due to, the collector, shall be determined after adjustment of the amount computed under clause (b) and clause (c) against any amount paid under section 206C or section 234E and any amount paid otherwise by way of tax or interest or fee;
 - (e) an intimation shall be prepared or generated and sent to the collector specifying the sum determined to be payable by, or the amount of refund due to, him under clause (d); and

- (f) the amount of refund due to the collector in pursuance of the determination under clause (d) shall be granted to the collector

Provided that no intimation under this sub-section shall be sent after the expiry of the period of one year from the end of the financial year in which the statement is filed

Explanation.—For the purposes of this sub-section, "an incorrect claim apparent from any information in the statement" shall mean a 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 collection of tax at source, where such rate is not in accordance with the provisions of this Act.
- The Board may make a scheme for centralized processing of statements of tax collected at source to expeditiously determine the tax payable by, or the refund due to, the collector, as required under sub-section (1).

6) Consequences of failure to collect tax at source

Section 206 C(6A):

If any person responsible for collecting tax in accordance with the provisions of this section does not collect the whole or any part of the tax or after collecting, fails to pay the tax as required by or under this Act, he shall, without prejudice to any other consequences which he may incur, be deemed to be an assessee in default in respect of the tax: Provided that any person, other than a person referred to in sub-section (1D), responsible for collecting tax in accordance with the provisions of this section, who fails to collect the whole or any part of the tax on the amount received from a buyer or licensee or lessee or on the amount debited to the account of the buyer or licensee or lessee shall not be deemed to be an assessee in default in respect of such tax if such buyer or licensee or lessee—

- (a) has furnished his return of income under section 139;
- (b) has taken into account such amount for computing income in such return of income; and
- (c) has paid the tax due on the income declared by him in such return of income, and the person furnishes a certificate to this effect from an accountant in such form as may be prescribed.

Provided further that no penalty shall be charged under section 221 from such person unless the Assessing Officer is satisfied that the person has without **good and sufficient reasons** failed to collect and pay the tax.

Section 206C(7):

Without prejudice to the above, if the person responsible for collecting tax does not collect the tax or after collecting the tax fails to pay it as required under this section, he shall be liable to pay simple interest at the rate of one per cent per month or part thereof on the amount of such tax from the date on which such tax was collectible to the date on which the tax was actually paid and such interest shall be paid before furnishing the quarterly statement for each quarter.

Provided that in case any person, other than a person referred to in sub-section (1D), responsible for collecting tax in accordance with the provisions of this section, fails to collect the whole or any part of the tax on the amount received from a buyer or licensee or lessee or on the amount debited to the account of the buyer or licensee or lessee but is not deemed to be an assessee in default under the first proviso of sub-section (6A), the interest shall be payable from the date on which such tax was collectible to the date of furnishing of return of income by such buyer or licensee or lessee.

Section 206C(8):

Where the tax has not been paid as aforesaid, after it is collected, the amount of the tax together with the amount of simple interest thereon referred to in sub-section (7) shall be a charge upon all the assets of the person responsible for collecting tax.

Section 206CC – Mandatory Requirement of Furnishing PAN

- Section 206CC has been inserted to provide that any person whose payments are subject to tax collection at source i.e. the collectee, shall mandatorily furnish his PAN to the collector failing which the collector shall collect tax at source at higher of the following rates –
 - a. At twice the applicable rate of TCS or
 - b. At the rate of 5%

- This section further provides as under:
 - ✓ No certificate under section 206C (9) will be granted by the Assessing Officer unless the application contains the PAN of the applicant.

 - ✓ Tax is required to be collected at the rates (as suggested under this section) also in cases where the collectee files a declaration in Form 27C [[under section 206C(1A)] but does not provide his PAN.

 - ✓ 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 highest of the two rates specified above

 - ✓ Both the collector and the collectee have to compulsorily quote the PAN of the collectee in all correspondence, bills, vouchers and other documents exchanged between them.

 - ✓ The provisions of this section shall not apply to Non-resident who does not have permanent establishment in India. For this purpose, the expression "permanent establishment" includes a fixed place of business through which the business of the enterprise is wholly or partly carried on.