



# ***SECTION 194-J***

# **INTRODUCTION**

**Section 194J Of IT Act, 1961, contains provision regarding deduction of Tax at source on payment of Fees for professional or technical services etc. with effect from 1st day of July, 1995.**

## Sec 194 J

- (I) Any person, not being an individual or a Hindu undivided family, who is responsible for paying to a resident any sum by way of—
  - (a) fees for professional services, or
  - (b) fees for technical services, or
  - (ba) 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, or
  - (c) royalty, or
  - (d) any sum referred to in clause (va) of section 28 which relates to Non compete payment for not carrying out any activity in relation to any business or not sharing any know how, patents etc.

# **When tax has to be deducted and at which Rate ?**

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

Payee has to deduct an amount equal to

- **Two percent** of such consideration as income-tax thereon in case of Fees for technical services (not being a professional services), or royalty where such royalty is in the nature of consideration for sale, distribution or exhibition of cinematographic films and in the case of a payee, engaged only in the business of operation of call centre.
- **Ten percent** of such sum in other cases.
- **Twenty percent** in any of the above case, if **PAN is not quoted** by the deductee. as income-tax on income comprised therein.

## **CONDITIONS FOR APPLICABILITY OF SECTION 194J**

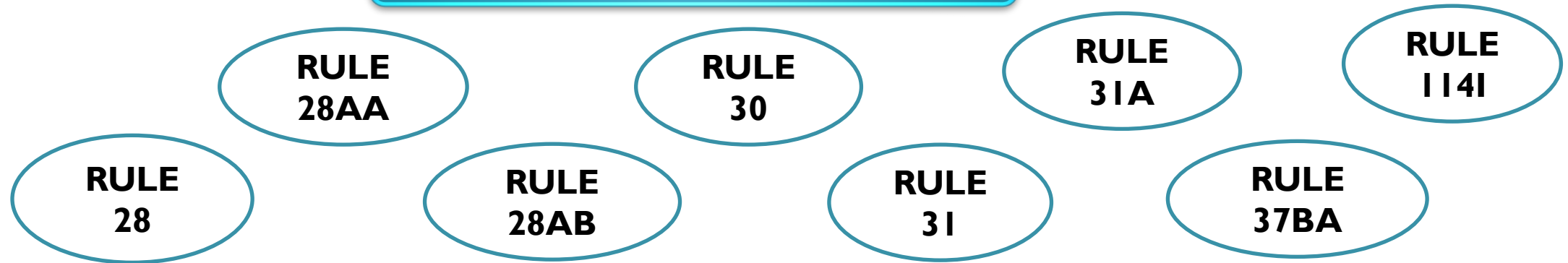
- TDS is to be deducted by the Recipient of the concerned service/s.
- There is no TDS applicable under Section 194J if the aggregate amount of such service/s does not exceed for Rs. 30,000 for each item in a financial year (Except the Fees etc. paid to a Director of a company)
- TDS has to be paid on the whole amount of service and not just the amount above Rs.30,000 in a financial year.
- An individual or a Hindu undivided family, whose total sales, gross receipts or turnover from the business or profession carried on by him exceed the limits as provided in Sec. 44AB [one crore rupees in case of business or fifty lakh rupees in case of profession] during the financial year immediately preceding the financial year in which such sum by way of fees for professional services or technical services is credited or paid, shall be liable to deduct income-tax under this section.
- **However,** aforesaid No individual or a Hindu undivided family shall be liable to deduct income-tax on the sum by way of fees for professional services in case such sum is credited or paid exclusively for personal purposes of such individual or any member of Hindu undivided family.

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

- *There is no need to deduct TDS u/s 194JA under below mentioned circumstances:*
- From any sums as aforesaid credited or paid before the 1st day of July, 1995.
- Where the amount of such sum or, as the case may be, the aggregate of the amounts of such sums credited or paid or likely to be credited or paid during the financial year by the aforesaid person to the account of, or to, the payee, does not exceed Rs. 30,000 [**Except in case of a Director of a Company**]

# RELEVANT RULES AND FORMS FOR THE PURPOSE OF THIS SECTION

## RULES



## FORMS



## **RELEVANT RULES :-**

- ❖ **Rule 28 :- Application for grant of certificates for deduction of income-tax at any lower rates or no deduction of income-tax**
- ❖ **Rule 28AA :- Certificate for deduction at lower rates or no deduction of tax from income other than dividends.**
- ❖ **Rule 28AB :- Certificate of no deduction of tax in case of certain entities**
- ❖ **Rule 30 :- Time and mode of payment to Government account of tax deducted at source or tax paid.**
- ❖ **Rule 31 :- Form No. 16A Within fifteen days from the due date for furnishing the statement of tax deducted at source.**
- ❖ **Rule 31A :- Statement of deduction of tax under sub-section (3) of section 200.**
- ❖ **RULE 37BA :- Credit for tax deducted at source for the purposes of section 199 i.e. TDS paid to the Central Government shall be treated as a payment of tax on behalf of the person from whose income the deduction was made, or of the old owner of the property here.**
- ❖ **RULE 114I :- Annual Information Statement (i.e. Form 26AS)**



## **RELEVANT FORMS :-**

- **Form No. 12BB - Statement showing particulars of claims by an employee for deduction of tax under section 192**
- **Form No. 13 - Application by a person for a certificate under section 197 and/or sub-section (9) of section 206C of the Income-tax Act, 1961, for no deduction of tax or deduction or collection of tax at a lower rate**
- **Form No. 16A - Certificate under section 203 of the Income-tax Act, 1961 for tax deducted at source**
- **Form No. 24G - TDS/TCS Book Adjustment Statement**
- **Form No. 24Q - Quarterly Statement of deduction of tax under sub-section (3) of section 200 of the Income-tax Act in respect of salary (at the end of each quarter).**
- **Form No. 26AS - Annual Information Statement under Section 285BB**
- **Form No. 26B - Form to be filed by the deductor, if he claims refund of sum paid under Chapter XVII-B of the Income-tax Act, 1961**
- **Form No. 26Q - Quarterly statement of deduction of tax under sub-section (3) of section 200 of the Income-tax Act in respect of payments other than salary (at the end of each quarter).**
- **Form No. 27A - Form for furnishing information with the statement of deduction/collection of tax at source.**



# **SECTION 194-IA**

# **INTRODUCTION**

**Read with section 194LA, Of IT Act, 1961, contains provision regarding deduction of Tax at source on payment on transfer of certain immovable property other than agriculture land. Introduced in 2013, this section prescribed that a buyer of immovable property that costs more than Rs.50 lakhs is required to deduct TDS while paying the seller.**

## **CONDITIONS FOR APPLICABILITY OF SECTION 194 IA**

- 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 instalments, TDS will be deducted on each instalment.
- 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%.

## ***When tax has to be deducted and at which Rate ?***

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

Payee has to deduct an amount equal to **one per cent** of such consideration as income-tax thereon.

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

- *There is no need to deduct TDS u/s 194IA under below mentioned circumstances:*
- The aggregate amount paid / payable on transfer of certain immovable property other than agricultural land doesn't exceed the threshold exemption limit i.e. doesn't exceed INR 50,00,000.
- If the immovable property is an agriculture Land as mentioned as per section 2(14) clause (a) and (b).
- Payment of compensation on acquisition of certain immovable property under any law for the time being in force **[Sec. 194LA]**

## **Important points to be remembered :-**

- ❖ **There is no TDS applicable under Section 194IA if the transaction is worth less than Rs.50 lakhs.**
- ❖ **TDS is to be deducted by the Transferee of the property not by the Transferor.**
- ❖ **consideration for transfer of any immovable property" shall include all charges of the nature of club membership fee, car parking fee, electricity or water facility fee, maintenance fee, advance fee or any other charges of similar nature, which are incidental to transfer of the immovable property.**
- ❖ **If the payment of consideration is made in installments, TDS will be deducted on each installment.**

## **Important points to be remembered :-**

- ❖ **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%.**
- ❖ **The provisions of section 203A shall not apply to a person required to deduct tax in accordance with the provisions of this section, i.e. TAN is not mandatory for deduction of tax under this section.**
- ❖ **Immovable property" means any land (other than agricultural land) or any building or part of a building.**



# RELEVANT RULES AND FORMS FOR THE PURPOSE OF THIS SECTION

## RULES

**RULE 30**

**RULE 31**

**RULE 31A**

**RULE 37BA**

## FORMS

**FORM  
No.16B**

**FORM 26 AS**

**FORM 27 A**

**FORM No. 26B**

**FORM  
No.26QB**

## **RELEVANT RULES :-**

### ❖ Rule 30 :-

➤ (2A) :- Any sum deducted under section 194-IA shall be paid to the credit of the Central Government within a period of [thirty days] from the end of the month in which the deduction is made and shall be accompanied by a challan-cum-statement in **Form No. 26QB**.

❖ Rule 31 :- Form No. 16A Within fifteen days from the due date for furnishing the statement of tax deducted at source i.e. Form no. 26QB.

❖ Rule 31A :- Statement of deduction of tax under sub-section (3) of section 200.

❖ RULE 37BA :- Credit for tax deducted at source for the purposes of section 199 i.e. TDS paid to the Central Government shall be treated as a payment of tax on behalf of the person from whose income the deduction was made, or of the old owner of the property here.

## **RELEVANT FORMS :-**

- ***Form No. 16B - Certificate under section 203 of the Income-tax Act, 1961 for tax deducted at source***
- ***Form No. 26AS - Annual Information Statement under Section 285BB***
- ***Form No. 26B - Form to be filed by the deductor, if he claims refund of sum paid under Chapter XVII-B of the Income-tax Act, 1961***
- ***Form No. 26QB - Challan –cum – statement of deduction of tax under section 194-IA***
- ***Form No. 27A - Form for furnishing information with the statement of deduction/collection of tax.***



# ***SECTION 194-IC***

# **INTRODUCTION**

**Section 194IC, Of IT Act, 1961, contains provision regarding deduction of Tax at source on payment under specified agreement (Joint Development /collaboration agreement), with effect from 01.04.2018, this section prescribed that a Developer of a immovable property under a registered JDA is required to deduct TDS while paying to the Land owner.**

## **CONDITIONS FOR APPLICABILITY OF SECTION 194 IC**

- **TDS is to be deducted by the Developer and not by the Land owner.**
- **The land owner must be an Individual or a HUF**
- **Transfer of Land/Building or Both to developer**
- **JDA should be Registered and executed**
- **Stamp duty value is taken as on the date of issue of completion certificate and not as on the date of original transfer.**
- **TDS has to be paid on the entire amount paid in cash/cheque and not on the amount of any capital gains that may arise to the land owner.**

## **When tax has to be deducted and at which Rate ?**

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

***Payer has to deduct an amount equal to Ten per cent of such consideration as income-tax thereon.***

## **Important points to be remembered :-**

- ❖ **Preamble for introduction of Section 45(5A) :** With a view to minimise the genuine hardship which the owner of land may face in paying capital gains tax in the year of transfer, it is proposed to insert a new sub-section (5A) in section 45 in Finance Act 2017, so as to provide that in case of an assessee being individual or Hindu undivided family, who enters into a specified agreement for development of a project, 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.”
- ❖ The amendment thus seeks to minimise the genuine hardships that the land owner may face by taxing the capital gains in its hands for area-sharing arrangements under Joint Development Agreement (JDA), in the previous year in which the certificate of completion is issued and not in the year in which the JDA is entered into or the possession of the land is given to the developer pursuant thereto.



## **Important points to be remembered :-**

### **Section 45(5A)**

- *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:*
- *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.*

## **Some Explanations w.r.t. section 194IC**

- (i) “competent authority” means the authority empowered to approve the building plan by or under any law for the time being in force;
- (ii) “specified agreement” means a registered agreement in which a person owning land or building or both, agrees to allow another person to develop a real estate project on such land or building or both, in consideration of a share, being land or building or both in such project, whether with or without payment of part of the consideration in cash;
- (iii) “stamp duty value” means the value adopted or assessed or assessable by any authority of the Government for the purpose of payment of stamp duty in respect of an immovable property being land or building or both.
- (iv) The term “specified agreement” is defined to mean a registered agreement in which a person owning land or building or both, agrees to allow another person to develop a real estate project on such land or building or both, in consideration of a share, being land or building or both in such project, whether with or without payment of part of the consideration in cash.

# RELEVANT RULES AND FORMS FOR THE PURPOSE OF THIS SECTION

## RULES

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**RULE 31**

**RULE 31A**

**RULE 37BA**

## FORMS

**FORM  
No.13**

**FORM  
No. 24G**

**FORM  
No.26Q**

**FORM  
27 A**

**FORM  
No.16A**

**FORM  
26B**

**FORM  
26 AS**

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- **Form No. 27A - Form for furnishing information with the statement of deduction/collection of tax at source.**



# *THANK YOU!*

With warm regards

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