

TDS Payment to Contractor



PRESENTED BY **CMA** AMIT DEY

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WHAT IS SECTION 194C?

Section 194C states that any person responsible for paying any sum to the resident contractor for carrying out any work (including the supply of labor), in pursuance of a contract between the contractor and the following:

- The Central Government or any State Government
- Any local authority
- Any corporation established by or under a Central, State Act
- Any company
- Any co-operative society
- Any authority constituted in India by or under any law, engaged either for the purpose of dealing with and satisfying the needs for housing accommodation or for the purpose of planning, development of cities or improvement of cities, towns and villages or for both
- Any society registered under the Society Registration Act, 1980 or under any such corresponding law to the Act in any Part of India
- Any trust
- Any university or deemed university
- Any firm

WHAT IS THE MEANING OF WORK FOR THE PURPOSE OF SECTION 194C?

The expression, “work” in this section would include-

- Advertising
- Broadcasting and telecasting including production of programs for such broadcasting or telecasting
- Carriage of goods and passengers by any mode of transportation, other than railways
- Catering
- Manufacturing or supplying of a product according to the requirement or specification of a customer by using the materials purchased from such customer or its associate as defined in section 40A(2), But does not include manufacturing or supplying of a product according to the requirements or specifications of a customer by using the materials purchased from a person, other than such a customer.

WHAT IS A **SUB-CONTRACTOR** AS PER SECTION 194C?

A “sub-contractor” would mean any person:

- Who enters into a contract with the contractor for carrying out, or
- For the supply of labor for carrying out the whole or part of the work undertaken by the contractor under a contract with any of the authorities or
- For the supply of, whether wholly or partly, any labor which the contractor has undertaken to supply in terms of his contract with any of the authorities mentioned under this section.

WHAT IS TDS TO SUB-CONTRACTOR?

As per the provisions of Income Tax Act, any person (being a contractor and not being an individual or a Hindu Undivided Family):

- responsible for paying any sum to any resident
- in pursuance of a contract with the sub-contractor for carrying out, or for the supply of labor for carrying out, the whole or any part of the work undertaken by the contractor or for supplying whether wholly or partly any labor which the contractor has undertaken to supply shall,
 - at the time of credit of such sum to the account of the sub-contractor or
 - at the time of payment thereof in cash or
 - by the issue of a cheque or draft or by any other mode, whichever is earlier
- deduct the amount equal to 1 % of the sum as income-tax on income comprised therein. The rate is 0.75% for transactions from 14 May 2020 until 31 March 2021.

WHERE IS THE PAYMENT MADE TO SUB-CONTRACTORS, **WHAT CONDITIONS MUST BE SATISFIED?**

- Payment is **made to** a sub-contractor **who is resident** within the meaning of Section 6 of the Income Tax Act, 1961 (Residential Status)
- Payment is **made by** a **resident contractor**, **not being an individual or a HUF**
- Payment is made to carry out **any work, including the supply of labor**
- The amount of consideration of the contract in respect to which payment is made should **not be less than Rs. 30,000**
- The sum should be credited or paid by the contractor in respect of a contract undertaken by him **with the specified bodies**

WHEN DOES TDS UNDER SECTION 194C NEED TO BE DEDUCTED?

The person responsible for making payment to resident contractor/sub-contractor should deduct TDS,

- either at the time of crediting such sum to the account to the payee or
- at the time of payment thereof in cash or
- by an issue of a cheque or by any other mode, whichever is earlier. Where any sum is credited to any account, whether called “Suspense account” or by any other name, in the books of account of the person liable to pay such amount, such crediting shall be deemed to be credit of such income to the account of the payee and the provisions of this section shall apply accordingly. Thus, the tax has to be deducted even if the amount payable to the resident contractor/subcontractor is transferred to the suspense account by the payer in his books.

WHAT IS THE RATE OF TDS?

Sl. No	Nature of Payment	TDS Rate if PAN available	TDS Rates from 14.05.2020 to 31.03.2021	TDS Rate if PAN not available
1	Payment / Credit to resident individual or HUF	1%	0.75%	20%
2	Payment/Credit to any resident person other than individual / HUF	2%	1.5%	20%
3	Payment/ credit to Transporters	NIL	NIL	20%

Note:- No Surcharge, Education Cess, and SHEC shall be added. Hence, TDS shall be deductible at basic rates.

WHAT ARE THE **EXCEPTIONS** TO TDS ON PAYMENT TO CONTRACTOR?

DEDUCTION OF TDS IN CASE OF COMPOSITE CONTRACT

- **Where materials are supplied by the government**, the question is whether deduction will be made with reference to gross payment to the contractor or the net payment, i.e., gross payment minus deductions, if any. On account of materials supplied by the government, **will have to be decided in the light of the terms of the particular contract** and the conduct of parties thereto.
- **Where the contractor has undertaken to construct a building or a dam**, and the government or other specified person has undertaken to supply all or any of the materials necessary for the work at the stipulated prices, the **deduction will be related to the gross payment without excluding any adjustments on account of the cost of materials.**
- **Where the contractor has undertaken only to provide the labour for the work**, **the ownership of the materials supplied remaining at all times with the government** or another specified person, the sum payable to the contractor in respect of the contract will only be the amount paid for such labour or services and will, thus, not include the price of the materials supplied by the government or other specified persons.
Thus, the rate of TDS from payments made by the government or other specified persons to any contractor will be 2% or 1% of the gross payment or, as the case may be, **the net payment, depending on the terms of the contract.**

UNDER WHAT CIRCUMSTANCES TDS U/s 194C IS NOT DEDUCTIBLE?

No tax is required to be deducted in the following cases:

- Where the sum paid or credited in pursuance of any contract does not exceed Rs. 30,000, or
- Where the aggregate of the amounts of such sums credited or paid or likely to be credited or paid during the financial year does not exceed Rs. 1,00,000 the person responsible for paying such sums will not deduct TDS under this section
- Individual or HUF not to deduct tax if the payment or amount credited to the contractor is for personal use
 - No individual or HUF shall be liable to deduct income-tax on the sum credited or paid to the account of the contractor where such sum is credited or paid exclusively for the personal purpose of such individual or any member of HUF
- No deduction shall be made from any sum credited or paid or likely to be credited or paid during the previous year to the account of a contractor during the course of business of plying, hiring or leasing goods carriages, on furnishing of his PAN, to the person paying or crediting such amount

TIME LIMIT WITHIN WHICH TAX IS TO BE DEPOSITED

- Where the payment is **made by** or on behalf of **the Government** – **On the same day.**
- Where the payment is made in any other case than the government
 - If the amount is credited in the **month of March** – **On or before April 30th**
 - In **other months** – **Within 7 days** from the end of the month in which the deduction is made.
- Note: **The payer** is the person responsible for TDS to deduct.

ISSUE OF TDS CERTIFICATE

In case of payments other than salary, TDS certificates are to be issued on a quarterly basis in Form No.16A. As per rule 31, every person responsible for deduction of tax from payments other than salary has to issue a quarterly TDS certificate in Form No. 16A. The certificate is to be issued by the following dates:

Quarter	Due date for Non-Government deductor	Due date for Government deductor
April to June	30th July	15th August
July to September	30th October	15th November
October to December	30th January	15th February
January to March	30th May	30th May

As per CBDT Circular No. 1/2012, dated 9-4-2012, it is mandatory for all the deductors to issue TDS certificate in Form No. 16A by generating the certificate through TIN central system by downloading the certificate from the TIN website with a unique TDS certificate number. These provisions are applicable in respect of all sums deducted on or after 1-4-2012. The certificate so issued can be authenticated either by using the digital signature or manual signature.

TDS AT A LOWER RATE

- According to Section 194C where the AO is satisfied that the total income of contractor or sub-contractor justifies the deduction of income-tax at any lower rate or no deduction of income-tax, as the case may be,
- The AO shall, on application made by the contractor or sub-contractor in this behalf give to him such certificate as may be appropriate.
- The contractor or sub-contractor can then furnish the lower rate or nil TDS certificate to the deductor.

FREQUENTLY ASKED QUESTIONS

1. What is Section 194C?

Section 194C governs the TDS provision applicable to any person making payment to a resident contractor for carrying out work between a resident contractor and 'specified person' (central or state government, local authority, company, etc.)

2. When is TDS applicable to contractors?

If the payment made to the contractor is not more than Rs.30,000, **no TDS is required to be deducted on payment to the contractor**. However, if the total of all such payments made or to be made during a financial year exceeds Rs.1,00,000; TDS shall be deducted under Section 194C

3. What is the rate of TDS under Section 194C- TDS on contractors?

The payer is required to deduct TDS at 1% in case the payment is made to an individual or HUF, and 2% if the payment is made to any other person.

FREQUENTLY ASKED QUESTIONS

4. At what time is TDS deducted under Section 194C?

TDS under Section 194C is required to be deducted within earlier of following dates –

- at the time of credit of the sum to Contractor
- at the time of payment in cash/cheque/draft or any other mode

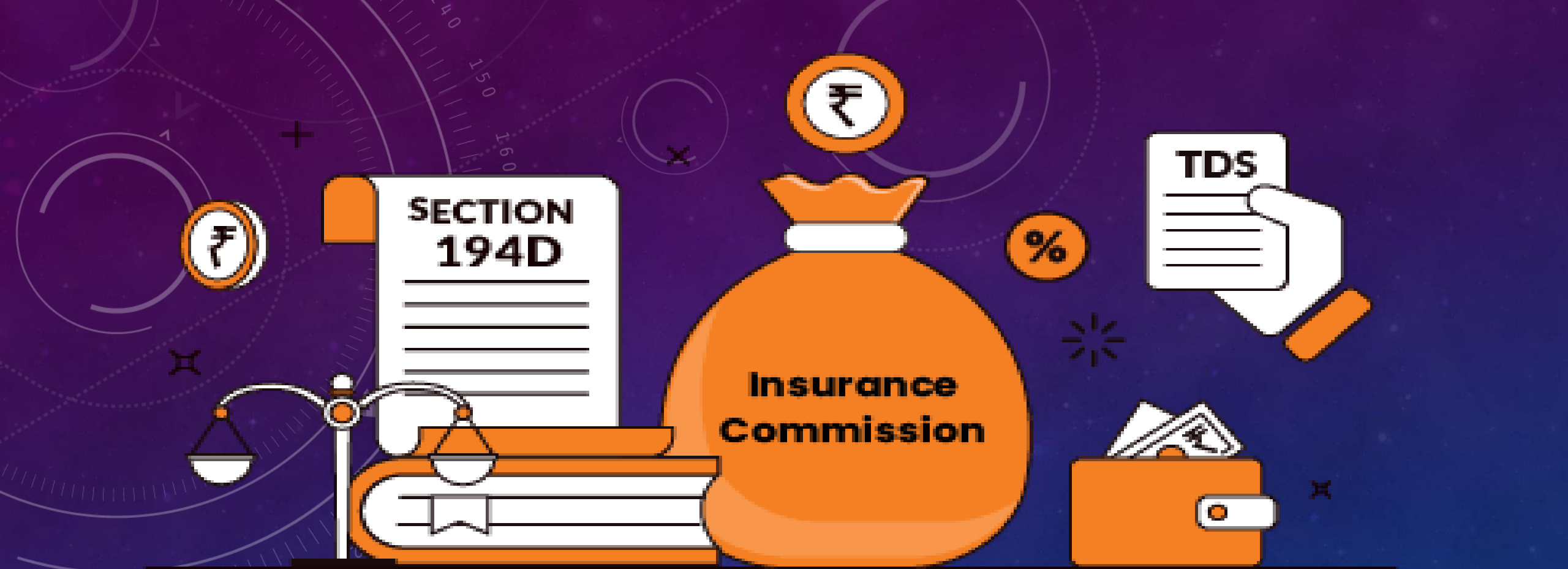
5. Is it mandatory to have a written contract to attract TDS u/s 194C?

No, this section does not require a written contract. Even if agreement is verbal, TDS should be deducted.



Thank You!

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SECTION 194D – TDS ON INSURANCE COMMISSION

Insurance can go a long way when it comes to mitigating the financial crunch caused due to medical emergencies.

Therefore, it is **advisable** to take an insurance policy not only for oneself but for one's dependents as well. Most times people choose their insurance via agents, brokers, etc.

In such cases, the insurance commission or any other remuneration/reward received by such agents, brokers etc., **are subjected to Tax Deducted at Source (TDS) as dictated under Section 194D of the Income Tax Act.**

ELIGIBILITY OF DEDUCTION UNDER **SECTION 194D**

The **tax must be deducted** by the entity who makes the payment to the resident person, as **remuneration/ rewards, by the way of commission** or for the following purposes:

- Soliciting or **obtaining insurance** business
- Continuance, **renewal** or revival of policies of insurance.

Note that this provision applies from 1st June 1973 onwards.

WHEN IS TDS DEDUCTED UNDER SECTION 194D?

The deduction of tax on insurance commission under Section 194D based on **which of the following comes earlier:**

- Tax is deducted **at the time of credit of commission in the account** of the payee, or
- The **payment is in cash or cheque or kind.**

WHAT IS **THE RATE OF TDS** UNDER SECTION 194D

Section 194D is applicable for all such payments made to a resident whether they are an individual, company or any other category of persons. The rate of TDS are mentioned below:

Details	Rate of TDS
Persons other than a company	5%
Domestic Company	10%

- The TDS rate under section 194D was 3.75% for non-company deductees and 10% for domestic company deductees for payments from 14th May 2020 until 31st March 2021.
- **Surcharge or SHEC will not be added** to these rates. Therefore, the tax will be deducted at the source at the basic rates mentioned above.
- The **rate of TDS will be 20%** in cases where the deductee has **not quoted PAN**.

WHEN IS TDS NOT LIABLE TO BE DEDUCTED UNDER 194D

There are **two instances** when TDS is not deducted under Section 194D:

- Commission paid does not exceed Rs.15,000
- Self-declaration under Form 15G/ 15H

NON-DEDUCTION OR A LOW RATE OF TAX DEDUCTION

An individual who receives a commission **can make an application in Form 13 to the Assessing Officer** for a certificate authorizing the payer **not to deduct any tax or to deduct tax at a lower rate.**

In accordance with section 206AA(4), no certificate under Section 197 for non-deduction or a lower rate of deduction will be given **unless the application also provides the PAN of the applicant.**

DUE DATE TO DEPOSIT TDS UNDER SECTION 194D

The due date to collect and deposit tax deducted on commission paid to insurance agents is **7th of next month**.

DUE DATES FOR ISSUING TDS CERTIFICATES

The deductee/ recipient will receive TDS certificates summarising the insurance commission payments and the TDS thereon. The due dates for receipt of TDS certificates are mentioned below:

Months	Deadline for issuing the Certificate
April – June	15th August
July – September	15th November
October – December	15th February
January – March	15th June



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