

Course Name - **Certificate Course on TDS**

Topic - **Section 193 & 194A**

Date - **20th Jan, 2021 (Wednesday)**

Time - **6:00 pm - 8:00 pm**

### **193. Interest on securities.**

#### **193. The person**

- responsible for paying
- to a [resident](#)
- any income by way of interest on securities
- shall,
  - at the time of credit of such income 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,
- deduct income-tax
  - [at the rates in force](#)
  - on the amount of the interest payable :

**Provided** that [no](#) tax shall be [deducted](#) from—

- (i) any interest payable on 4¼ per cent National Defence Bonds, 1972, where the bonds are held by an individual, not being a non-resident; or
- (ia) any interest payable to an individual on 4¼ per cent National Defence Loan, 1968, or 4¾ per cent National Defence Loan, 1972; or
- (ib) any interest payable on National Development Bonds; or
- (ii) [\*\*\*]
- (iia) any interest payable on 7-Year National [Savings](#) Certificates (IV Issue); or
- (iib) any interest payable on such [debentures](#), issued by any institution or authority, or any public sector company, or any co-operative society (including a co-operative land mortgage bank or a co-operative land development bank), as the Central Government may, by notification in the Official Gazette, specify in this behalf;
- (iii) any interest payable on 6½ per cent [Gold](#) Bonds, 1977, or 7 per cent Gold Bonds, 1980, where the Bonds are held by an individual not being a non-resident, and the holder thereof makes a declaration in writing before the person responsible for paying the interest that the total nominal value of the 6½ per cent Gold Bonds, 1977, or, as the case may be, the 7 per cent Gold Bonds, 1980, held by him (including such bonds, if any, held on his behalf by any other person) did not in either case exceed [ten thousand rupees](#) at any time during the period to which the interest relates;
- (iiia) [\* \* \*]

[FA 2018](#)

- (iv) any interest payable [on](#) any security of the Central Government or a State Government:

**Provided** that nothing contained in this clause shall apply to the interest exceeding rupees **ten thousand** payable on 8% Savings (Taxable) Bonds, 2003 *or 7.75% Savings (Taxable) Bonds, 2018* during the financial year;

- (v) any interest payable **to** an individual or a Hindu undivided family, who is resident in India, on any debenture issued by a company in which the public are substantially interested, if—
  - (a) the amount of interest or, as the case may be, the aggregate amount of such interest paid or likely to be paid on such debenture during the financial year by the company to such individual or Hindu undivided family does not exceed **five thousand** rupees; and
  - (b) such interest is paid by the company by an account payee cheque;
- (vi) any interest payable **to** the **Life** Insurance Corporation of India established under the Life Insurance Corporation Act, 1956 (31 of 1956), in respect of any securities owned by it or in which it has full beneficial interest; or
- (vii) any interest payable **to** the General **Insurance** Corporation of India (hereafter in this clause referred to as the Corporation) or to any of the **four** companies (hereafter in this clause referred to as such company), formed by virtue of the schemes framed under sub-section (1) of section 16 of the General Insurance Business (Nationalisation) Act, 1972 (57 of 1972), in respect of any securities owned by the Corporation or such company or in which the Corporation or such company has full beneficial interest; or
- (viii) any interest payable **to** any other **insurer** in respect of any securities owned by it or in which it has full beneficial interest;
- (ix) any interest payable **on** any security issued by a company, where such security is in **dematerialised** form and is listed on a recognised stock exchange in India in accordance with the Securities Contracts (Regulation) Act, 1956 (42 of 1956) and the rules made thereunder.

*Explanation.*—For the purposes of this section, where any income by way of interest on securities is credited to any account, whether called "Interest payable account" or "Suspense account" or by any other name, in the books of account of the person liable to pay such income, 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.

*Explanation 2.*—[Omitted by the Finance Act, 1992, w.e.f. 1-6-1992.]

<sup>54</sup>**[Application for grant of certificates for deduction of income-tax at any lower rates or no deduction of income-tax.]**

**28. (1)** *An application by a person for grant of a certificate for the deduction of income-tax at any lower rates or no deduction of income-tax, as the case may be, under sub-section (1) of section 197 shall be made in Form No. 13 electronically, —*

- (i) *under digital signature; or*
- (ii) *through electronic verification code.*

*(2) The Principal Director General of Income-tax (Systems) or the Director General of Income-tax (Systems), as the case may be, shall lay down procedures, formats and standards for ensuring secure capture and transmission of data and uploading of documents and the Principal Director General of Income-tax (Systems) or the Director General of Income-tax (Systems) shall also be responsible for evolving and implementing appropriate security, archival and retrieval policies in relation to the furnishing of Form No.13.]*

**<sup>61</sup>[Certificate for deduction at lower rates or no deduction of tax from income other than dividends.**

**28AA.** (1) Where the Assessing Officer, on an application made by a person under sub-rule (1) of rule 28 is satisfied that existing and estimated tax liability of a person justifies the deduction of tax at lower rate or no deduction of tax, as the case may be, the Assessing Officer shall issue a certificate<sup>61a</sup> in accordance with the provisions of sub-section (1) of section 197 for deduction of tax at such lower rate or no deduction of tax.

(2) The existing and estimated liability referred to in sub-rule (1) shall be determined by the Assessing Officer after taking into consideration the following:—

- (i) tax payable on estimated income of the previous year relevant to the assessment year;
- (ii) tax payable on the assessed or returned <sup>61aa</sup>[*or estimated income, as the case may be, of last four previous years*]
- (iii) existing liability under the Income-tax Act, 1961 and Wealth-tax Act, 1957;
- (iv) advance tax payment <sup>61ab</sup>[*tax deducted at source and tax collected at source*] for the assessment year relevant to the previous year till the date of making application under sub-rule (1) of rule 28;
- (v) <sup>61ac</sup>[\*\*\*]
- (vi) <sup>61ad</sup>[\*\*\*]

(3) The certificate shall be valid for such period of the previous year as may be specified in the certificate, unless it is cancelled by the Assessing Officer at any time before the expiry of the specified period.

<sup>62</sup>[(4) *The certificate for deduction of tax at any lower rates or no deduction of tax, as the case may be, shall be issued direct to the person responsible for deducting the tax under advice to the person who made an application for issue of such certificate:*

**Provided** that where the number of persons responsible for deducting the tax is likely to exceed one hundred and the details of such persons are not available at the time of making application with the person making such application, the certificate for deduction of tax at lower rate may be issued to the person who made an application for issue of such certificate, authorising him to receive income or sum after deduction of tax at lower rate.

<sup>63</sup>[(5) *The certificates referred to in sub-rule (4) shall be valid only with regard to the person responsible for deducting the tax and named therein and certificate referred to in proviso to the sub-rule (4) shall be valid with regard to the person who made an application for issue of such certificate.]*

<sup>64</sup>[(6) *The Principal Director General of Income-tax (Systems) or the Director General of Income-tax (Systems), as the case may be, shall lay down procedures, formats and standards for*

*issuance of certificates under sub-rule (4) and proviso thereto and the Principal Director General of Income-tax (Systems) or the Director General of Income-tax (Systems) shall also be responsible for evolving and implementing appropriate security, archival and retrieval policies in relation to the issuance of said certificate.]*

**<sup>62</sup>[Certificate of no deduction of tax in case of certain entities.**

**28AB.** (1) Subject to the conditions specified in sub-rule (2), a person—

- (a) in receipt of income or deemed income derived from property held under trust wholly for charitable or religious purposes and who claims exemption under section 11 or section 12; or
- (b) required to file a return in respect of a scientific research association, news agency, association or institution, fund or trust or university or other educational institution or any hospital or other medical institution or trade union referred to in sub-section (4C) of section 139,

may make an application to the Assessing Officer for the grant of a certificate under sub-section (1) of section 197 authorizing him to receive incomes without deduction of tax at source.

(2) The conditions referred to in sub-rule <sup>63</sup>[(1)] are the following, namely :—

- (i) the person concerned has furnished the returns of income for all assessment years for which such returns became due on or before the date on which the application under sub-rule (1) is made; <sup>63a</sup>[and]
- (ii) the trust, scientific research association, news agency, association or institution, fund or trust or university or other educational institution or any hospital or other medical institution or trade union referred to in sub-rule (1) is for the time being approved for the purpose of exemption from income-tax; <sup>63aa</sup>[\*\*\*]
- (iii) <sup>63ab</sup>[\*\*\*]

(3) An application for the certificate is to be made to the Assessing Officer in accordance with sub-rule (1) of rule 28.

(4) The Assessing Officer may issue a certificate <sup>64</sup>authorizing payment of incomes without deduction of tax at source if he is satisfied that all the conditions laid down in sub-rule (2) are fulfilled and the issue of any such certificate will not be prejudicial to the interests of revenue.

(5) The applicant may furnish copies of certificate issued under sub-rule (4) to the person responsible for paying the income for the purpose of no deduction of tax at source.

(6) The certificate shall be valid for the financial year specified therein unless it is cancelled by the Assessing Officer at any time before the expiry of the said financial year.

(7) An application for a fresh certificate may be made, if the assessee so desires, after the expiry of the period of validity of the earlier certificate.]

**<sup>79</sup>[Declaration by person claiming receipt of certain incomes without deduction of tax.**

**29C.** (1) A declaration under sub-section (1) or under sub-section (1A) of section 197A shall be in Form No.15G and declaration under sub-section (1C) of section 197A shall be in Form No.15H.

*(2) The declaration referred to in sub-rule (1) may be furnished in any of the following manners, namely:—*

*(a) in paper form;*

*(b) electronically after duly verifying through an electronic process in accordance with the procedures, formats and standards specified under sub-rule (7).*

*(3) The person responsible for paying any income of the nature referred to in sub-section (1) or sub-section (1A) or sub-section (1C) of section 197A, shall allot a unique identification number to each declaration received by him in Form No.15G and Form No.15H respectively during every quarter of the financial year in accordance with the procedures, formats and standards specified by the Principal Director-General of Income-tax (Systems) under sub-rule (7).*

*(4) The person referred to in sub-rule (3) shall furnish the particulars of declaration received by him during any quarter of the financial year along with the unique identification number allotted by him under sub-rule (3) in the statement of deduction of tax of the said quarter in accordance with the provisions of clause (vii) of sub-rule (4) of rule 31A.*

*(5) The person referred to in sub-rule (3) shall furnish the statement of deduction of tax referred to in rule 31A containing the particulars of declaration received by him during each quarter of the financial year along with the unique identification number allotted by him under sub-rule (3) in accordance with the provisions of clause (vii) of the sub-rule (4) of rule 31A irrespective of the fact that no tax has been deducted in the said quarter.*

*(6) Subject to the provisions of sub-rules (4) and (5), an income-tax authority may, before the end of seven years from the end of the financial year in which the declaration referred to in sub-rule (1) has been received, require the person referred in sub-rule (3) to furnish or make available the declaration for the purposes of verification or any proceeding under the Act in accordance with the procedures, formats and standards specified by Principal Director General of Income-tax (Systems) specified under sub-rule (7).*

*(7) The Principal Director General of Income-tax (Systems) shall specify the procedures, formats and standards for the purposes of furnishing and verification of the declaration, allotment of unique identification number and furnishing or making available the declaration to the income-tax authority and shall be responsible for the day-to-day administration in relation to the furnishing of the particulars of declaration in accordance with the provisions of sub-rules (4) and (5).*

*(8) The Principal Director General of Income-tax (Systems) shall make available the information of declaration furnished by the person referred to in sub-rule (3) to the Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner to whom the Assessing Officer having jurisdiction to assess the person who has furnished the declaration under sub-section (1) or under sub-section (1A) or under sub-section (1C) of section 197A is subordinate.]*

## **Finance Act, 2018 - Circular No. 8, Dated 26-12-2018**

### **Tax Deduction at source of 7.75% GOI Savings (Taxable) Bonds, 2018**

**40.1** Government of India introduced 8% Savings (Taxable) Bonds, 2003 in 2003. Under the existing law, the interest received by the investor is taxable. Further, the payer is liable to deduct

tax at source under section 193 of the Income-tax Act at the time of payment or credit of such interest in excess of rupees ten thousand to a resident.

**40.2** Government has now decided to discontinue the existing 8% Savings (Taxable) Bonds, 2003 with a new 7.75% GOI Savings (Taxable) Bonds, 2018. The interest received under the new bonds will continue to be taxed as in the case of the earlier ones. The provisions of section 193 of the Income-tax Act have been amended to allow for deduction of tax at source at the time of making payment of interest on such bonds to residents. However, no TDS will be deducted if the amount of interest is less than or equal to ten thousand rupees during the financial year.

**40.3 Applicability:** This amendment takes effect from 1st April, 2018.

#### **194A. Interest *other than* "Interest on securities".**

**194A.**(1) Any person,

- *not being* an *individual* or a *Hindu* undivided family,
- who is responsible for paying
- *to a resident* any income
- by way of interest
  - *other than* income by way of interest on securities,
- shall,
  - at the time of credit of such income 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,
- deduct income-tax thereon
  - *at the rates in force* :[ *Part II Finance Act - depends on ..*]

**Provided that**

- an *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*
  - ~~the monetary limits specified under clause (a) or clause (b) of section 44AB-~~
  - during the financial year *immediately preceding the financial year* in which such interest is credited or paid,
- shall be *liable* to deduct income-tax under this section.

*Explanation.*—For the purposes of this section,

where any income by way of interest as aforesaid

- is *credited to any account*, whether called "Interest payable account" or "Suspense account" or by any other name,
- in the *books* of account of the person liable to pay such income,



— 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.

(2) [*Omitted by the Finance Act, 1992, w.e.f. 1-6-1992.*]

(3) The provisions of sub-section (1) shall not apply—

(i) where the **amount** of such income or, as the case may be, the aggregate of the amounts of such income credited or paid or likely to be credited or paid during the financial year by the person referred to in sub-section (1) to the account of, or to, the payee, does not exceed—

(a) forty ten-thousand rupees, where the payer is a banking company to which the Banking Regulation Act, 1949 (10 of 1949) applies (including any bank or banking institution, referred to in section 51 of that Act);

(b) forty ten-thousand rupees, where the payer is a co-operative society engaged in carrying on the business of banking;

(c) forty ten-thousand rupees, on any deposit with post office under any scheme framed by the Central Government and notified by it in this behalf; and

(d) five thousand rupees in any other case:

**Provided** that in respect of the income credited or paid in respect of—

(a) time deposits with a banking company to which the Banking Regulation Act, 1949 (10 of 1949) applies (including any bank or banking institution referred to in section 51 of that Act); or

(b) time deposits with a co-operative society engaged in carrying on the business of banking;

(c) deposits with a public company which is formed and registered in India with the main object of carrying on the business of providing long-term finance for construction or purchase of houses in India for residential purposes **and** which is eligible for deduction under clause (viii) of sub-section (1) of section 36;

the aforesaid amount shall be **computed** with reference to the income credited or paid by a **branch** of the banking company or the co-operative society or the public company, as the case may be :

<sup>95</sup>**[Provided further** that the amount referred to in the first proviso shall be computed with reference to the income credited or paid by the banking company or the co-operative

society or the public company, as the case may be, where such banking company or the co-operative society or the public company has adopted **core banking solutions**;

*The ceiling limit as specified above shall not be computed branch-wise if such banking company or co-operative society has adopted Core Banking Solutions (CBS).*

**Provided also** that

- in case of payee being a **senior citizen**,
- the provisions of sub-clause (a), sub-clause (b), and sub-clause (c)
- shall have effect **as if** for the words "**ten** thousand rupees", the words "**fifty** thousand rupees" had been substituted.

*Explanation.—For the purposes of this clause, "senior citizen" means an individual resident in India who is of the age of **sixty** years or more at any time during the relevant previous year;*

Payer	Threshold limit if Payee is	
	Senior Citizen	Others
Banking Co.	50,000	40,000
Co-operative Society engaged in banking business	50,000	40,000
Post Office	50,000	40,000
In any other case	5,000	5,000

(ii) [\*\*\*]

(iii) to such income credited or **paid to**—

- (a) any **banking** company to which the Banking Regulation Act, 1949 (10 of 1949), applies, or any co-operative society engaged in carrying on the business of banking (including a co-operative land mortgage bank), or
- (b) any **financial corporation** established by or under a Central, State or Provincial Act, or
- (c) the **Life** Insurance Corporation of India established under the Life Insurance Corporation Act, 1956 (31 of 1956), or
- (d) the **Unit** Trust of India established under the Unit Trust of India Act, 1963 (52 of 1963), or
- (e) any company or co-operative society carrying on the business of **insurance**, or



- (f) such other institution, association or body or class of institutions, associations or bodies which the Central Government may, for reasons to be recorded in writing, **notify** in this behalf in the Official Gazette;

Provided that **no notification** under this sub-clause shall be issued on or after the 1st day of April, 2020.

- (iv) to such income credited or paid by a firm to a partner of the firm;
- (v) to such income credited or paid by a co-operative society (other than a co-operative bank) to a member thereof or to such income credited or paid by a co-operative society to any other co-operative society;
- <sup>96</sup>[*Explanation*.—For the purposes of this clause, "co-operative bank" shall have the same meaning as assigned to it in Part V of the Banking Regulation Act, 1949 (10 of 1949);
- (vi) to such income credited or paid in respect of deposits under any scheme framed by the Central Government and notified by it in this behalf in the Official Gazette;
- (vii) to such income credited or paid in respect of deposits (other than time deposits made on or after the 1st day of July, 1995) with a banking company to which the Banking Regulation Act, 1949 (10 of 1949) applies (including any bank or banking institution referred to in section 51 of that Act);
- (viii) to such income credited or paid in respect of,—
- (a) **deposits** with a primary agricultural credit society or a primary credit society or a co-operative land mortgage bank or a co-operative land development bank;
  - (b) deposits (other than time deposits made on or after the 1st day of July, 1995) with a co-operative society, other than a co-operative society or bank referred to in sub-clause (a), engaged in carrying on the business of banking;
- (viii) to such income credited or paid by the Central Government under any provision of
- this Act or
  - the Indian Income-tax Act, 1922 (11 of 1922), or the Estate Duty Act, 1953 (34 of 1953), or the Wealth-tax Act, 1957 (27 of 1957), or the Gift-tax Act, 1958 (18 of 1958), or the Super Profits Tax Act, 1963 (14 of 1963), or the Companies (Profits) Surtax Act, 1964 (7 of 1964), or
  - the Interest-tax Act, 1974 (45 of 1974);
- (ix) to such income **credited** by way of interest on the compensation amount awarded by the Motor **Accidents Claims Tribunal**;
- (ixa) to such income **paid** by way of interest on the compensation amount awarded by the Motor Accidents Claims Tribunal where the amount of such income or, as the case may be, the aggregate of the amounts of such income paid during the financial year does not exceed fifty thousand rupees;

(x) to such income which is paid or payable by an infrastructure capital company or infrastructure capital fund or a public sector company or scheduled bank in relation to a zero coupon bond issued on or after the 1st day of June, 2005 by such company or fund or public sector company or scheduled bank;

(xi) to any income by way of interest referred to in clause (23FC) of section 10.

Provided that a co-operative society referred to in clause (v) or clause (viiia)

— shall be liable to deduct income-tax in accordance with the provisions of sub-section (1),

— if—

(a) the total sales, gross receipts or turnover of the co-operative society

— exceeds fifty crore rupees during the financial year immediately preceding the financial year in which the interest referred to in sub-section (1) is credited or paid; and

(b) the amount of interest, or the aggregate of the amounts of such interest,

— credited or paid, or is likely to be credited or paid,

— during the financial year

— is more than

○ fifty thousand rupees

▪ in case of payee being a senior citizen and

○ forty thousand rupees

▪ in any other case.

*Explanation 1.*—For the purposes of clauses (i), (vii) and (viiia), "time deposits" means deposits (including recurring deposits) repayable on the expiry of fixed periods.

*Explanation 2.*—

*For the purposes of this clause, "senior citizen" means*

→ *an individual*

→ *resident in India*

→ *who is of the age of sixty years or more*

→ *at any time during the relevant previous year;*

(4) The person responsible for making the payment referred to in sub-section (1) may, at the time of making any deduction, increase or reduce the amount to be deducted under this section for the purpose of adjusting any excess or deficiency arising out of any previous deduction or failure to deduct during the financial year.

*Explanation.*—[Omitted by the Finance Act, 1992, w.e.f. 1-6-1992.]

- (5) The Central Government may,
- by **notification** in the Official Gazette,
  - provide that the deduction of tax
    - shall not be made or
    - shall be made at such lower rate,
    - from such payment
    - to such person or class of persons, as may be specified in the said notification.

### Analysis

1. Not applicability = no duty to deduct, but Receiver of such payment has to pay tax on such income { eg Interest credited by Income tax department u/s 244 = income from other source to assessee }
2. NBFC – is not bank – so payment of interest TDS has to be applied.  
Interest Paid to NBFCs are not subject to TDS If they have offered the Interest Income to Tax: ITAT Bangalore [ITA 144/Bang/2017] June 9, 2017 |

In *Azmath Ulla v. ACIT*, the Bangalore ITAT held that the interest paid to Non-Banking financial institutions are not subject to deduction of tax at source if such interest amount was offered by such entities to income tax while filing their IT Returns. The sole grievance of the assessee, in the instant case was that the Assessing Officer disallowed the interest paid to Non Banking Financial Corporations (NBFCs) under Section 40(a)(ia) of the Income Tax Act on ground of non-deduction of TDS. Assessee claimed that Non-Banking Financial Corporations are not covered by section 194A(3)(a)(b) of the Income Tax Act and therefore, no TDS is payable for such amount. The bench held that if the recipients of interest in question have already considered the same for computing their income offered to tax then the disallowance u/s. 40(a)(ia) is not attracted. “In this case though the assessee did not file the relevant material before the AO in this regard however, it is a fact which existed right from the beginning and the relevant details are available with the revenue regarding the income offered by these NBFCs. Therefore, in view of the facts and circumstances of the case if the certificates filed in support of the claim that the NBFCs have included this amount of interest in computation of their income offered to tax are found to be correct then the compliance u/s. 40(a)(ia) is deemed to have been made and no disallowance is called for. Therefore this issue is set aside to the record of the AO for verification of the fact that the recipient NBFCs have already taken into account the amount of interest received by them for computing the income in their return of income. In case the AO is satisfied that the NBFCs have considered this amount for

computation of income in their return of income then no disallowance is called for u/s. 40(a)(ia).”

## SECTION 194A

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### DEDUCTION OF TAX AT SOURCE - INTEREST OTHER THAN ON INTEREST ON SECURITIES

**'INDIVIDUAL' INCLUDES 'ARTIFICIAL JURIDICAL PERSON'** - Even an artificial juridical person can be treated as an individual under section 194A, as there is nothing to restrict the applicability of the word 'individual' only to a natural person or a human being - *ITO v. Arihant Trust* [\[1995\] 214 ITR 306 \(Mad.\)](#).

**TRUST ASSESSED AS INDIVIDUAL IS NOT COVERED** - Once a trust has been assessed as an individual under section 161, section 194A will not be applicable to it - *ITO v. Arihant Trust (supra)*.

**'INTEREST' SATISFYING DEFINITION IN SECTION 2(28A) IS LIABLE FOR DEDUCTION OF TAX AT SOURCE** - Where the assessee, engaged in retail financial services, floated an investment scheme under which the investors were guaranteed repayment of the invested amount within 36 months and a minimum return of 1.5 per cent per month, the mere fact that the assessee had not chosen to characterise the repayments as 'interest' will have no effect, nor will it be out of the ambit of the definition of 'interest' in section 2(28A). The assessee was therefore liable to deduct tax at source on the payments made to the investors - *Viswapriya Financial Services & Securities Ltd. v. CIT* [\[2002\] 258 ITR 496 \(Mad.\)](#).

**Factoring charges** - Factoring charges could not be treated as interest to attract TDS under section 194A - *Principal CIT v. M. Sons Gems N Jewellery (P.) Ltd.* [\[2016\] 69 taxmann.com 373/239 Taxman 530 \(Delhi\)](#).

**INTEREST ON LAND COMPENSATION** - The Supreme Court has held in the case of *Dr. Sham Lal Narula v. CIT* [\[1964\] 53 ITR 151](#) that the statutory interest paid under section 34 of the Land Acquisition Act for delayed payment of land compensation is a revenue receipt liable to tax under section 4 of the Income-tax Act. It therefore follows that tax must be deducted at source on such interest amount under section 194A. The argument that interest income partakes the character of the enhanced amount of compensation (which is agricultural income) cannot be accepted - *Karnail Singh v. State of Haryana* [\[2009\] 184 Taxman 257 \(Punj. & Har.\)](#). See also *Registrar, University of Agricultural Science v. Fakiragowda* 2009 Tax LR 302 (Kar.).

In *Sant Ram v. Union of India* [\[2010\] 328 ITR 77 \(Punj. & Har.\)](#) it was held that under section 194A, TDS can be deducted from interest realised from enhanced compensation because it is regarded as revenue receipt.

In *Rameshwar v. Ujjain Development Authority* [2012] 23 taxmann.com 6/209 Taxman 344 (MP) it was held that TDS under section 194A should be made in respect of interest for delayed receipt of land acquisition compensation.

However, Supreme Court in the case of *CIT v. Ghanshyam (HUF)* [2009] 182 Taxman 368 has held that interest under section 28 of the Act of 1894 unlike interest under section 34 is an accretion to the value and hence, it is a part of the enhanced compensation or consideration which is not the case with interest under section 34 of the 1894 Act. Therefore, interest under section 28 of the Act of 1894 would form part of the enhanced compensation and would be exigible to capital gains under section 45(5). In other words, in case of a transaction which is otherwise exigible to capital gains tax under section 45, the interest received under section 28 of the Act of 1894 being an accretion to the value, would form part of the compensation and would be exigible to tax under section 45(5), whereas the interest received under section 34 of the Act of 1894 would be "interest" within the meaning of such expression as envisaged under section 145A and would be deemed to be the income of the year under consideration, chargeable to tax as income from other sources under section 56.

Interest paid on compensation/enhanced compensation under section 28 of Land Acquisition Act forms part of compensation and not interest; same is not taxable under head 'income from other sources' and department is not justified in deducting tax at source under section 194A - *Movaliya Bhikhubhai Balabhai v. ITO* [2016] 70 taxmann.com 45/388 ITR 343 (Guj.)

**INSURANCE COMPENSATION** - Insurance company paying interest on compensation to accident victims is liable to deduct tax at source if there is tax liability after spreading interest over period from date interest was directed to be paid till its payment - *CIT v. United Insurance Co. Ltd.* [2010] 325 ITR 231 (Kar.).

In case of motor accident claim, insurance company would spread amount of interest on compensation over relevant financial years for period from date of filing claim petition till date of deposit - *New India Assurance Co. Ltd. v. Hussain Babulal Shaikh* [2017] 77 taxmann.com 107 (Bom.)/*New India Assurance Co. Ltd. v. Bhupatsinh @ Falji Gopalji Vaghela* [2017] 79 taxmann.com 76/246 Taxman 96 (Guj.)].

(Contra)

Compensation awarded by Motor Vehicle Accident Claims Tribunal and interest accruing thereon are not incomes, hence, such amounts cannot be subjected to TDS - *Managing Director, Tamil Nadu State Transport Corpn. (Salem) Ltd. v. Chinnadurai* [2016] 70 taxmann.com 53/240 Taxman 162 (Mad.)/*New India Assurance Co. Ltd. v. Bhoyabhai Haribhai Bharvad* [2016] 72 taxmann.com 335/242 Taxman 415 (Guj.)/*New India Assurance Co. Ltd. v. Sudesh Chawla* [2016] 380 ITR 467 (P&H)/*IFFCO Tokio General Insurance Co. Ltd. v. Krishnakumar Munshiram Agrawal* [2017] 87 taxmann.com 349 (Guj.).

**Interest on belated payment to supplier** - Where assessee made provision towards contingent payment of interest on belated payment to its suppliers but subsequently noticing that said interest would never be paid to suppliers, it made corresponding reversal entries in books of account, there would be no liability to deduct tax under section 194A on such amount as no income accrued to payees (suppliers) - *Karnataka Power Transmission Corpn. Ltd. v. Dy. CIT* [2016] 67 taxmann.com 259/238 Taxman 287 (Kar.).

**INTEREST ON LEASE PREMIUM** - Amount payable towards interest on lump sum lease premium paid in terms of lease was eligible for exemption under section 194A(3)(f) and, therefore, not subjected to TDS - *Rajesh Projects (India) (P.) Ltd. v. CIT* [2017] 78 taxmann.com 263 (Delhi) [SLP granted in *Greater Noida Industrial Development Authority v. Asstt. CIT (TDS)*] [2017] 84 taxmann.com 285/250 Taxman 98 (SC)].

**IN CASE OF CHIT** - Dividend/discount distributed among chit subscribers is not interest so as to require deduction of tax at source from such payments - *CIT v. Sahib Chits (Delhi) (P.) Ltd.* [2009] 185 Taxman 34 (Delhi).

**ADJUSTMENT OF EXCESS/DEFICIENCIES IS PERMISSIBLE ONLY WITHIN THE FINANCIAL YEAR** - Sub-section (4) of section 194A permits adjustment of excess/deficiencies only within the same financial year and not at any time - *Rishikesh Balkishandas v. I.D. Manchanda, ITO* [1987] 167 ITR 49 (Delhi).

**TRIAL COURT CANNOT DIRECT NOT TO DEDUCT TAX AT SOURCE** - When motor insurance compensation is paid by an insurance company with interest, section 194A will be clearly attracted, and the insurance company is bound to deduct tax at source if the amount of interest exceeds Rs. 50,000 in a year. Where the trial court directed the insurance company to pay the full interest amount without deducting tax at source, such a direction will be erroneous. It is not within the power of the executing court to direct the insurance company not to deduct tax at source and to pay the entire amount, thereby compelling the insurance company to commit an illegal act violating the statutory provisions. The direction and order of the trial court required to be set aside - *New India Assurance Co. Ltd. v. Mani* [2005] 142 Taxman 523 (Mad.).

**DEDUCTION MUST BE ON GROSS INTEREST AND NOT NET INTEREST** - The expression 'interest' can only be the gross interest, and it cannot refer to the net interest in the context of crediting the interest by the person responsible for deducting the tax. The principle of netting the interest has no application to section 194A. Even when there are two or more transactions in which interest is paid or interest is received from, it is only on the gross amount of interest credited that tax has to be deducted under this provision - *CIT v. S.K. Sundararamier & Sons* [1999] 240 ITR 740 (Mad.).

**IF FORM 15H IS DEFECTIVE, OPPORTUNITY MUST BE GIVEN TO RECTIFY DEFECTS** - Though section 194A does not provide for any opportunity to be given to the person responsible for paying interest to rectify the defects found in the declarations (Form No.



15H) filed, a reasonable construction of section 194A would warrant an opportunity to be granted to such person to rectify minor defects that have crept into the declarations unnoticed by the payee or by such person. The section should be interpreted in a reasonable and fair manner so that the liability of tax is not imposed on the person paying interest, for filing defective declarations - *Vijay Hemant Finance and Estates Ltd. v. ITO* [\[1999\] 238 ITR 282 \(Mad.\)](#).

**CO-OPERATIVE SOCIETY** - Circular dated 11-9-2002 is directly in conflict with provisions of section 194A(3)(v) and therefore is to be quashed - *Jalgaon District Central Co-operative Bank Ltd. v. Union of India* [\[2004\] 134 Taxman 1 \(Bom.\)](#)/*Gujarat Urban Co-operative Bank Federation v. Union of India* [\[2012\] 25 taxmann.com 82/209 Taxman 340 \(Guj.\)](#).

Insofar as societies are concerned, only those registered under Societies Registration Act, 1860 are exempted from deduction of tax at source under section 194A on interest income received by them - *Kerala State Nirmithi Kendra v. CIT* [\[2013\] 30 taxmann.com 15/215 Taxman 363 \(Ker.\)](#).

No tax is required to be deducted at source under section 194A on interest paid to societies which are registered under Societies Registration Act and financed by Government - *CIT v. State Bank of Patiala* [\[2016\] 386 ITR 533 \(Punj. & Har.\)](#).

**EXPLANATION TO SUB-SECTION (1) IS PROSPECTIVE IN OPERATION** - As held earlier in the cases of *Punjab Business and Supply Co. (P.) Ltd. v. ITO* [\[1991\] 188 ITR 550 \(Punj. & Har.\)](#), *CIT v. Oriental Power Cables Ltd.* [\[1993\] 203 ITR 237 \(Raj.\)](#), *Alkapuri Investment (P.) Ltd. v. O.S. Khosla* [\[1997\] 226 ITR 506 \(Guj.\)](#) and *Laxmi Industries Co. Ltd. v. ITO* [\[1998\] 231 ITR 514 \(Raj.\)](#), the Explanation to section 194(1) under which tax must be deducted at source even on interest credited to any account, whether called 'interest payable account' or 'suspense account' or by any other name, is prospective in operation. The contrary view taken in the case of *ITO v. D. Manoharlal Kothari* [\[1999\] 236 ITR 353 \(Mad.\)](#) ignores the fact that, since the Explanation imposes penal liability, it cannot be held to be clarificatory in nature - *CIT v. Swarup Vegetable Products* [\[2005\] 148 Taxman 297 \(All.\)](#).

**WHEN LOANS AND REPAYMENTS RELATING TO DIRECTORS ARE ROUTED THROUGH THE COMPANY** - Where loans taken by directors of assessee-company were routed through assessee, in absence of resolution of assessee-company whereby it had agreed to act as a medium for routing borrowings and repayments, it could not be said that assessee was merely incharge of disbursing repayments made by directors in their individual capacities; such assessee was liable to deduct tax at source from interest paid by assessee-company to creditor - *CIT v. Century Building Industries (P.) Ltd.* [\[2007\] 163 Taxman 188 \(SC\)](#).

**PROVIDENT FUND TRUST** - Where assessee was a provident fund trust of employees created after seeking exemption under section 16 of Employees Provident Fund Act, 1952 (EPF Act), as its status was to be taken as an individual, it was not required to deduct tax at source from amounts being credited as interest to account of ex-employees after cessation of

employment - *CIT v. Food Corporation of India Contributory Provident Fund Trust* [2008] 218 CTR (Delhi) 625.

**IN CASE OF JUDGMENT DEBTOR** - Judgment debtor is not liable to deduct tax at source on interest component of decree - *Madhusudan Shrikrishna v. Emkay Exports* [2010] 188 Taxman 195 (Bom.).

**INTEREST ON COMPENSATION AWARDED BY MOTOR ACCIDENT CLAIMS TRIBUNAL** - Where, in an award of Motor Accident Claims Tribunal, compensation amount and interest amount had been apportioned among claimants and amount of interest payable to each of claimants was less than the threshold limit of Rs. 50,000, insurance company was not entitled to deduct tax at source while depositing amount of interest payable to claimants before Tribunal. - *National Insurance Co. Ltd. v. Smt. Draupadibai* [2011] 201 Taxman 226 (Mag.)/11 taxmann.com 65 (MP).

**INTEREST ON FIXED DEPOSIT MADE BY LITIGANT IN NAME OF COURT** - Where assessee-bank accepted a fixed deposit made by litigant as per directives of High Court in name of Registrar General of said Court, it was held that Registrar General was neither recipient of amount credited to that account nor interest accruing thereon; therefore, he could not be considered as a 'payee' under section 194A and as there was no person to whom interest income from fixed deposit could be ascribed, assessee was not liable to deduct tax under section 194A on interest accrued on said fixed deposit - *UCO Bank v. Union of India* [2014] 51 taxmann.com 253 (Delhi).

**PAYMENT TO STATUTORY CORPORATION** - New Okhla Industrial Development Authority (NOIDA) is a Corporation established by a State Act and is, therefore, entitled to exemption of payment of tax at source under section 194A(1) - *CIT (TDS) v. Canara Bank* [2018] 95 taxmann.com 81/257 Taxman 12 (SC).