

TDS

{Under section 194IA & 194A}

by

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TOPICS TO BE DISCUSSED

Tax deducted at Source:

- On Sale of Immovable Property *u/s 194IA*.
- On Interest other than Interest on Securities *u/s 194A*.



Sec 194IA- TDS on Sale of Immovable Property

- Transferor: Who is a Resident seller (Deductee).
Transferee: Who is a Buyer (any person) (Deductor).
- When transferee is responsible for paying to a transferor any sum by way of sale consideration for transfer of an immovable property, shall,
- at the **time of credit** of such sum to the account of the transferor (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**,
- TDS Deducted@1%
- Where such sale consideration is equal to or more than 50 Lakhs.

Exceptions

No deduction shall be made:

- Where such Immovable property is an “**Rural Agriculture Land**”.
- If such sale consideration is in the nature of compensation / enhanced compensation or the consideration /enhanced consideration on account of compulsory acquisition, under any law for the time being in force (as it is covered u/s 194LA).

Note:

- The provisions of section 203A (TAN) shall not apply to a person required to deduct tax in accordance with the provisions of this section.
- If the seller is Non-Resident ,then TDS should be deducted by the Buyer *u/s 195*.

Examples

- ❓ M/s ABC & co transferred a Building to Mr. B worth of Rs. 45,00,000. Whether TDS should be deducted ?
- ❓ Mr. A transferred a open land to Mr. B Worth of 75,00,000/-. Whether TDS should be deducted ?
- ❓ M/s Highway Enterprises transferred an urban Agricultural land to M/s Deccan Associates for a consideration 65,00,000/-. Whether TDS should be deducted ?
- ❓ Mr. X transferred an House Property for 50,00,000/- to Mr. Y. Whether TDS should be deducted ?

Sec 194A-TDS on Interest other than interest on Securities

- Payer: Any person, not being an individual or a Hindu undivided family,
Payee: Any resident person,
- When payer is responsible for paying to a payee any income by way of interest other than interest on securities, shall,
- at the **time of credit** of such income to the account of the payee (or) at the **time of payment** thereof in cash or by issue of a cheque or draft or by any other mode, **whichever is earlier**, deduct income-tax thereon at the rates in force.(as per finance act, 2017 TDS@ 10%)

Note:

- Provided that an individual or a Hindu undivided family are liable to deduct TDS, exceeds the monetary limits specified under *section 44AB (Tax Audit)* during the immediately preceding the financial year.

Exceptions(1/7)

No Deduction shall be made:

1. where the amount of such income be credited or paid during the financial year by the payer referred in the below to the payee, does not exceed—
10000,
 - where the payer is a banking company to which the Banking Regulation Act, 1949 (10 of 1949) applies.
 - where the payer is a co-operative society engaged in carrying on the business of banking;
 - on any deposit with post office under any scheme framed by the Central Government and notified by it in this behalf;5000,
 - in any other case;

Exceptions(2/7)

- The limit will be calculated with respect to income credited or paid by a branch of the banking company or Co-operative society.

Note:

The threshold limit will be with reference to the total interest credited or paid by the banking company or the co-operative bank as the case may be (and not with reference to each branch), where such banking company or co-operative society has adopted Core Banking Solutions (CBS) Software.

- Q Mr.X deposited 6,00,000/- in XYZ Bank, nampally branch and another 6,00,000/- in XYZ Bank, Kothi branch. Whether TDS is Deducted ? If not adopted CBS Software then , TDS is deducted or not?

Exceptions(3/7)

🗨 On 1.10.2017, Mr. Rajesh made a six month Fixed Deposit of ₹ 10 L @9% p.a. ABC co-operative bank. The Fixed Deposit matures on 31.3.2018. Whether TDS is deducted?

Ans: Yes, as it exceeds 10,000/-, ABC Co-operative Bank has to deduct tax at source@10% on the interest of 45,000 ($9\% \times 10 \text{ lakh} \times \frac{1}{2}$) u/s 194A. The tax deductible at source under section 194A from such interest is, therefore, 4,500.

🗨 M/s ABC & co took loan from DEF trade company and paid 9,999/- as interest. Whether TDS is deducted u/s 194A?

Ans: As the interest amount exceeds 5,000/-, TDS should be deducted u/s 194A @ 10% i.e. 1,000/.

Exceptions(4/7)

Note:

The CBDT vide *Circular No.3/2010 dated 02.03.2010* has clarified that, section 194A will not apply in cases of banks where credit is made to provisioning account on daily/monthly basis for the purpose of macro monitoring only by the use of CBS software.

Example:

Mr.X deposited 15,00,000/- as a FD for 1 month on **01-05-2017** in SBS Bank, so a provision entry was passed by the CBS software @ 10% i.e. 12,500/- as a monthly basis ,on **31-05-2017** and actual entry of payable was passed on **01-06-2017** and paid on **11-06-2017**. when TDS should be deducted by the SBS Bank.

Ans: TDS should be deducted u/s 194A on 01-06-2017.

Exceptions(5/7)

2. Interest credited or paid by a Firm to a Resident Partner of the firm.

Ex: TDS is not deducted when Firm paid interest on Partner's Capital.

3. Interest paid or credited to any banking company, co-operative society engaged in banking business, public financial institutions, LIC, Unit Trust of India (UTI), a company or co-operative society carrying on the business of insurance or any institution Central Government notifies.

Ex: ABC & co took loan from Bank and paying interest to bank. ABC & co will not deduct the TDS on such interest.

4. Interest is paid by a co-operative society (other than a co-operative bank) to a member thereof or to such income credited or paid by a co-operative society to any other co-operative society;

Exceptions(6/7)

5. Interest is paid or credited in respect of Deposits under scheme framed by Central Government and notified in official Gazette.
Ex: National skill Development Fund, Rural Electrification Corporation Limited, etc.
6. Interest is paid by Central Government under any provisions of the income tax act.
Ex: Interest paid on refund of Income tax paid by the CG.
7. Interest is paid or credited by infrastructure capital company or a public sector company or scheduled bank in relation to a zero coupon bond.

Exceptions(7/7)

8. To such income **credited** by way of interest on the compensation amount awarded by the Motor Accidents Claims Tribunal;
9. To such income **paid** by way of interest on the compensation amount awarded by the Motor Accidents Claims Tribunal where the amount of such income or, as the case may be, the aggregate of the amounts of such income paid during the financial year does not exceed fifty thousand rupees (50000).

Summary of Sec194IA & Sec194A(1/2)

Particulars	u/s 194IA	u/s 194A
1. When TDS is deducted	At the time of payment or credit of sale consideration on transfer of Immovable property, whichever is Earlier.	At the time of payment or credit of income by way of Interest other than Interest on securities, whichever is Earlier.
2. Who is the Deductor	Transferee/Buyer is the Deductor.	Payer is the Deductor.
3. Deposit of TDS amount with Government	Through Form 26QB which challan cum declaration statement.	Through challan no: ITNS 281
4. Filing of Return	---	Through Form 26Q
5. Due date for Deposit	Within 30 days from the end of the month in which TDS deducted.	<ol style="list-style-type: none"> 1. Within 7 days from the end of month(except march) in which TDS deducted. 2. Within 30 days from the end of march month.

Summary of Sec194IA & Sec194A(2/2)

Particulars	u/s 194IA	u/s 194A
6. Due Date for filing of TDS return	---	For 1 st April to 30 th June – 31 st July For 1 st July to 30 th Sep – 31 st Oct For 1 st Oct to 31 st Dec – 31 st Jan For 1 st Jan to 31 st March – 31 st May
7. TDS Certificate	Form 16B	Form 16A
8. Due date for submitting TDS Certificate	within 15 days from the day of filing Form 26QB.	For 1 st April to 30 th June – 15 th Aug For 1 st July to 30 th Sep – 15 th Nov For 1 st Oct to 31 st Dec – 15 th Feb For 1 st Jan to 31 st March – 15 th Jun

Interest for Non-payment of TDS

As per section 201, if any person has default in deduction or payment of TDS amount with Government , then :-

- Interest shall be levied 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 was deducted.
- Interest shall be levied 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 was actually remitted to the credit of the Government.

Penalties and Late fee for Non-filing of TDS returns

- As per *section 234E*, where a person fails to file the TDS/TCS return on or before the due date prescribed in this regard, then he shall be liable to pay, by way of fee, a sum of Rs.200 for every day during which the failure continues. The amount of **late fees shall not exceed the amount of TDS**.
- Where a person fails to file the TDS return for more than 1 yr, then, minimum penalty can be levied of Rs. 10,000 which can go up to Rs. 1,00,000 under *section 271H*. This will be in addition to late filing fees prescribed under *section 234E*.

No penalty under section 271H will be levied in case of delay in filing the TDS/TCS return if following conditions are satisfied:

- The tax deducted/collected at source is paid to the credit of the Government.
- Late filing fees and interest (if any) is paid to the credit of the Government.
- The TDS/TCD return is filed before the expiry of a period of one year from the due date specified in this behalf.

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Thank you!!!

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