

# TDS

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# Topics

- Sec.194I                      TDS on Rent
- Sec.194IB                    TDS on Rent
- Sec.194N                    TDS on Cash Withdrawal
- Sec.194LA                   TDS on Compensation Paid

- Sec.194I

# Provisions

- The provisions of Section 194-I applicable for TDS on rent.
- It imposes an obligation for TDS deduction on persons (other than individual/HUF) making rental payments to resident Indians above a specified limit, i.e., Rs.2,40,000 in a year
- Persons covered under section 44AB
- But individual or a Hindu undivided family, whose total sales, gross receipts or turnover from the business or profession carried on by him exceed one crore rupees in case of business or fifty lakh rupees in case of profession 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 TDS income-tax under this section.

# Provisions

- The person (other than Individual or HUF) who is responsible for paying of rent is liable to deduct tax at source.
- TDS threshold for deduction of tax on rent is Rs 2,40,000
- Rent

means any payment made under lease or sub-lease or tenancy or any agreement for use of the following:

1. Land
2. Building (including factory building)
3. Machinery
4. Plant
5. Equipment
6. Furniture
7. Fittings

# Meaning

- whether or not any or all of the above are owned by the payee (Explanation (i) to Sec. 194-I). That is, **Sub-letting** is also covered.
- If the landlord collects **security or advance payment** at the time of letting out a building to a tenant on the condition that the deposit will be refunded at the time of vacating the building, then such a receipt is not in the nature of income and, therefore, **no tax is to be deducted** at source u/s 194I.
- However, **advance rent** (not in the nature of refundable security deposit) paid is, subject to a tax deduction.
- Moreover, where any such rent is credited to 'suspense account' or to any other account shall also be liable to deduct tax at source.
- Rent also includes Service Charges payable to business centres are covered under the definition of rent, as they cover payments by whatever named called.

# Factory Building

- **Income from letting out of factory building**

- Where a factory building is let out, the rent received generally is income from business in the hands of the lessor or the owner of the factory. Only in a few cases, it is income from property in the lessor's hands.
- But such payment also, which is business income in the hands of the lessor and for which he will necessarily be paying advance tax and finally be returning the rental income, will be subject to tax deduction at source or TDS.

# Quarterly Rent

- Tax deduction is not mandatorily applicable on a monthly basis under Section 194I.
- For instance, if rent is credited quarterly, TDS deduction will take place on a quarterly basis. Conversely, when individuals receive rent yearly, the deduction will also take place on the actual credit payment once a year.



# Composite Renting

- Where furniture and fixtures are let out by one person and a building is let out by another person, the payee needs to deduct tax under this section only from the rent credited or paid for the hire of the building.
- Cold Storage
- taxable payment will include charges for plant usage and not for the use of the building.

# Hall Rent

- The association is assessed as an association of persons and not as HUF or an individual.
- The obligation of tax deduction remains there, considering payment for the hall usage is more than ₹240000

# Hotel Rent

- Provisions of this section are not applicable for cases where hotels do not charge for usage of premises but for meal/catering only.
- However, it would be applicable for the catering part separately.

# TDS Rate

Payment Type	TDS Rate For Individuals/Company	TDS Rate - No PAN
Rent on building, furniture, land, or fittings	10%	20%
Rent paid on machinery and plant	2%	20%

# Not Applicable

- **Amount Paid/Payable Not Exceeding ₹240000 During the Financial Year**
- - No TDS is applicable if rent is not more than ₹240000
- **Where a Tenant is HUF or Individual** - This section applies no deduction when an Individual or HUF not carrying on a business under income tax law pays rent.
- **Sharing of Film Exhibition Proceeds Between a Film Exhibitor and a Film Distributor Owning a Cinema Theatre** - For a film distributor and film exhibitor contract, the exhibitor's share is on account of composite services.
- A distributor does not take cinema building on sub-lease, lease, tenancy or under an agreement of similar nature. The payment done is not rental in nature.
- **In the Case When the Payee is the Government at Agency** - Under Section 194I, a person making payment to the Government need not deduct tax at source.
- Also, TDS is not applicable on payments to local and statutory authorities.

# Co-owners

- Under section 194-I, the TDS is deducted from the rent, if such payment is likely to be Rs 2.4 lakh or more during the year.
- However, if there are co-owners of the property, each having a definite and ascertainable share in the property, the limit of Rs 2.4 lakh will apply to each of the co-owner separately.

- Section 194IB

# Provisions

- Payment of Rent on Residential property by an **individual and HUF**
- Section 194IB which mandates deduction of TDS when rent payment exceeding Rs 50000 for month or part of the month is made.
- Even Salaried person paying rent more than Rs. 50,000 Per Month and claiming HRA are required to deduct and pay TDS of Landlord



# Applicable

- TDS u/s 194IB is also required to be deducted by the person covered u/s 44AD and 44ADA whose turnover does not exceeds Rs. 1 Crore or Rs. 50 Lakhs, as the case maybe.

Declaring Presumptive Income

# Meaning of Rent

- Means any payment, by whatever name called, under any lease, sub-lease, tenancy or any other agreement or arrangement for the use of any land or building or both.

# When TDS

- 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.

# TDS Rate

- 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 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, (PAN Requirement) 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.

# Other provisions

- Challan-cum-statement in Form no. 26QC will have to be submitted. TDS certificate is to be issued in Form 16C by the person deducting tax within the specified due dates.
- TDS u/s 194IB is to be deducted only if payment is made to resident.
- In case rent is paid to non-resident owner, TDS u/s 194IB shall not be deducted.
- Tenant may be resident or non-resident. Both are liable to deduct TDS u/s 194IB.
- Rent paid by the tenant may be for residential or commercial purpose.
- ***TDS is to be deducted even if rent paid exceeds Rs.50,000 for only one month in a year.***
  - Example-Rent paid from April 2021 to January 2022 is Rs. 45,000 per month. Rent paid for February and March 2022 is Rs. 55,000 per month. TDS @ 5% is to be deducted on the whole amount i.e Rs. 5,60,000.
  - $\text{Rs.4,50,000} + \text{Rs.1,10,000} = \text{Rs.5,60,000}$

# Case

- Mr.S, a salaried employee, pays rent of Rs 62,000 per month to Mr. R.
- Is he required to deduct Tax at source for the financial year 2021-22?
- Mr. S 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 ( $\text{Rs } 62000 \times 5\% \times 12 \text{ months}$ ) has to be deducted from rent payable for March, 2022.
- In above case if Mr. S vacated the premises on 30th November 2021, what will be his liability?
  - If Mr. S vacated the premises on 30th November 2021, then tax of Rs 24800 ( $\text{Rs } 62000 \times 5\% \times 8 \text{ months}$ ) has to be deducted from the rent payable for November 2021.

# Difference

Basis	Section 194I	Section 194IB
Applicability	<ul style="list-style-type: none"><li>– Every person paying rent (except individual &amp; HUF)</li><li>– Individual &amp; HUF if doing business and covered in tax audit (Turnover exceeds Rs. 1 Crore for Business &amp; Rs.50 lakh for Profession) in previous financial year in which income by way of rent is credited or paid.</li></ul>	Every Individual & HUF not covered in 194-I
Applicable Limit	Rs. 2,40,000 Per annum	Rs. 50,000 per month or part of the month during financial year
TDS Rate	10%	5%
TAN requirement	TAN is required	TAN is not required. PAN is required.
Payment and Return	Monthly Payment and Quarterly Return	Payment and Return once in a year.
TDS Certificate	16A	16C
TDS Return	26Q	26QC

- Sec.194LA



# Provisions

- 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.

# Rate

- The tax must be deducted at the rate of 10 per cent. No surcharge or health and 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.
- The tax shall be deducted at the time of payment of the sum in cash or by issue of the cheque or of draft or by any other mode, whichever is earlier;

# No TDS

- No deduction is required where the amount of such payment or the total amount of such payment does not exceed Rs. 2.5 lakh, during the financial year;

# Definition

- Agriculture Land
  - agricultural land means agricultural land in India, wherever situated
- Hence

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.