



CERTIFICATE COURSE ON TDS

Today's Content – TDS u/s 194R, 194S AND 194T

I. Overview of Section 194R

Section 194R was introduced via the **Finance Act, 2022** and became effective from **1st July 2022**. It mandates **TDS (Tax Deducted at Source)** on **benefits or perquisites** provided to a resident in connection with business or profession.

Purpose

- To **plug tax evasion** where benefits/perquisites were claimed as expenses by businesses but not reported as income by recipients.
- To **widen the tax base** by ensuring such non-monetary benefits are taxed.

Applicability Criteria

Parameter	Details
Who must deduct TDS	Any person providing benefit/perquisite to a resident
Recipient	Resident receiving benefit in course of business/profession
Threshold	₹20,000 aggregate value in a financial year
Exempted Deductors	Individual/HUF with turnover < ₹1 crore (business) or < ₹50 lakh (profession) in preceding FY
Effective Date	1st July 2022

Nature of Benefits Covered

Section 194R applies to **monetary and non-monetary benefits**, including:

- Free samples or gifts
- Travel packages
- Sponsored events or hotel stays
- Use of company assets
- Incentives in kind (e.g., electronics, vehicles)
- Gift vouchers or coupons

These are typically offered to dealers, distributors, agents, or professionals as part of promotional or incentive schemes.

☐ TDS Mechanism

Scenario	TDS Treatment
Benefit in cash	Deduct 10% TDS before payment
Benefit in kind	Deductor must pay TDS from own funds
Benefit in cash + kind	Ensure full TDS is paid before providing benefit

- **Rate of TDS:** 10%
- **No requirement** to check whether the benefit is taxable in the hands of the recipient.

Legal Foundation

- **Section 28(iv):** Taxable as business income if benefit/perquisite arises from business/profession.
- **Section 194R:** Ensures TDS is deducted on such benefits, even if not convertible into money.

CBDT issued two key circulars to clarify implementation:

◆ Circular No. 12/2022 (16 June 2022)

- No need to check taxability in recipient's hands.
- Applies even if benefit is capital in nature.
- Valuation should be based on fair market value.

◆ Circular No. 18/2022 (13 September 2022)

- Clarifies applicability on sales discounts, rebates, and incentives.
- Discounts given in normal course of business are **not covered**.
- Benefits to doctors through pharmaceutical companies are covered.

Accounting & Compliance

- **Head of Income:** Profits and Gains of Business or Profession
- **Reporting:** Recipients must declare value in ITR
- **GST vs TDS:** Separate compliance; GST may apply if benefit is a taxable supply

Practical Illustration

Example: A company gives a laptop worth ₹50,000 to a dealer for achieving sales targets.

- TDS @10% = ₹5,000
- Since the benefit is in kind, the company must deposit ₹5,000 as TDS before handing over the laptop.

✗ Non-Applicability

Section 194R does **not apply** if:

- Benefit value ≤ ₹20,000 in a financial year
- Deductor is an individual/HUF with turnover below prescribed limits
- Benefit is not related to business/profession

Common Misconceptions about Section 194R

1. Only Cash Benefits Are Covered

Reality: Section 194R applies to **benefits or perquisites in cash, kind, or both**. In fact, the section was primarily designed to capture **non-monetary benefits** that were previously escaping taxation.

Example: A company gifting an iPhone to a dealer must deduct TDS even though the benefit is entirely in kind.

2. TDS Is Not Required If the Benefit Is Not Taxable to the Recipient

Reality: The **CBDT clarified** that the deductor **does not need to verify taxability** in the hands of the recipient. TDS must be deducted regardless.

Even if the recipient claims the benefit is capital in nature or exempt, the provider must still deduct TDS.

3. Employee Benefits Are Covered Under Section 194R

Reality: False. Benefits to employees are governed by **Section 192 (Salary TDS)**, not 194R.

Section 194R applies only to **non-employees** like dealers, consultants, agents, or channel partners.

4. Sales Discounts and Rebates Are Subject to TDS

Reality: Not always. CBDT clarified that **normal trade discounts or rebates** are **not covered** under Section 194R.

However, **incentives** like travel packages or gifts given beyond normal trade terms **are covered**.

5. TDS Can Be Deducted After Providing the Benefit

Reality: TDS must be **deducted before** providing the benefit or perquisite.

If the benefit is in kind, the provider must **deposit TDS from their own funds** before handing it over.

6. No Need to Maintain Documentation

Reality: Businesses must maintain **detailed records** of:

- Nature and value of benefits
- Purpose of business conferences
- Agenda and attendees

Especially for mixed-purpose events (e.g., leisure + business), only the **business portion** is exempt from TDS.

7. Section 194R Is Optional for Small Businesses

Reality: Only **individuals/HUFs** with turnover below ₹1 crore (business) or ₹50 lakh (profession) in the **preceding FY** are exempt.

Larger businesses must comply, regardless of the nature of benefit.

8. GST and TDS Are Interchangeable

Reality: GST and TDS under Section 194R are **separate compliances**.

GST may apply if the benefit is a taxable supply, but that doesn't affect the obligation to deduct TDS.

Final Thought

Section 194R is designed to **capture hidden income** and **ensure fairness** in taxation. Misunderstanding its scope can lead to **non-compliance, penalties, or litigation**. Staying informed and maintaining proper documentation is key.

II. Overview of Section 194S

Introduction to Section 194S

Section 194S, introduced via the **Finance Act, 2022**, mandates **TDS at 1%** on payments made to a resident for the **transfer of Virtual Digital Assets (VDAs)**. It came into effect on **1st July 2022** and is part of India's broader effort to regulate and tax digital assets like cryptocurrencies and NFTs.

Objective of Section 194S

- To ensure **tax compliance** in the rapidly growing digital asset space.
- To **track and trace** crypto transactions, which are often anonymous and decentralized.
- To complement **Section 115BBH**, which imposes a flat 30% tax on gains from VDAs.

What Are Virtual Digital Assets (VDAs)?

As per Section 2(47A) of the Income Tax Act:

✓ Included as VDAs:

- Cryptocurrencies (e.g., Bitcoin, Ethereum, Dogecoin)
- Non-Fungible Tokens (NFTs)
- Any digital representation of value using cryptography or block chain

✗ Not Considered VDAs:

- Central Bank Digital Currency (CBDC) like Digital Rupee (₹)
- Gift cards, loyalty points, e-vouchers (unless specifically notified)

📋 Applicability of Section 194S

Criteria	Details
Who deducts TDS	Any person (resident or non-resident) paying consideration to a resident for transfer of VDA
Recipient	Resident seller of VDA

Criteria	Details
Threshold (Specified Person)	₹50,000 per financial year
Threshold (Others)	₹10,000 per financial year
Rate of TDS	1% of consideration amount
Effective Date	1st July 2022

Who Is a Specified Person?

Defined as:

- Individual/HUF **not having income under “Profits and Gains of Business or Profession”**
- Individual/HUF with business turnover ≤ **₹1 crore** or professional receipts ≤ **₹50 lakh** in preceding FY

TDS Mechanism Under Section 194S

Scenario	TDS Treatment
Cash payment for VDA	Deduct 1% TDS before payment
Crypto-to-crypto transfer	TDS must be deducted in crypto or equivalent INR
Exchange-based transaction	Exchange or broker may deduct TDS
Peer-to-peer (P2P)	Buyer must deduct TDS and deposit with government

- TDS must be deducted **at the time of credit or payment**, whichever is earlier.
- GST and service charges are **excluded** from TDS calculation.

Reporting & Compliance

Form	Purpose
Form 26Q	For regular deductors
Form 26QE	For specified persons
Form 26QF	Quarterly report by exchanges (if applicable)

- TDS must be deposited within **30 days** and reported accordingly.
- PAN of recipient is mandatory.

CBDT Guidelines Highlights

CBDT issued clarifications to simplify compliance:

- If transaction is routed through an **exchange**, the exchange is responsible for TDS.
- In case of **multiple brokers**, parties may agree on who deducts TDS.
- TDS is **not applicable** on transactions before 1 July 2022, but those transactions count toward the threshold.

Practical Examples

Example 1: Cash Purchase

You buy Ethereum worth ₹1,00,000 from a seller:

- TDS @1% = ₹1,000
- You pay ₹99,000 to the seller and deposit ₹1,000 with the government.

Example 2: Crypto-to-Crypto Trade

You exchange Bitcoin for Ethereum worth ₹2,00,000:

- TDS @1% = ₹2,000
- You must deduct TDS in crypto or pay equivalent INR to the government.

Non-Applicability

- If total consideration \leq ₹10,000 (or ₹50,000 for specified persons)
- If recipient is **non-resident**
- If asset is **not classified as VDA**

Penalties for Non-Compliance

- **Interest** under Section 201(1A)
- **Penalty** under Section 271C
- Disallowance of expense under Section 40(a)(ia)

III. Overview of Section 194T

Introduction to Section 194T

Section 194T mandates **Tax Deducted at Source (TDS) at 10%** on certain payments made by **partnership firms and LLPs** to their **partners**. This provision aims to bring transparency and tax compliance to partner-related payments that were previously outside the TDS framework.

Objective of Section 194T

- To address legislative gaps in taxing payments made to partners.
- To ensure **timely finalization of accounts** and reduce last-minute tax filings.
- To align partner payments with other TDS provisions applicable to employees and contractors.

Applicability of Section 194T

Parameter	Details
Effective Date	1st April 2025 (Assessment Year 2025–26)
Deductor	Partnership Firm or LLP
Deductee	Partner of the firm (resident or non-resident)
Rate of TDS	10%
Threshold	No TDS if aggregate payments to a partner \leq ₹20,000 in a financial year
Timing	TDS to be deducted at the time of credit or payment, whichever is earlier

Payments Covered Under Section 194T

TDS is applicable on the following types of payments made to partners:

- 💰 Salary
- 💼 Remuneration
- 🎁 Bonus
- 🏦 Commission
- 🏠 Interest (on capital or loan accounts)

Important: Credit to the partner's **capital account** is also considered for TDS purposes.

✕ Payments Not Covered

- **Share of profit** distributed to partners is **not subject to TDS** under Section 194T.
- **Withdrawals from capital account** are also excluded.

Practical Implications

1. Capital Account Credits

If a firm credits ₹50,000 as interest to a partner's capital account:

- TDS @10% = ₹5,000
- Must be deducted and deposited even if no cash is paid.

2. Timing of Deduction

TDS must be deducted:

- At the time of **crediting** the amount (even if credited to capital account), or
- At the time of **actual payment**, whichever is earlier.

📄 Compliance Requirements

- TDS must be deposited by the **7th of the following month** (except for March, which is due by April 30).
- TDS returns must be filed quarterly in **Form 26Q**.
- Firms must revise **partnership deeds** to reflect TDS obligations.

⚠️ Challenges & Considerations

- 📅 **Book Closure Pressure:** Firms may need to finalize books earlier to compute partner remuneration.
- 📄 **Deed Revision:** Partnership deeds must clearly define payment terms to avoid ambiguity.
- 💰 **Cash Flow Impact:** Partners may receive reduced payouts due to TDS deductions.
- 📊 **Accounting Complexity:** Tracking TDS on non-cash credits adds to compliance burden.

Section 194T was introduced through the **Finance (No. 2) Act, 2024** and is effective from **1st April 2025**. It marks a significant shift in how **partnership firms and LLPs** handle tax compliance for payments made to their **partners**.

Why Was Section 194T Introduced?

The government introduced Section 194T to address several long-standing issues in the taxation of partnership firms:

1. Lack of TDS on Partner Payments

Previously, payments such as salary, commission, bonus, and interest made to partners were **not subject to TDS**, unlike payments to employees or contractors. This created a **compliance gap**.

2. Delayed Finalization of Accounts

Firms often credited partner payments to capital accounts and finalized their nature (salary, interest, etc.) only at year-end. This delayed tax reporting and created ambiguity.

3. Improved Tax Tracking

By mandating TDS, Section 194T ensures that such payments are **reported to the Income Tax Department**, improving transparency and reducing the risk of tax evasion.

4. Alignment with Other TDS Provisions

It brings partner payments in line with other TDS sections like:

- Section 192 (salary)
- Section 194A (interest)
- Section 194H (commission)

Effective Date

- **Applies from:** 1st April 2025
- **Relevant for:** Financial Year 2025–26 and onwards
- **Not applicable** to payments related to FY 2024–25, even if paid after April 1, 2025

Discussion on any questions

