



CERTIFICATE COURSE ON TDS

Today's Content – TDS u/s 194C, 194D

Section 194C of the Income Tax Act, 1961

Under Section 194C, when a specified person pays a resident contractor (or sub-contractor) for carrying out any “work” (including supply of labour) under a contract, the payer is required to deduct tax at source (TDS) at the time of payment or credit, whichever is earlier.

Need of deduction

This ensures tax collection at source for contract-based payments, preventing tax avoidance and improving compliance.

Who is liable to deduct TDS under Section 194C?

1. **Specified persons** (payers) — the ones who must deduct TDS:
 - Central Government, State Government.
 - Local authority.
 - Corporation established by/under Central, State or Provincial Act.
 - Company, Co-operative society.
 - Authority constituted in India for housing accommodation/town planning/improvement of cities/towns/villages.
 - Society registered under the Society Registration Act (1980) or corresponding law.

- Trust, University or deemed University.
 - A Firm, AOP (Association of Persons), BOI (Body of Individuals), or an individual/HUF (Hindu Undivided Family) who in the preceding year had turnover/gross receipts exceeding certain thresholds:
 - Business: turnover > ₹1 crore;
 - Profession: gross receipts > ₹50 lakh.
2. **Payee (contractor / sub-contractor)** must be a **resident** within the meaning of section 6 of the Income-tax Act.

What is “Work” and who is a “Contractor” / “Sub-contractor”?

What is “work”?

Section 194C defines “work” broadly (sub-section (7)(iv) of that section) to include:

- Advertising.
- Broadcasting and telecasting (including production of programmes for such broadcasting/telecasting).
- Carriage of goods and passengers by any mode of transport other than railways.
- Catering.
- Manufacturing or supplying of a product according to the requirement or specification of a customer by using materials purchased from such customer or his associate.

However: manufacturing/supplying a product per customer’s specifications **but materials are purchased from someone else (not the customer/associate)** — that case is *not* covered by the “work” definition under Section 194C.

Contractor vs Sub-contractor

- A **contractor** is a person who enters into a contract with the specified person (payer) for carrying out the “work” (including supply of labour).
- A **sub-contractor** means a person who enters into a contract with the contractor to carry out the whole or part of the work or supply labour for the contractor’s contract with the specified person.

Conditions / Thresholds for applicability

For Section 194C to apply, the following must be satisfied:

Payment (or credit) is made to a resident contractor/sub-contractor.

- Payment is made by a specified person (as defined above).
- Payment is for carrying out any “work” (including supply of labour) under a contract.
- Either a single payment under the contract exceeds ₹ 30,000 **or** the aggregate of payments to that contractor/sub-contractor during the financial year (under that contract) exceeds ₹ 1,00,000.
 - If neither threshold is crossed — i.e., single payment \leq ₹ 30,000 *and* aggregate payments during the year \leq ₹ 1,00,000 — then TDS under Section 194C is *not* required.
- If an individual/HUF payer, paying for personal purpose (not business) — then Section 194C may *not* apply.

Rates of TDS, Time of Deduction & Deposit, Certificate & Return

Rates of TDS

- When the payee is a **resident individual or HUF** → TDS rate = **1%** (if PAN furnished) under Section 194C.
- When the payee is a **resident person other than individual/HUF** (i.e., a company, firm, etc) → TDS rate = **2%** (if PAN furnished).
- If PAN of the payee is *not* furnished or invalid → higher rate (20%) may apply.

Time of Deduction / Deposit

- TDS must be deducted at the time when either:
 - the sum is credited to the contractor’s account **or**
 - payment is made in cash/cheque/other mode — whichever is earlier.
- After deduction, the payer must deposit the TDS within the due time (as per TDS rules) and file the TDS return.

Certificate & Return

- The payer must issue a **TDS certificate (Form 16A)** to the payee within the due date (typically within 15 days after the due date of the quarterly TDS return) for the amount deducted.
- The payer must file quarterly TDS return (Form 26Q) for Section 194C deductions.

Computation / Special Cases

Composite contracts: materials supplied by contractee

- If the contract involves supply of materials by the contract-giver (payer) at stipulated prices, and the contractor is required to supply labour + materials (or only labour) then:
 - If contractor supplies both labour + materials (with materials supplied by contractee) → TDS is on the entire contract amount (gross) because material cost is included in the contract.
 - If contract is only for providing labour or labour + materials *purchased by contractor from own sources (not from contractee)* → then TDS should be on the value of the services (labour) excluding cost of materials.
- If invoice separately indicates value of materials: then materials cost can be excluded from TDS base. If invoice does *not* separately indicate materials value → TDS is on the full invoice value.

Examples

- Example: A pays B (contractor) ₹ 60,000 in one payment for work. The payee is an individual. Since a single payment exceeds ₹ 30,000 threshold → TDS must be deducted @1% → ₹ 600. (Assuming PAN furnished)
- Example: Over a financial year, payments to same contractor aggregate to ₹1,10,000 (spread over several payments each < ₹ 30,000). Because aggregate > ₹ 1,00,000 threshold → TDS applies.

When is TDS not required under Section 194C?

- If payment is to a **non-resident** contractor → then Section 194C *does not* apply. Deduction for non-resident payment is under Section 195.
- If payer is an individual or HUF and payment is made for **personal purpose** (i.e., not in course of business or profession) → then no TDS under Section 194C.
- If single payment under a contract ≤ ₹ 30,000 *and* aggregate payments in financial year ≤ ₹ 1,00,000 → no TDS required.
- Purchase of goods (not a work contract) is not covered. If contract is purely supply of goods (no labour/work) → Section 194C typically not applicable.

Compliance & Consequences of Non-Compliance

- The payer must deduct and deposit TDS in time and file quarterly return (Form 26Q) and issue certificate (Form 16A).
- Failure to deduct TDS, or delay in depositing or filing returns, may lead to:
 - Interest on late deduction/deposit.
 - Penalties: e.g., late filing fee, penalty up to ₹ 1,00,000 for failure to file TDS return in time.
- Also the payee may challenge if TDS is wrongly deducted or non-deducted; payer may be liable for the tax if deduction not made.

Section 194D of the Income Tax Act, 1961

Under Section 194D, when a person (resident) pays a commission or reward for soliciting or procuring insurance business (including continuance/renewal/revival of insurance policies), the payer is required to deduct tax at source (TDS).

Need of deduction

This is to ensure that income earned by insurance agents/brokers (through commissions/rewards) is captured for tax at source, enhancing compliance and reducing leakage.

Who is liable to deduct TDS under Section 194D?

1. Payer (deductor):

- “Any person responsible for paying to a resident any income by way of remuneration or reward, whether by way of commission or otherwise, for soliciting or procuring insurance business (including business relating to continuance, renewal or revival of policies of insurance).”
- This can include insurance companies, intermediaries authorised to collect premiums on behalf of the insurer, etc.

2. Payee (deductee):

- A resident person who receives commission or reward for procuring insurance business, renewal/continuation/ revival of insurance policies.
- Non-resident recipients are *not* covered under Section 194D; their payments will come under Section 195.

3. What kinds of payments fall under Section 194D?

- Payments by way of **commission or other reward** to a person for soliciting or procuring insurance business (including business relating to continuance, renewal or revival of policies).
- This includes payments to insurance agents or persons authorised to collect premiums on behalf of the insurer.

- Importantly: Payments such as **brokerage** (insurance brokers acting for the policyholder) may *not* fall under Section 194D but under other sections (e.g., Section 194H for commission/brokerage).

Conditions / Thresholds for applicability

For Section 194D to apply, the following must be satisfied:

- Payment (or credit) is made to a **resident** person.
- Payment is by way of commission/reward for procuring insurance business (or renewals etc.).
- The aggregate amount of such income paid or payable during the financial year to the payee exceeds the threshold.
- Specifically the threshold: earlier the limit was **₹ 15,000** in a financial year.
- **Recent update:** As per some sources: The limit is **increased** to ₹ 20,000 effective from 1 April 2025.
- If the amount is below threshold, no TDS under Section 194D is required.

Rate of TDS, Time of Deduction & Deposit, Certificate & Return

Rates of TDS

- When the payee is an **individual or HUF (resident)**: rate = **2%** (assuming PAN furnished) under Section 194D.
- When the payee is a **domestic company**: rate = **10%** (resident) under Section 194D.
- If payee does *not* furnish PAN or PAN is invalid → higher rate may apply (20%) - i.e., “rate or 20% whichever is higher”.

Time of Deduction / Deposit

- TDS must be deducted at the **earlier** of:
 - The time the income is credited to the payee’s account (in books), or
 - The time of actual payment (cash/cheque/draft or by any other mode).
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- After deduction, the payer must deposit the TDS with the Government (via challan and filing) within the prescribed time as per TDS rules.

Certificate & Return

- The payer must issue a **TDS certificate (Form 16A)** to the payee for the TDS deducted under Section 194D.
- The payer must file quarterly TDS returns (Form 26Q) specifying the deduction under Section 194D.

Computation / Special Cases

Example

- Example: An insurance company pays an agent a commission of ₹ 50,000 in a financial year. The agent is an individual resident and has furnished PAN. Threshold is crossed (₹ 50,000 > threshold). So TDS under Section 194D must be deducted at 2% → ₹ 1000.
- Example: A domestic company pays a resident agent commission ₹ 40,000. The agent is a company (so payee = domestic company). Rate = 10% → TDS = ₹ 4,000.

Special Considerations

- Breach of threshold: If annual aggregate commission paid to a particular payee doesn't exceed threshold (₹ 15,000/₹ 20,000 depending), then no TDS requirement.
- If commission is paid to non-resident → Section 194D does *not* apply; instead Section 195 may apply.
- Ensure the payer correctly identifies whether payment is *commission for insurance business* (Section 194D) or another kind of commission/brokerage (which may fall under Section 194H) to avoid mis-classification.

When is TDS not required under Section 194D?

- If the commission or reward is paid or credited to a resident but the **aggregate amount for the financial year** does *not* exceed the threshold (₹ 15,000 earlier; ₹ 20,000 from 1 April 2025) → then TDS under Section 194D is *not* required.
- If payee furnishes valid self-declaration (Form 15G/15H) stating the income is below taxable limit (if eligible) or obtains certificate under Section 197 for lower/no deduction.

- Payments to non-residents are outside scope of Section 194D.
- Payments that are brokerage rather than commission for procuring insurance business may be outside Section 194D (and may fall under Section 194H).

