

SECTION 194I-Deduction of Tax at source from  
Income By way of Rent.

## *who is responsible to deduct tax*

Any person, (other than individual or a Hindu undivided family) who is responsible for paying Rent to o a resident shall deduct Income tax thereon. For the purpose Payer himself is treated as person responsible for paying rent. If however Payer is a company itself including the principal officer there of is the person responsible for paying rent.

## *What is the meaning of words “RENT” for Deduction of TDS under section 194I?*

- Rent means any payment under any lease / sub-lease / tenancy or any other agreement or arrangement for the use of any of the following –
- Land; or
- A building which includes factory building; or
- Land appurtenant to a building which also includes factory building; or
- Plant; or
- Machinery; or
- Furniture; or
- Equipment; or
- Furniture; or
- Fittings.
- It should be noted that it makes no difference even if the payee does not own any or all of the above listed items.

## *When tax has to be deducted*

Tax should be deducted either at the time of actual payment of rent or at the time of its credit to the account of the payee whichever is earlier.

## *Rate of TDS Under Section 194I*

	rate
Rent of Plant Machinery or equipment	2%
Renting of land or building (including factory building) or land appurtenant to a building (including factory building) or furniture or fittings	10%
If PAN is not quoted	20%

## Threshold Exemption Limit for TDS on Rent under Section 194I

**Section 194-I of the Income Tax Act, 1961** provides that no TDS would be deducted if the income credited / paid during the Financial Year does not exceed INR 2,40,000.

Please note that earlier the threshold exemption limit was INR 1,80,000, however, from Financial Year 2019-2020 the threshold exemption limit for **TDS on Rent** has been increased to INR 2,40,000.

## *Under what circumstances there is no need to deduct TDS u/s 194I?*

- There is no need to deduct TDS u/s 194I under below mentioned circumstances:
- The aggregate amount paid / payable during the Financial Year doesn't exceed the threshold exemption limit i.e. doesn't exceed INR 2,40,000.
- The payer / tenant is an individual or HUF who is not liable to tax audit as per section 44 (AB) clause (a) or (b).
- Rent is paid / payable to a Government agency.
- Where the income by way of rent is credited or paid to a business trust, being a real estate investment trust, in respect of any real estate asset, referred to in clause (23FCA) of section 10, owned directly by such business trust
- In case, where payee applied in Form 13 to AO for non deduction, being his taxable income including rent below taxable limit, and has obtained certificate thereof.

## ***Whether payments made to a hotel for rooms hired during the year would be of the nature of rent?***

Payments made by persons, other individuals and HUFs for hotel accommodation taken on regular basis will be in the nature of rent subject to TDS under section 194-I.

## ***On what amount the tax is to be deducted at source if the rentals include municipal tax, ground rent, etc.?***

*The basis of tax deduction at source under section 194-I is “income by way of rent”. Rent has been defined, in the Explanation (i) of section 194-I, to mean any payment under any lease, tenancy, agreement, etc., for the use of any land or building. Thus, if the municipal taxes, ground rent, etc., are borne by the tenant, no tax will be deducted on such sum.*

## ***Whether tax is required to be deducted at source where a non refundable deposit has been made by the tenant?***

In cases where the tenant makes a non-refundable deposit tax would have to be deducted at source as such deposit represents the consideration for the use of the land or the building, etc., and, therefore, partakes of the nature of rent as defined in section 194-I. If, however, the deposit is refundable, no tax would be deductible at source. It is further clarified that if the deposit carries interest, the tax to be deducted on the amount of interest will be governed by section 194A of the Income-tax Act.



## *Whether the tax is to be deducted at source from warehousing charges?*

The term 'rent' as defined in *Explanation (i)* below section 194-I means any payment by whatever name called, under any lease, sub-lease, tenancy or any other agreement or arrangement for the use of any building or land. Therefore, the warehousing charges will be subject to deduction of tax under section 194-I.

## *Whether section 194-I is applicable to rent paid for the use of only a part or a portion of any land or building?*

Yes, the definition of the term “any land” or “any building” would include a part or a portion of such land or building.

*Clarification regarding applicability of provisions of Section 194-I to payments made by the customers on account of cooling charges to the cold storage owners CIRCULAR NO. 1/2008, DATED 10-1-2008*

It has been represented that the cold storage owners provide a **composite service**, which involves preservation of essential food items including perishable goods at various temperatures suitable for specific food items for required periods **and storage of goods being incidental to the activity of preservation**. The cooling of goods is controlled through mechanical process. The customer brings its packages for preservation for a required period and takes away its packages after paying cooling charges. The **customer does not hire the building, plant/machinery etc. in any manner and does not become a tenant of any kind.**

The matter has been examined. The main function of the cold storage is to preserve perishable goods by means of a mechanical process, and storage of such goods is only incidental in nature. The customer is also not given any right to use any demarcated space/place or the machinery of the cold store and thus does not become a tenant. **Therefore, the provision of 194-I is not applicable to the cooling charges paid by the customers of the cold storage.**

## *Where accommodation in hotel rooms taken on regular basis whether tax is deductible u/s 194C or 194I?*

- Where earmarked rooms are let out for a specified rate and specified period, they would be construed to be accommodation made available on 'regular bases. Similar would be the case, where a room or set of rooms are not earmarked, but the hotel has a legal obligation to provide such types of rooms during the currency of the agreement. However, where an agreement is merely in the nature of a rate contract, it cannot be said to be accommodation 'taken on regular basis', as there is no obligation on the part of the hotel to provide a room or specified set of rooms. The occupancy in such cases would be occasional or casual. In other words, a rate-contract is different for this reason from other agreements, where rooms are taken on regular basis. Consequently, the provisions of section 194-I while applying to hotel accommodation taken on regular basis would not apply to rate contract agreements.

## *How he can take credit of TDS deducted on advance rent?*

Where advance rent is spread over more than one financial year and tax is deducted thereon, credit shall be allowed in the same proportion in which such income is offered for taxation for different assessment years. However where rent agreement gets terminated/cancelled resulting into refund of balance amount of advance rent to the tenant. Or the rented property is transferred, credit for the entire balance of tax deducted at source, which has not been given credit so far, shall be allowed in the assessment year relevant to the financial year during which the rent agreement gets terminated/cancelled or rented property is transferred and balance of advance rent is refunded to the transferee or the tenant, as the case may be.

## Whether provisions of S. 194I shall apply in a situation where payment is made for hotel accommodation by an employee or an individual representing a company?

Where an employee or an individual representing a company (like a consultant, auditor, etc.) makes a payment for hotel accommodation directly to the hotel as and when he stays there, the question of tax deduction at source would not normally arise (except where he is covered under section 44AB as mentioned above) since it is the employee or such individual who makes the payment and the company merely reimburses the expenditure.

## *Whether holding company is liable to deduct TDS on rent in respect of premises shared with its subsidiary?*

Where holding company of assessee took a premise on rent and allowed assessee to use a part of it, and there was no relationship of lessor and lessee between them, assessee had no TDS obligation under section 194- I while reimbursing a part of rent to holding company.

## Where there are several co – owners whether threshold limit of Rs. 2,40,000/- shall be taken in to consideration in respect of each co-owner separately

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Where property in question leased out to a bank was owned by various co-owners and each owner was having a definite and ascertainable share in property, threshold limit for purpose of deduction of tax at source under section 194-I would apply to each of co-owners separately.

## SECTION 194 IA

- Introduced in 2013, this section prescribes that a buyer of immovable property that costs more than Rs.50 lakhs is required to deduct TDS while paying the seller.



## What is the rate of TDS for such deduction

- The rate of TDS for this deduction is 1%

# What are the conditions for the application of Section 194IA of Income Tax Act?

- TDS is to be deducted by the buyer and not by the seller.
- There is no TDS applicable under Section 194IA if the transaction is worth less than Rs.50 lakhs.
- TDS has to be paid on the complete amount of sale and not just the amount above Rs.50 lakhs. For example, if you buy a property worth Rs.60 lakhs, TDS will be calculated on Rs. 60 lakhs and not Rs.10 lakhs.
- For payment made in installments, TDS will be deducted on each installment.
- Since September 2019, charges such as club membership, car parking, maintenance fees, advance fees, electricity fees have also been included under 'consideration for immovable property'. This means that such charges attached to the property will also be added to the taxable amount.
- PANs of both buyer and seller are mandatory for TDS deduction under Section 194IA. If the buyer does not obtain the seller's PAN, the rate of TDS rises to 20%.

## How to pay TDS under Section 194IA of Income Tax Act?

- This TDS payment has to be made using Form 26QB.
- It has to be paid within 30 days from the last day of the month in which the sale was conducted.
- After payment of TDS, the buyer will receive Form 16B which they need to submit to the seller.
- Form 16B can be generated and downloaded from the TRACES portal.

## 194-IB TDS ON RENT OF PROPERTY

Any person, being an individual or a Hindu undivided family (not covered under section 194I), responsible for paying to a resident any income by way of rent exceeding ₹ **50,000** for a month or part of a month during the previous year, shall deduct income-tax thereon at the rates in force. For the purposes of this section, “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.

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.

## What constitutes 'rent' under Section 194IB

- Rent constitutes payments made for a lease, tenancy, sub-lease or other arrangements for properties like
  - Land with factory
  - Land
  - Building with factory
  - Equipment
  - Machinery
  - Plant
  - Furniture
  - Fittings

## When should the TDS on such rent be deducted

- TDS on rent under Section 194IB of the Income Tax Act has to be deducted on the earlier of the following
- When rent is credited for the last month of the previous year or last month of tenancy in case the property is not being occupied anymore.
- When rent is paid by cheque, draft, cash, or other modes.

## What is the TDS rate under this Section

- The rate of TDS under Section 194IB of Income Tax Act is 5% if the tenant obtains the owner's PAN. If they fail to do so, the rate is 20%.

## How to pay TDS under Section 194IB

- This payment is required to be made through Form 26QC.
- It can be made online or offline through an authorized bank.
- Remember to collect Form 16C and submit it to the landlord.



## When should TDS under Section 194IB be deposited

- If the rent is paid on behalf of the government, TDS has to be deposited on the very same day.
- If payment is not on behalf of the government, TDS has to be deposited within 7 days from the last date of the month in which the deduction was carried out.
- If payment was made in March, TDS deposit has to be made before the 30th of April.
- Further information about Section 194IA and 194IB can be found on the official Income Tax Department website. Be sure to check all the rules carefully before entering into transactions covered under these Sections.

Mr. Shan, a salaried employee, pays rent of Rs 62,000 per month to Mr. Rehan. Is he required to deduct Tax at source for the financial year 202021?

- Mr. Shan 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, 2021.
- **In above case if Mr. Shan vacated the premises on 30th November 2020, what will be his liability?**
- If Mr. Shan vacated the premises on 30th November 2020, then tax of Rs 24800 ( $\text{Rs } 62000 \times 5\% \times 8 \text{ months}$ ) has to be deducted from the rent payable for November 2020.
- **In above case if Mr. Shan vacated the premises on 31st March 2021, but Mr. Rehan did not furnish his PAN, what will be his liability?**
- If Mr. Rehan does not provide his PAN to Mr. Shan then tax of ₹ 148800 ( $\text{₹.} 62000 \times 20\% \times 12 \text{ months}$ ) or rent of that month i.e. 62000 whichever is less has to be deducted from the rent payable for March, 2021.

Turnover of Mr. Chaman in F.Y. 2019-20 was Rs. 1.25 crores.  
In the F.Y. 2020-21, turnover was Rs. 80 Lakhs. He has paid  
rent of Rs. 60,000/- per month. Whether TDS will be  
deducted u/s 194I(b) or 194IB?

- TDS u/s 194I(b) is to be deducted by an individual/HUF tenant, if his turnover/ gross receipts in the preceding F.Y. exceeds Rs. 1 crore. **TDS** is to be deducted at the rate of 10% if the rent paid during the year exceeds Rs. 2.40 Lakhs.
- TDS u/s 194IB is to be deducted by an individual/ HUF tenant, if his turnover/ gross receipts in the preceding F.Y. are below Rs. 1 crore (Rs. 50 Lakhs in case of professional).
- In the F.Y. 2020-21 TDS is to be deducted u/s 194I(b) as the turnover in the preceding Financial Year exceeds Rs. 1 crore.
- In the F.Y. 2021-22, TDS u/s 194IB is to be deducted as the turnover in the preceding F.Y. is less than Rs. 1 crore.

## Section 194N for deduction of tax at source (TDS) on cash withdrawals exceeding Rs 1 crore

- was introduced by Honourable Finance Minister in Union Budget 2019. This section applies to an aggregate of sums withdrawn from a particular payer in a financial year. The Government has introduced Section 194N in the Union Budget 2019 in order to discourage cash transactions in the country and promote the digital economy,

## Who will Deduct TDS Under Section 194 N

- The person (payer) making the cash payment will have to deduct TDS under Section 194N. Here is the list of such persons:
- Any bank (private or public sector)
- A co-operative bank
- A post office

## When TDS to be deducted

TDS under Section 194N tax shall be required to be deducted only when the aggregate amount of cash withdrawal during the previous year by a person from one or more of his bank or post office account, as the case may be, exceeds Rs. 20 Lakhs and the said person has not filed his Income Tax Returns for last three years . Further, the tax shall be required to be deducted only on the amount exceeding Rs. 20 Lakhs

For the purpose of computation of threshold limit of Rs. 20 Lakhs , the total amount of cash withdrawn during the previous year shall be considered.

. Illustration :

Payers :- Bank / Post Office / Co -operative Societies			
Mr. X – Filed all his Returns			Mr. Y -Not Filed his returns for 3 preceding Assessment years AY [ 2019-20, 2018-19 & 2017-18] FY [ 2018-19.2017-18 & 2016-17]
Cash Withdrawal upto Rs 1 crores	Cash Withdrawal more than Rs 1 crores	Cash Withdrawal 20 Lakhs to 1 Crore	Cash Withdrawal more than Rs 1 crores
No TDS	TDS @ 2%	TDS @ 2%	TDS @ 5%

## Point of Tax Deduction

- TDS will be deducted by the payer while making the cash payment over and above Rs 1 crore in a financial year to the payee. If the payee withdraws a sum of money on regular intervals, the payer will have to deduct TDS from the amount, once the total sum withdrawn exceeds Rs 1 crore in a financial year. Further,
- The TDS will be done on the amount exceeding Rs 1 crore. In the example given above, Mr Y withdraws 45 Lakhs in the aggregate in the financial year and in the next withdrawal, an amount of Rs 1.25 crores is withdrawn, the TDS liability is only on the excess amount of Rs.70 Lakhs ( $0.45 + 1.25 - 1.00$ )



## Applicability 194 N

- An Individual
- A Hindu Undivided Family (HUF)
- A Company
- A partnership firm or an LLP
- A local authority
- An Association of Person (AOPs) or Body of Individuals (BOIs)

## Non Applicability

- 94N will not apply to withdrawals made by following taxpayers:-
- Government Body
- Bank including co-operative banks
- Business correspondent of a banking company
- White label ATM operator of any bank

## Section 194 LA Payments of compensation Acquisition of certain Immovable property

- Any person who pays to a resident a sum (being consideration/ compensation or enhanced consideration/ compensation) on compulsory acquisition of any immovable property (other than agriculture land) is required to deduct tax at source.

## What is the rate & time of tax deduction u/s 194LA?

- 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 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**; and

## No requirement of TDS in the following cases

- When the amount (at once or in total for the whole financial year) does not exceed ₹250000.
- When any payment is made u/s 96 of the Right to Fair Compensation and Transparency in Land, Acquisition, Rehabilitation and Resettlement Act, 2013.

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