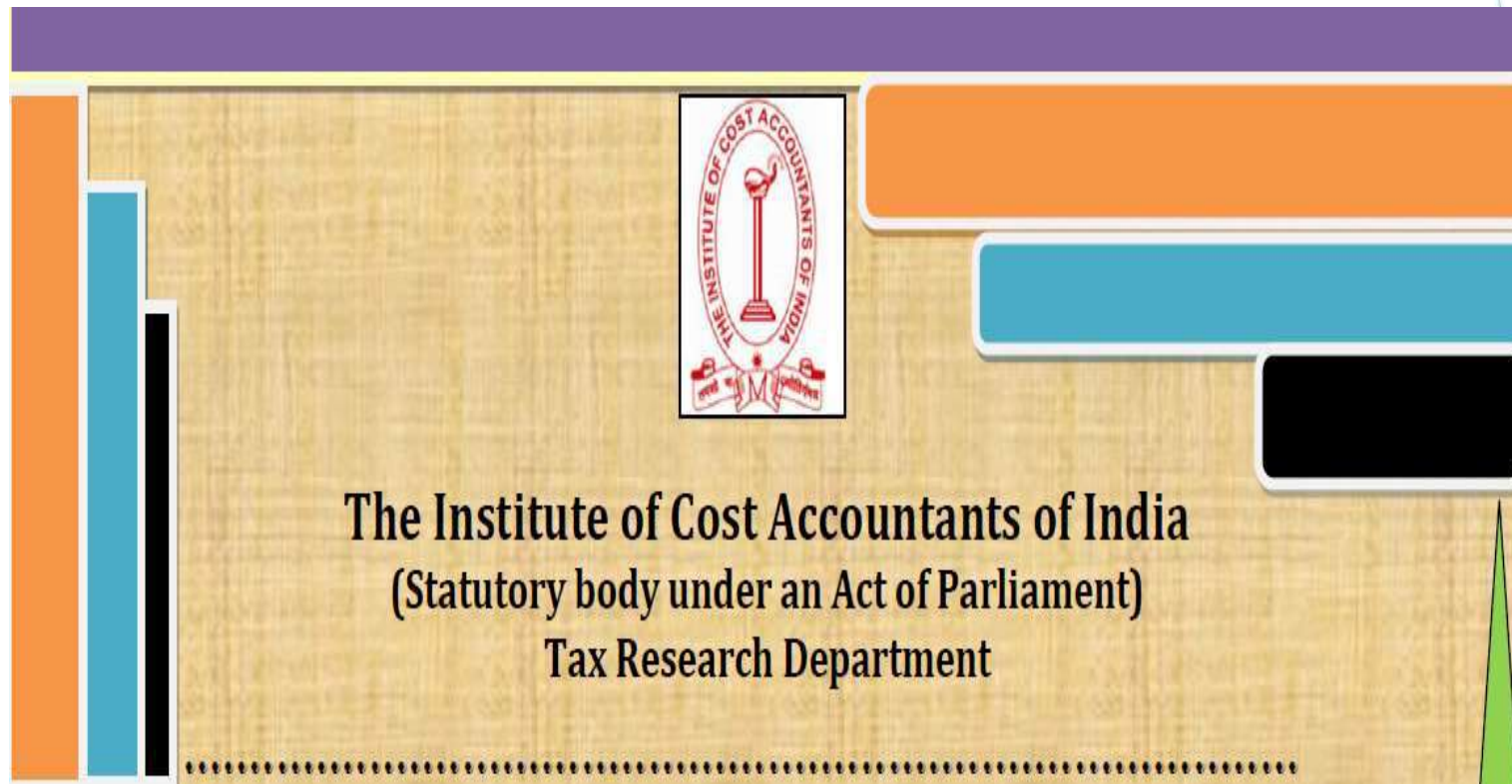




CA CMA Kedarnath

Hyderabad

## ONLINE CERTIFICATE COURSE ON TDS - CCTDS-8<sup>th</sup> Batch



# Tax deducted at Source





## 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
  - II. Deductee / Payee
- ❖ 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.

## When to Deduct TDS

❖ TDS requirement arise:

*Earlier of*

✓ At the time of **Payment**

**(or)**

✓ At the time **crediting** the a/c of payee (in the books of payer)

❖ 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 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

## TDS Rates

❖ TDS Rates are Fixed:

- ✓ 0.1%
- ✓ 1%
- ✓ 2%
- ✓ 5%
- ✓ 10%

❖ If a person NOT furnishing PAN Copy

### Higher of


- ✓ Rates prescribed in the respective section, (or)
- ✓ Rates prescribed in the Annual Finance Act, (or)
- ✓ 20%

**Note-I:** If payment made to NR/Foreign Co. (or) payment of Salary then Surcharge & HEC shall be considered as applicable if any.

## Concept of HIJAC

**HIJAC** : refers to

194H  
194I  
194J  
194A  
194C



- ❖ HIJAC is applicable to
  - ✓ All Assessee (deductors),
  - ✓ 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 (CA/Engineer/Doctor/Lawyer/Interior decorator)



## S.194C : TDS on Contract

❖ TDS Applicable on:

❑ Contract

❑ Sub-Contract

❑ Any work, which includes:-

- ✓ advertising
  - ✓ broadcasting and telecasting including production of programmes for such broadcasting or telecasting;
  - ✓ carriage of goods or passengers by any mode of transport other than by railways;
  - ✓ catering;
  - ✓ manufacturing or supplying a product according to the requirement or specification of a customer by using material purchased from such customer
- ❖ Payer / Deductor: Refer HIJAC concept
- ❖ Payee / Deductee: Any Resident Person

## S.194C : TDS on Contract

- ❖ Rate of TDS:
  - ✓ If contractor is Individual / HUF: **1%**
  - ✓ Others: **2%**
  
- ❖ 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
  
- ❖ Mode of Payment
  - ✓ Cash
  - ✓ Cheque
  - ✓ DD or
  - ✓ Google Pay / Phone Pay / Paytm/ Wallet Payment
  - ✓ Any other mode

## S.194C : TDS on Contract - Special Points:

- ❖ NO TDS if :-
  - ✓ Single Contract up to Rs 30,000/- (or)
  - ✓ Aggregate of contract in PY up to Rs 1,00,000/-
- ❖ NO TDS if contract is for personal purpose of individual/HUF

Ex: A Food contract for marriage occasion (or) Construction of house or repairs or paintings to a building

\* w.e.f 01.09.2019 TDS will be applicable u/s 194M @ 5% if payment made > 50 Lakhs to a contractor

- ❖ No TDS if payment is made to transporter if
  - ✓ He owns 10 or less goods carriages at any time during the P.Y and
  - ✓ He furnishes a declaration
  - ✓ Along with copy of PAN to the other party

## S.194C : TDS on Contract - Special Points:

- ❖ In case of **job work**, the TDS shall be deducted-
  - On the invoice value excluding the value of material, if material value mentioned separately in invoice
  - On the whole of the invoice value , if value of materials is not mentioned separately in the invoice.
  
- ❖ **Some issues related to Advertisement [CBDT circular]**
  - ✓ Payment by client to Advertisement agency: It is works contract and TDS u/s 194C applicable.
  - ✓ Payment by Advertisement agency to TV channel/ Newspaper Company – No TDS u/s 194C.
  
- ❖ Payment made **by** TV channel / broad casters **to** production house for production of content program
  - ✓ If program is as per specifications of telecaster & Broadcaster and copyright of content is also transfer to the telecaster / Broadcaster → It's a works contract and TDS u/s 194C applicable.
  - ✓ If right of content already produced by production house is acquired by telecaster / broadcaster → No TDS u/s 194C

## Q&A: S.194C

1. Mr. A is a wholesale dealer, he takes a contract from Mr. X for his shop doing some furniture work for Rs 50,000/- In the preceding FY Mr. A's turnover from the business is Rs 60 Lakhs, what is the amount of TDS deducted?
2. If Mr. A's Turnover in the PFY from the business is Rs 1.50 Cr what is our answer ?
3. Mr. Kiran purchases goods from the Metro Cash and Carry Mart for his business purpose for Rs 10,00,000/- what is the amount of TDS deducted. In the RPY Kiran Books of accounts are subject to tax audit.
4. M/s ABC Ltd avails the following contracts from Mr. Vamsi who is a contractor and what is the amount of TDS deducted?
  - ☐ Contract-I : Rs 15,000
  - ☐ Contract-II : Rs 25,000
  - ☐ Contract-III : Rs 20,000
  - ☐ Contract-IV : Rs 25,000
  - ☐ Contract-V : Rs 25,000



## Q&A: S.194C

5. XYZ Ltd turnover is 5,00,000 in the PFY and they are paying an amount of Rs 60,000 to ABC Ltd who provides a maintenance services contract. What is the amount of TDS deducted?

6. Mr. Salman Khan takes a food catering service from Taj Hotel and pays Rs 1 Cr on the occasion of his marriage, what is the amount of TDS deducted by Mr. Salman Khan ?

7. M/s. BVS Partnership Firm a professional CA firm newly started its business in the year of 2022 and avails a interior decoration service for their newly started office for Rs 36,000 will they required to deduct TDS, there is no turnover in the PFY?

8. Mr. X an Individual whose total sales in business during the year ended 31.3.2020 was Rs 1.20 Cr, paid Rs 9,00,000 by cheque on 01.01.2021 to a contractor (individual) for construction of factory building. Whether TDS needs to be deducted or not, if yes what is the amount of TDS deducted?

## Q&A: S.194C

9. Based on the agreement with a nationalized bank, a catering organization receives a sum of Rs 50,000/- per month towards supply of food, water, cool drinks & snacks etc. during the office hours of the employees of the bank. Whether TDS is required to be deducted by the bank or not? And
10. In case the cater is an individual what is the rate and amount of TDS deducted?
11. Sony TV, a television channel, made a payment of Rs 50 Lakhs to a production house for production of a program for telecasting as per the specifications given by the channel. The copy right of the program is also transferred to Sony TV. Would such payment be liable for TDS u/s 194C?
12. Mr. Jagan the owner of Bharathi cements supplies jute bags to the Job worker Mr. CBN and asks to print company logo, address and telephone number on the jute bag. Mr. Jagan paid Rs 10,00,000 for the same, does it attracts TDS and what is the amount of TDS deducted?
13. In the above case if Mr. Jagan without supplying any jute bags and taking both from the job worker, does it attracts TDS ?

### S.194C : TDS on Contract – Case Law:

<i>Japan Airlines Co. Ltd. v. CIT / CIT v. Singapore Airlines Ltd. (2015) 377 ITR 372 (SC)</i>	
Issue	Decision
Are landing and parking charges paid by an airline company to Airports Authority of India in the nature of rent to attract tax deduction at source u/s 194-I?	The charges which are fixed by the AAI for landing and take-off services as well as for parking of aircrafts are not for the "use of the land". These charges are for services and facilities offered in connection with the aircraft operation at the airport which include providing of air traffic services, ground safety services, aeronautical communication facilities, installation and maintenance of navigational aids and meteorological services at the airport. Hence, <b>the charges are not for use of the land <i>per se</i> and, therefore, it cannot be treated as "rent" within the meaning of section 194-I.</b>

## S.194D : TDS on Insurance Commission

- Type of Business activity:
  - ✓ Procuring insurance policies
  - ✓ Renewal of Insurance policies
  - ✓ Revival of Insurance policies
  
- Deductor / Payer: Insurance Company
- Deductee / Payee: Resident Agent
- Rate of TDS: 5%
  
- TDS is deducted: Earlier of
  - ✓ At the time of payment (or)
  - ✓ At the time of credit of such income to the a/c of the payee
- No TDS if Commission amount is up to Rs **15,000/-**

## Q&A: S.194D

1. Bajaj Allianz an insurance company paid an amount of Rs 16,000/- to Mr. Arjun who is an Insurance Agent for their business. What is the amount of TDS Deducted?
2. Birla Sun Life has credited in its books of accounts to the tune of Rs 50,000/- as commission payable to Mr. Venkat, does the Birla sun life needs to deduct TDS?
3. LIC has a policy of paying commission to its agents on quarterly basis, one of its agent is Mr. Siva and the payments him as follows

Q1 : Rs 5,000

Q2 : Rs 4,000

Q3 : Rs 6,000

Q4 : Rs 8,000

Does LIC needs to deduct TDS if yes on what amount and what is the TDS amount ?



## Q&A: S.194D

4. LIC is going to pay an amount of Insurance commission to Mr. B.T.Rao Rs 100,000 for the FY 2021-22, Mr. B.T.Rao gives a self-declaration to LIC stating that, he does not have any other source of income and he falls below Basic Exemption Limit under IT Act, hence No TDS shall be deducted on the amount paid by the LIC to him, based on the given facts?

- (i) Can LIC pay Rs 1,00,000/- to Mr. B.T.Rao with out deducting TDS?
- (ii) If LIC pays without deducting TDS is there any violation under the IT Act, 1961?
- (iii) Whether the contention of Mr. B.T.Rao is acceptable?
- (iv) If LIC deducts the TDS, what is the remedy to Mr. B.T.Rao for claiming the TDS amount?
- (v) Suppose Mr. B.T.Rao obtains Lower / No Deduction certificate from the Jurisdictional A.O and submits the certificate to LIC, then what would be your answers now ?

## **S.194DA : TDS on Maturity Proceeds of a Life Insurance Policy**

- Deductor / Payer: Any person (or) Insurance Company
- Deductee / Payee: Any Resident person
- Rate of TDS: **5%** on the amount of income

**Note:** TDS required to deduct only on income portion i.e., Maturity Proceeds minus premium paid.

(Amended by FA 2019 w.e.f. 01.09.2019)

- **No TDS if -**

- a) Amount exempted u/s 10 (10D)
- b) Aggregate Amount paid is less than ₹1,00,000 during the financial year

## Q&A: S.194DA

1. During the FY 2021-22, LIC has paid Rs 3,00,000 to Mr. X who is an individual and the sum assured is Rs 2,00,000/- and he paid premium amount as follows:

Situation I: Policy taken in the year 2010 and Premium paid is Rs 20,000 p.a

Situation II: Policy taken in the year 2010 and Premium paid is Rs 30,000 p.a

Situation III: Policy taken in the year 2010 and Premium paid is Rs 50,000 p.a

Situation IV: Policy taken in the year 2015 and Premium paid is Rs 20,000 p.a

Situation II: Policy taken in the year 2015 and Premium paid is Rs 30,000 p.a

2. HDFC Life Insurance company paid Rs 85,000 to Mr. X, what is the amount of TDS deducted?

3. Max Life Insurance company paid maturity proceeds of Rs 10,00,000 to Mr. Mahesh, he paid aggregate of Insurance premiums of Rs 9,50,000/- what is the amount of TDS deductible?



*{Arise, awake and stop not until the goal is reached}  
- Swami Vivekananda*



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6-Nov-22

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