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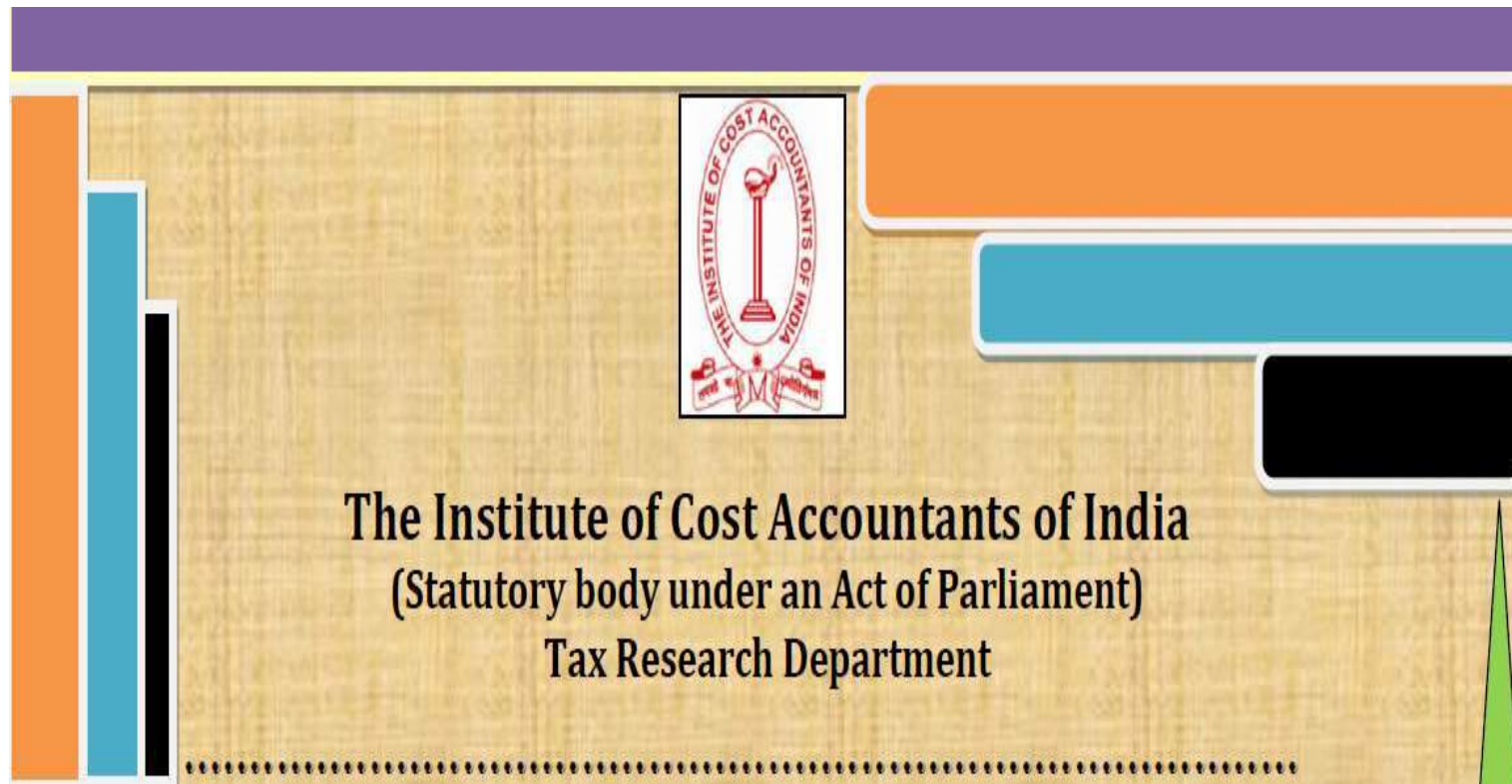
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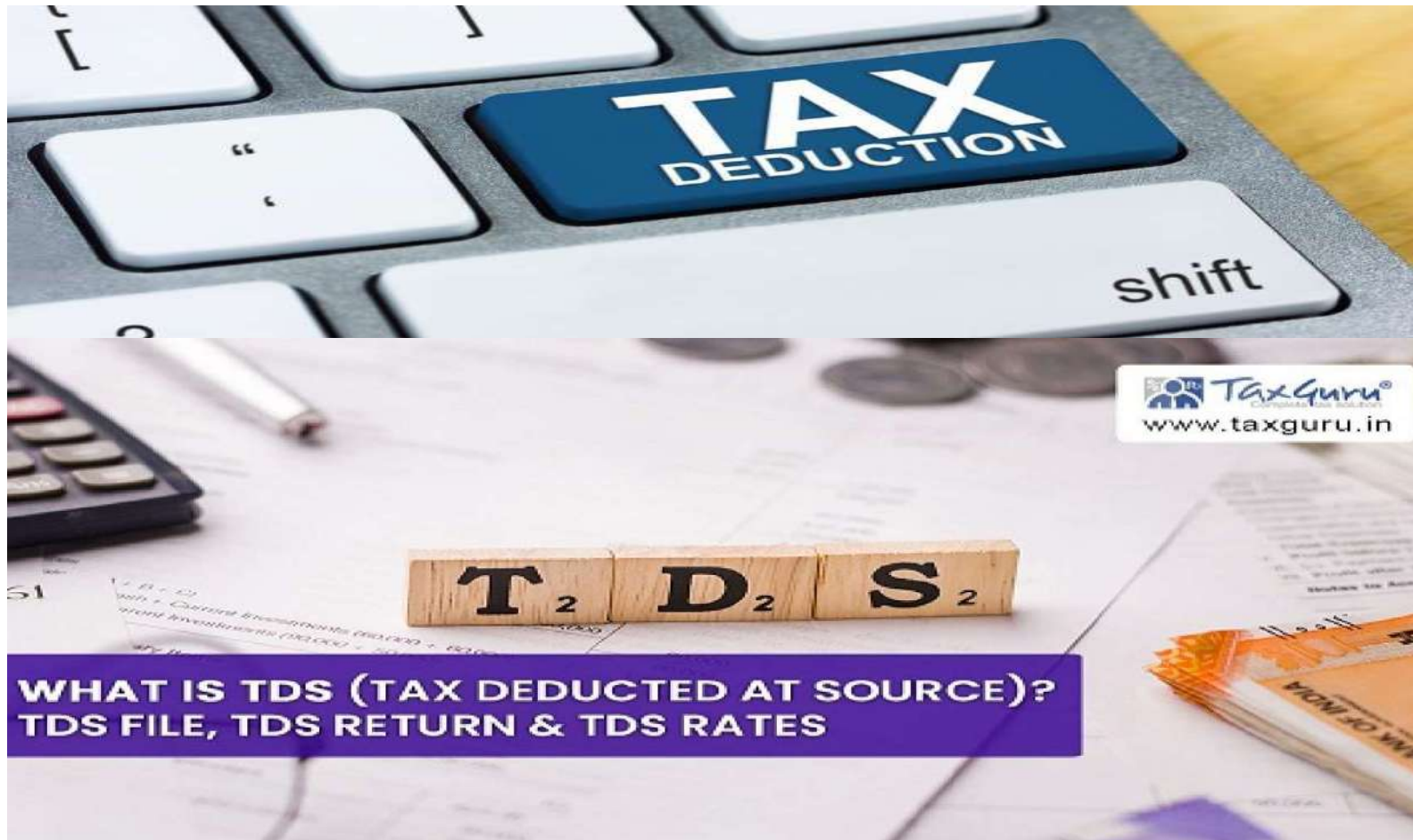
HYDERABAD

27-Nov-22

ONLINE CERTIFICATE COURSE ON TDS - CCTDS-8TH BATCH



TDS U/S 194IA, 194IC & 194J



INTRODUCTION TO TDS

- ❖ The concept of **TDS** was **introduced** with an aim to collect tax from the **very source of income**
- ❖ It means where the income is generated, tax shall be deducted at respective rates on the said income
- ❖ The objective of TDS is to catch and bring more number of tax payers in the society into taxation nest
- ❖ Tax is deducted only if amount is **Taxable** in the hands of the receiver
- ❖ Parties involved in TDS
 - I. Deductor / Payer →>>>>> Recipient (who makes payment)
 - II. Deductee / Payee →>>>>> Supplier
- ❖ As per this concept, a person (Deductor) who is liable to make payment of specified nature to any other person (Deductee) shall deduct tax at source and remit the same into the account of the Central Government.
- ❖ The Deductee from whose income tax has been deducted at source would be entitled to get credit of the amount so deducted on the basis of Form 26AS or TDS certificate issued by the deductor in form 16 / 16A

WHEN TO DEDUCT TDS

❖ TDS requirement arise:

✓ At the time of Payment

(or)

✓ At the time crediting the a/c of payee (in the books of payer) >>>> in simple, At the time of Accounting

❖ But in the following cases TDS deducted only **at the time of payments**:

✓ Salary

✓ EPF Payment

✓ Winnings

✓ Maturity of Life Insurance Policy

✓ Compensation on compulsory acquisition of property

TDS RATES

❖ TDS Rates are Fixed:

✓ 1%

✓ 2%

✓ 5%

✓ 10%

❖ If a person NOT furnishing PAN Copy

Higher TDS deducted

➤ Rates prescribed in the respective section, (or)

➤ Rates prescribed in the Annual Finance Act, (or)

➤ 20%

Note: If payment made to NR/Foreign Co. (or) Salary payment then “Surcharge & HEC” shall be considered for the purpose of TDS

TDS APPLICABILITY

❖ TDS will be applicable on

✓ Services

✓ Expenses

❖ TDS will NOT be applicable on Goods*

Note: W.e.f 01.07.2021 S.194Q requires the specified buyer to deduct TDS on the purchase of goods from the resident seller

❖ TDS applicable for not only Commercial purpose but also for other payments / Personal transactions

✓ Example: 1 Buying a L&B for Rs 80 Lakhs (Sale deed value), Buyer has to deduct TDS u/s 194IA @ 1% on consideration i.e., Rs 80,000

✓ Example: 2 Mr. X avails a catering from Mr. Y for his marriage to the tune of Rs 1 Cr, Mr. X has to deduct TDS @ 5% u/s 194M with effect from 01.09.2021

S.194-IA

- ❖ Section: 194-IA
- ❖ Nature of TDS: TDS on Purchase of Immovable Property (*other than Rural Agri Land*)
- ❖ Applicability:
 - ✓ Land
 - ✓ Building
 - ✓ L&B
- ❖ Category of Property: Commercial or Non-Commercial
- ❖ Who has to deduct TDS: Buyer
- ❖ Seller: Resident Transferor
- ❖ Rate of TDS: 1% on the Entire Consideration or Stamp Duty value which ever is higher (w.e.f 01.04.2022)
- ❖ When to Deduct: If Sale Consideration is **50 Lakhs or More**
- ❖ If consideration is < 50 Lakhs : NO TDS u/s 194-IA

NOTE ON RURAL AGRICULTURAL LAND

- ❖ Rural Agricultural Land is not a Capital Asset
- ❖ A Rural agricultural land does not qualify to be a capital asset, hence no capital gains/loss arise on sale or transfer of rural agricultural land.
- ❖ An urban agricultural land qualifies to be a capital asset, hence capital gains shall arise on sale or transfer of urban agricultural land.

S.194-IA : IMPLICATIONS

- ❖ If Consideration is paid in
 - ✓ Lumpsum: On the lumpsum amount
 - ✓ Instalments: Then each instalment is subject to TDS @ 1%

- ❖ What are the elements included in Consideration
 - ✓ Consideration includes all charges in connection with transfer
 - ✓ Club membership fees
 - ✓ Car parking fees
 - ✓ Electricity or water facility fees
 - ✓ Maintenance fees
 - ✓ Amenities / Advance fees etc.,

S.194-IA : IMPLICATIONS

I. If more than one Seller

- ✓ Check aggregate amount paid to all sellers is ≥ 50 Lakhs
- ✓ Then amount paid to each seller shall liable for TDS @ 1%

II. If more than one Buyer

- ✓ Check aggregate amount paid to seller is ≥ 50 Lakhs
- ✓ Then every buyer needs to deduct TDS @ 1%

III. Combination of I & II

- ✓ All buyers needs to deduct TDS on the amount paid to all the sellers

S.194-IA : IMPLICATIONS

- ❖ Form: 26QB – Payment cum Filing of TDS Return
- ❖ Payment mode: Online
- ❖ Address: <https://onlineservices.tin.egov-nsdl.com/>

- ❖ Time of deduction: Earlier of
 - ✓ At the time of Payment
 - (or)
 - ✓ At the time of credit of seller account in the books of buyer

- ✓ Due date of payment of TDS: within 7 days from the end of the month in which the deduction is made
- ✓ Do we require TAN for payment of TDS u/s 194-IA: Not required / (with PAN of both parties we can file)
- ✓ Payment can be made through **PAN** numbers of the both buyer and seller

194-IA: Q&A

Case Law: Mr. X purchased a shop in a commercial complex in Mumbai for Rs 90,00,000

1. Does TDS applicable
2. What is the rate
3. What is the TDS amount
4. Mr. K purchased an open plot of land from Swathi Developers Pvt Ltd in Hyderabad and the consideration is Rs 1.50 Cr what is the TDS applicable and who will deduct the same?
5. M/s Reliance Industries Ltd Purchased a factory building for Rs 10 Cr from Mr. Anil Ambani, what is the TDS applicable and who will deduct the same?
6. Mr. Amitabh Bachan purchased an agricultural land in Mumbai for Rs 5 Cr from a farmer, will TDS applicable on this transaction and what is the % and amount deducted ?
7. Mr. X purchased Agricultural land in rural area for Rs 55 Lakhs, what is the TDS needs to be deducted by Mr. X

194-IA: Q&A

8. Mr. X & Mrs. X Jointly purchases one HP for Rs 60 Lakhs and the said property owned by Mr. Y & Mrs. Y and paid Rs 30 Lakhs each. Does TDS applicable on Rs 30 lakh payment ?

9. Is there any violation of the provisions of S.194-IA for Non deduction of TDS?

10. Mr. S is an individual booked a residential flat during the construction stage for Rs 1.50 crore with builder M/s. Graneur Pvt Ltd, and the installment of Rs 10,00,000 is due once in 3 months. Suggest him the applicability of TDS ?

S.194-IC

- ❖ Section: 194-IC
- ❖ Nature: Payment under specified agreement defined u/s 45(5A) of Income Tax Act, 1961
- ❖ Payer: Any Person
- ❖ Payee: Resident
- ❖ Consideration: In Cash
- ❖ Rate: 10%
- ❖ Payment mode: Cash
- ❖ When to deduct TDS:
 - ✓ At the time of credit of such sum to the account of the payee
 - (or)
 - ✓ At the time of payment thereof in cash

S.45(5A) OF IT ACT, 1961 - JDA

- ✓ Notwithstanding anything contained in sub-section (1),
- ✓ Where the capital gain arises to an Assessee, being an individual or a Hindu undivided family,
 - ✓ from the transfer of a capital asset, being land or building or both,
 - ✓ under a specified agreement,
 - ✓ the capital gains shall be chargeable to income-tax
 - ✓ as income of the previous year in which the certificate of completion for the whole or part of the project is issued by the competent authority; and
 - ✓ for the purposes of section 48, the stamp duty value, on the date of issue of the said certificate, of his share, being land or building or both in the project, as increased by the consideration received in **cash**, if any,
 - ✓ shall be deemed to be the full value of the consideration received or accruing as a result of the transfer of the capital asset :

S.45(5A) OF IT ACT, 1961 - JDA

Provided that the provisions of this sub-section shall not apply

where the Assessee transfers his share in the project on or before the date of issue of the said certificate of completion, and

the capital gains shall be deemed to be the income of the previous year in which such transfer takes place and the provisions of this Act, other than the provisions of this sub-section,

shall apply for the purpose of determination of full value of consideration received or accruing as a result of such transfer.

CONCEPT OF HIJAC

HIJAC : refers to

194H

194I

194J

194A

194C

❖ HIJAC is applicable to

✓ All Assessee (Deductor / Payer)

✓ Payee/ Deductee: Resident

✓ But in case of Individual/HUF/ AOP/BOI whose books of accounts are subject to the following criteria in the **preceding FY**

❖ Turnover > 1 Cr in case of Business

❖ Gross receipts > 50 Lakhs in case of Profession

S.194J : TDS ON “FEES FOR PROFESSIONAL OR TECHNICAL SERVICES”

❖ TDS Applicable on:

☐ Fees for Professional services

☐ Fees for Technical services

☐ 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,

☐ Royalty

☐ Any sum referred to in clause (va) of section 28 i.e., Non-Compete Fees

❖ Payer / Deductor: Refer HIJAC concept

❖ Payee / Deductee: Any Resident Person

S.194J : TDS ON “FEES FOR PROFESSIONAL OR TECHNICAL SERVICES”

- ❖ Generally Rate of TDS: 10%

- ❖ TDS is deducted: Earlier of

- ✓ At the time of **payment** (or)

- ✓ At the time of **credit** of such sum to the account of the contractor >>>> *“at the time of accounting of expenses in the books”*

- ❖ Mode of Payment

- ✓ Cash

- ✓ Cheque

- ✓ DD or

- ✓ Any other mode

- Any mode of payment TDS is applicable.

S.194J : TDS ON “FEES FOR PROFESSIONAL OR TECHNICAL SERVICES”

- ❖ No TDS
- ✓ If the **aggregate** of the payments made in a **year**
- ✓ Up to Rs 30,000/-

Imp Note:

- ❖ NO TDS if services received for personal purpose by an individual/HUF
- ❖ Rs 30,000 threshold limit will be applicable to **each** category of services
- ❖ Threshold limit of Rs 30,000 is not applicable to any payment made to director u/s 194J (it means every rupee is subject to TDS @ 10%)

S.194J : TDS ON “FEES FOR PROFESSIONAL OR TECHNICAL SERVICES”

- ❑ Finance Act 2020 has introduced certain changes in the TDS section 194J of the Act.
- ❑ Section 194J provides for deduction of income tax from the payments made towards fees for professional or technical services at the **rate of 10 per cent**.
- ❑ The rate of TDS for both the 'fees for professional services' and 'fees for technical services' is 10 per cent.
- ❑ Therefore, the intention of the legislature to reduce the rate of TDS in **section 194J** is to **bring the parity with section 194C for technical fees**.
- ❑ Since in many cases fees for technical services may be classified under section 194C or section 194J, however, the difference in rates of TDS was inviting litigation.
- ❑ In order to reduce litigation, reduced rate for TDS in case of fees for technical services (other than professional services) to **2%** from existing 10% provided to align the same with the rate of TDS on works contract under section 194C.

S.194J : TDS ON “FEES FOR PROFESSIONAL OR TECHNICAL SERVICES”

❑ In the nutshell, the **rate of TDS following two nature of payments is reduced to 2 per cent** instead of 10% under section 194J from 01-04-2020 by the Finance Act, 2020:

- 1. Fees for technical services** (not being in the nature of professional services).
- 2. Royalty** where such royalty is in the nature of consideration for sale, distribution or exhibition of cinematographic films.

For others, the **10 per cent rate of TDS** shall continue to apply.

Display in Form-26AS:

- ❖ **2% TDS Category** will reflect as **194JA**
- ❖ **10% TDS Category** will reflect as **194JB**

S.194J : TDS ON “FEES FOR PROFESSIONAL OR TECHNICAL SERVICES”

In NSDL RPU 3.5, one needs to select the following section codes for section 194J	Rate of TDS	Remarks
4JA	2%	194J(a)- Fees for Technical Services (not being professional services), royalty for sale, distribution or exhibition of cinematographic films and call centre (@2%)
4JB	10%	194J(b)- Fee for professional service or royalty etc. (@10%)

194J Q&A

Case Law: Mr. Ajay availed professional service from Mr. Kiran, First assignment in April-22 for Rs. 50,000 and second assignment in September for Rs. 20,000. What is the TDS liability for both the payments for the F.Y. 2021-22 in three scenarios:

1. Mr. Ajay is not liable for audit u/s 44AB.
2. Mr. Ajay is liable for audit u/s 44AB and he provided has taken service for personal purpose.
3. Tax audit u/s 44AB is applicable to Mr. Ajay in F.Y 2021-22 and he taken professional service for business purpose.

4. Mr. X availed CA services from Mr. K for Rs 1,00,000 Plus GST @ 18% i.e., Rs 18,000

Total invoice value is Rs 1,18,000

What is the TDS amount needs to be deducted by Mr. X ? (assume Mr. X turnover is Rs 5 Cr in the PFY)

5. M/s. ABC Pvt Ltd paid Remuneration to one of his director for Rs 5,00,000 and treated as salary as per the provisions u/s 192.

194J Q&A

6. M/s ABC Pvt Ltd availed a services from Mr. X which are classified as a Technical Services for Rs 10,00,000, what is the TDS amount needs to be deducted by the M/s. ABC Pvt Ltd?
7. M/s XYZ Ltd paid non-compete fees payment to Mr. X for Rs 3,00,000 and what is the TDS amount needs to be deducted?
8. Mr. X availed interior services for his construction on new house, and paying an amount of Rs 10,00,000 to Mr. Y what is the TDS to be deducted?
9. Mr. K rendered Audit services to Telangana Govt and billed Rs 10,00,000 what is the TDS deducted by the Govt of Telangana?
10. BVS Firm rendered GST Audit services to M/s KLR Industries Ltd and Billed Rs 1,00,000, what is the TDS amount and who will deduct the same?
11. Mr. K rendered GST Refund services to Four Nine Cloud Solutions Pvt Ltd and billed an amount of Rs 45,000/- where as Four nine cloud solutions turnover in the PFY is Rs 30,00,000/- what is the TDS implications?



*THE MORE WE COME OUT AND DO GOOD TO OTHERS, THE MORE OUR
HEARTS WILL BE PURIFIED, AND GOD WILL BE IN THEM.
- SWAMI VIVEKANANDA*



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