

A person's hands are shown in a professional setting. The left hand holds a pencil, and the right hand points to a document. In the foreground, a calculator is visible. The background is a blurred office environment.

# TDS

---

Tax Deducted at Source

# **SESSION ON TDS SECTIONS 194DA, 194E, 194EE, 194F, 194G,194H.**

**Tax deducted at Source**

**TDS**



# 194DA -

- 1) Who is responsible to deduct tax under section 194DA of Income Tax Act, 1961?
- Any person responsible for paying to a resident any sum under a life insurance policy, including the sum allocated by way of bonus on such policy, other than the amount not includible in the total income under section 10(10D), shall deduct income-tax thereon.

# When to Deduct TDS under Section 194DA?

- Tax shall be deducted at the time of payment thereof.

# Rate of TDS under Section 194DA

- The rate of tax u/s 194DA is 5% on “only Income Part” of the payment made under LIP. [Applicable from September 1, 2019] (That is after deducting the amount of insurance premiums paid by the insured person from the total sum received from Insurance Company).
- WEF 01.10.2024 – 2%.

# Threshold Limit

- No deduction under this section shall be made where the amount of such payment or, as the case may be, the aggregate amount of such payments to the payee during the financial year is less than ₹1,00,000.
- ILLUSTRATION– Mr. Sham took insurance policy on 26th July, 2015 for ₹ 2,20,000/-. He paid premium of ₹ 55,000/- every year. On 25th July, 2020 he received ₹ 2,50,000/- (including bonus) as the maturity proceeds. State whether TDS provisions are applicable or not. Policy is taken after 1st April, 2012. Hence, amount of deduction allowed on premium should not exceed 10% of the sum assured. In this case, the sum assured was ₹ 2,20,000/- so amount of premium should not exceed ₹ 22,000/-. However actual premium paid (₹ 55,000/-) is more than ceiling limit (₹ 22,000/-). Hence, the proceeds are taxable. As per Section 194DA, since the proceeds are more than ₹ 1,00,000/- TDS provisions are applicable. Hence the insurance company will deduct TDS @ 5% of ₹ 30,000/- i.e. ₹ 1,500/- while making the payment of the maturity proceeds.

# Exemptions u/s 10 [10(D)]

- As per sec 10 [10(D)] of the Income Tax Act any sum received under the Life Insurance Policy including the sum allocated by way of bonus on such policy is exempted whether received from Indian or a Foreign Company. However, this section has following exceptions to it:
- Any sum received under section 80DD (3) or 80DDA (3).
- Any sum received under a Keyman Insurance Policy.
- If Policy is bought after 1st April 2003 but on or before 31st March 2012: the premium paid is 20% more than the sum insured.
- If Policy is bought after 1st April 2012: the premium paid is 10% more than the sum insured.
- Life insurance policy bought for the persons with disability or person with severe disability as per section 80U or those suffering from ailments or disease as specified in section 80DDB after 1st April 2013 if premiums are more than 15% of sum assured.
- There is no maximum limit for claiming the exemption under Sec 10 [10(D)] unless the above-mentioned conditions are not fulfilled. Also, the above exceptions are not applicable on death claims or any amount received on the death of the insured.

# When a declaration is submitted in form 15G/15H u/s 197A:

- If a declaration is submitted u/s 197A by the recipient to the payer along with his/her PAN, then no tax is deductible
- Points to be kept in mind
- For the purpose of calculating the actual capital sum assured, the following shall not be taken into the account: > the value of any premiums agreed to be returned; or > any benefit by way of bonus or otherwise, over and above the sum actually assured, which is to be or may be received under the policy by any person.
- Any amount received from the Foreign Life insurance company is also eligible for deduction.
- Keyman insurance policy means a life insurance policy taken by a person on the life of another person who is connected to the business as an employee or other capacities, either in the present or in the past.
- It may be noted that while computing the amount taxable out of the maturity proceeds, the premium paid by the assessee shall be excluded

- (i) Mr. Jasmeet, a resident received Rs. 7,50,000 on 30.04.2020 on maturity of her life insurance policy taken on 01.05.2007. The policy sum assured is Rs. 1,00,000 and annual premium being Rs. 22,500.
- In this case, since the annual premium of Rs. 22,500 exceeds Rs. 20000, being 20% of the sum assured of Rs. 1,00,000, in respect of policy taken before 01.04.2012, the maturity proceeds of Rs. 7,50,000 received by Mr. Jasmeet on 30.04.2020 would not be exempt under section 10(10D) in his hands. Tax shall be deducted @ 5% on (Rs. 7,50,000 less premium Rs. 22,500 \* 13 years = Rs.2,92,500) Rs. 4,57,500.

- **Miss Jasmine, a resident received Rs. 3,50,000 on 01.05.2020 on maturity of her life insurance policy taken on 10.04.2012. The policy sum assured is Rs. 50,000 and annual premium being Rs. 16,000.**
- In this case, the annual premium of Rs. 16,000 exceeds Rs. 5,000, being 10% of sum assured of Rs. 50,000, in respect of a policy taken on or after 01.04.2012 and consequently, the maturity proceeds of Rs. 3,50,000 received on 01.05.2020 would not be exempt under Section 10(10D) in the hands of Miss Jasmine. Tax shall be deducted @ 5% on (Rs. 3,50,000 less premium Rs. 16,000 \* 8 years = Rs. 1,28,000) Rs. 2,22,000.



## **Section-194E**

**TDS on Payments to  
Non-resident sportsmen or  
sports associations**

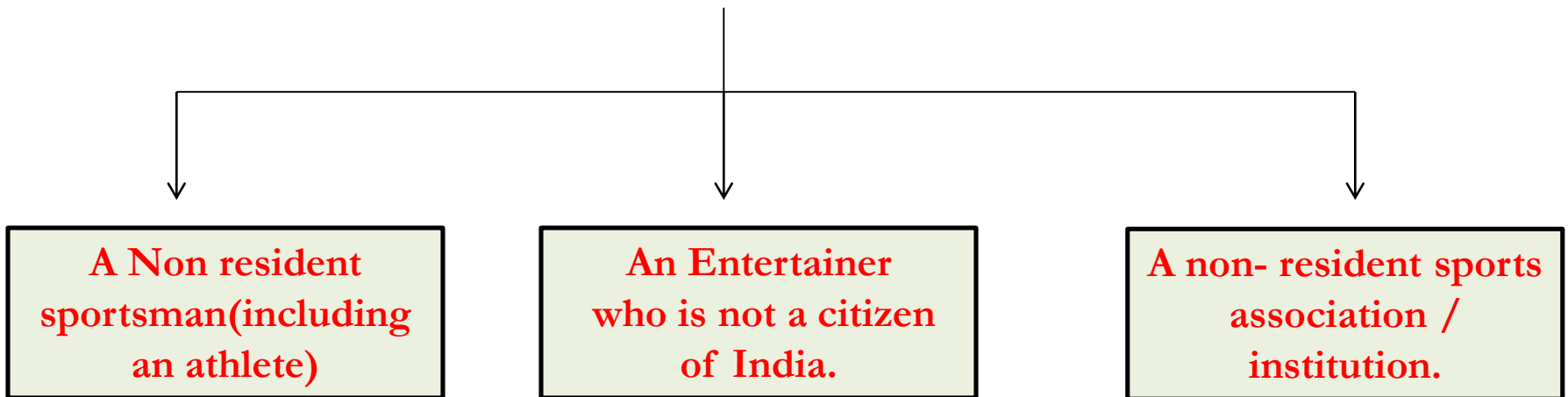


## ***SECTION 194 E***

### **TDS ON PAYMENT TO NON- RESIDENT SPORTSMEN/ SPORTS ASSOCIATION**

#### **PERSONS LIABLE TO DEDUCT TDS U/S 194E**

Any person making payment of income referred to in **section 115BBA** of Income Tax Act, 1961 to the following persons shall be liable to deduct TDS:-



# PAYMENTS REFERRED TO IN SECTION 115BBA

Where the total income of an assessee,-

a)

**being a sportsman (including an athlete),**

**who is not a citizen of India and is a non-resident**

includes any income received or receivable by way of --

**(i) participation in India in any game (other than a game the winnings wherefrom are taxable under section 115BB) or sport**

**(ii) advertisement;  
or**

**(iii) contribution of articles relating to any game or sport in India in newspapers, magazines or journals; or**

b)

**being a non-resident sports association or institution**

includes any amount guaranteed to be paid or payable to such association or institution in relation to any game (other than a game the winnings wherefrom are taxable under section 115BB) or sport played in India,

c)

**being an entertainer**

**who is not a citizen of India and is a non-resident**

includes any income received or receivable from his performance in India

# TIME OF DEDUCTION OF TDS UNDER SECTION 194E

When this section gets attracted in a given transaction, deductor is required to deduct TDS within earlier of the following dates –

At the time of  
payment in  
cheque, draft,  
cash or any  
other mode

OR

At the time of  
credit of the  
income to the  
account of the  
recipient

# **RATE AT WHICH TDS UNDER SECTION 194E IS TO BE DEDUCTED**



Deductor liable to deduct TDS under section 194E is  
required to deduct TDS



@ 20%

## TDS RETURN FILING U/S 194E

The Deductor, under section 194E of the Income Tax Act, 1961, is required to furnish TDS return in [Form 27Q](#)

**FORM 27Q IS TO BE FILED QUARTERLY**

Provisions of section 203 of the Income Tax Act, 1961 makes it mandatory for the Deductor to issue the TDS certificate to the payee. The Deductor deducting TDS under section 194E is required to furnish TDS certificate in Form 16A

# RELEVANT RULES AND FORMS FOR THE PURPOSE OF THIS SECTION

## RULES

**RULE 30**

**RULE 31**

**RULE 31A**

**RULE  
31AB**

**RULE 37 A**

## FORMS

**FORM  
No.16A**

**FORM 26 AS**

**FORM 27 Q**

## CASE LAWS

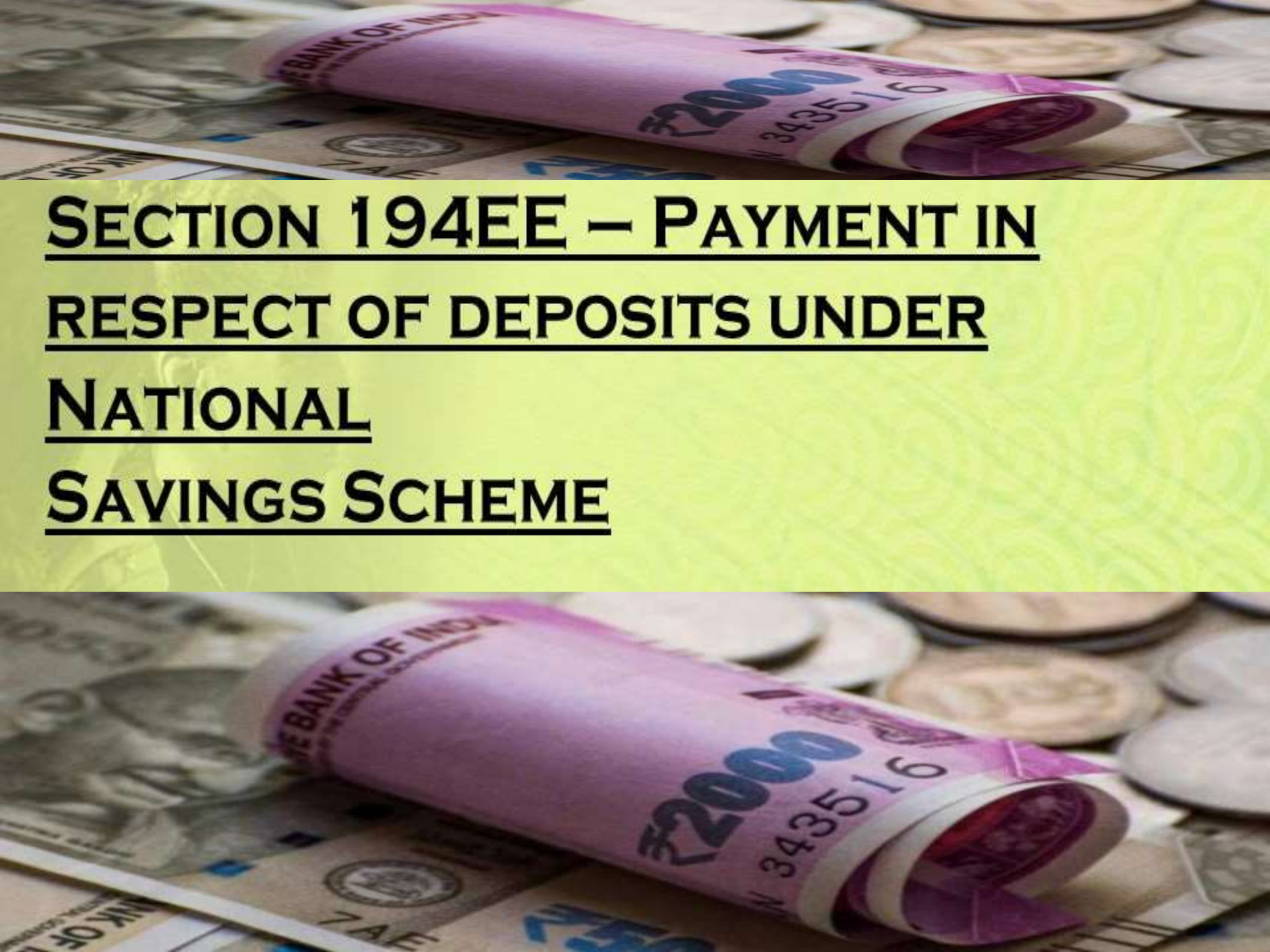
### ***Pilcom Vs. CIT West Bengal(SUPREME COURT)***

**Payments made to the Non-Resident Sports Association represented their income which accrued or arose or deemed to have accrued or arisen in India, shall required to deduct tax under section 194E.**

## CASE LAWS

### *International Merchandising Corporations-Indian Branch Office V/s. ADIT (2015) 42 Tribunal*

**Sanction Fees paid to a non-resident association of a tennis professional requires tax to be deducted at source under section 194E**



**SECTION 194EE – PAYMENT IN**  
**RESPECT OF DEPOSITS UNDER**  
**NATIONAL**  
**SAVINGS SCHEME**

# ***SECTION 194EE***

**PAYMENTS IN RESPECT OF DEPOSITS UNDER  
NATIONAL SAVINGS SCHEME, ETC.**

**PERSON LIABLE TO DEDUCT TDS U/S 194EE**



**PAYMENT TO ANY PERSON ANY AMOUNT  
REFERRED TO IN Clause (a) Of Sub-section (2) Of Section  
80CCA**

## CLAUSE (a) of Sub section (2) of Section 80CCA

Where any amount-

STANDING TO THE CREDIT OF THE ASSESSEE

UNDER THE **NATIONAL SAVINGS SCHEME** IN RESPECT OF WHICH A DEDUCTION HAS BEEN ALLOWED UNDER SUB SECTION (1)

TOGETHER WITH THE INTEREST ACCRUED ON SUCH AMOUNT

IS WITHDRAWN IN WHOLE OR PART IN ANY PREVIOUS YEAR.

**TIME OF DEDUCTION OF TDS UNDER  
SECTION 194EE**



**AT THE TIME OF PAYMENT**

# RATE AT WHICH TDS UNDER SECTION 194EE IS TO BE DEDUCTED



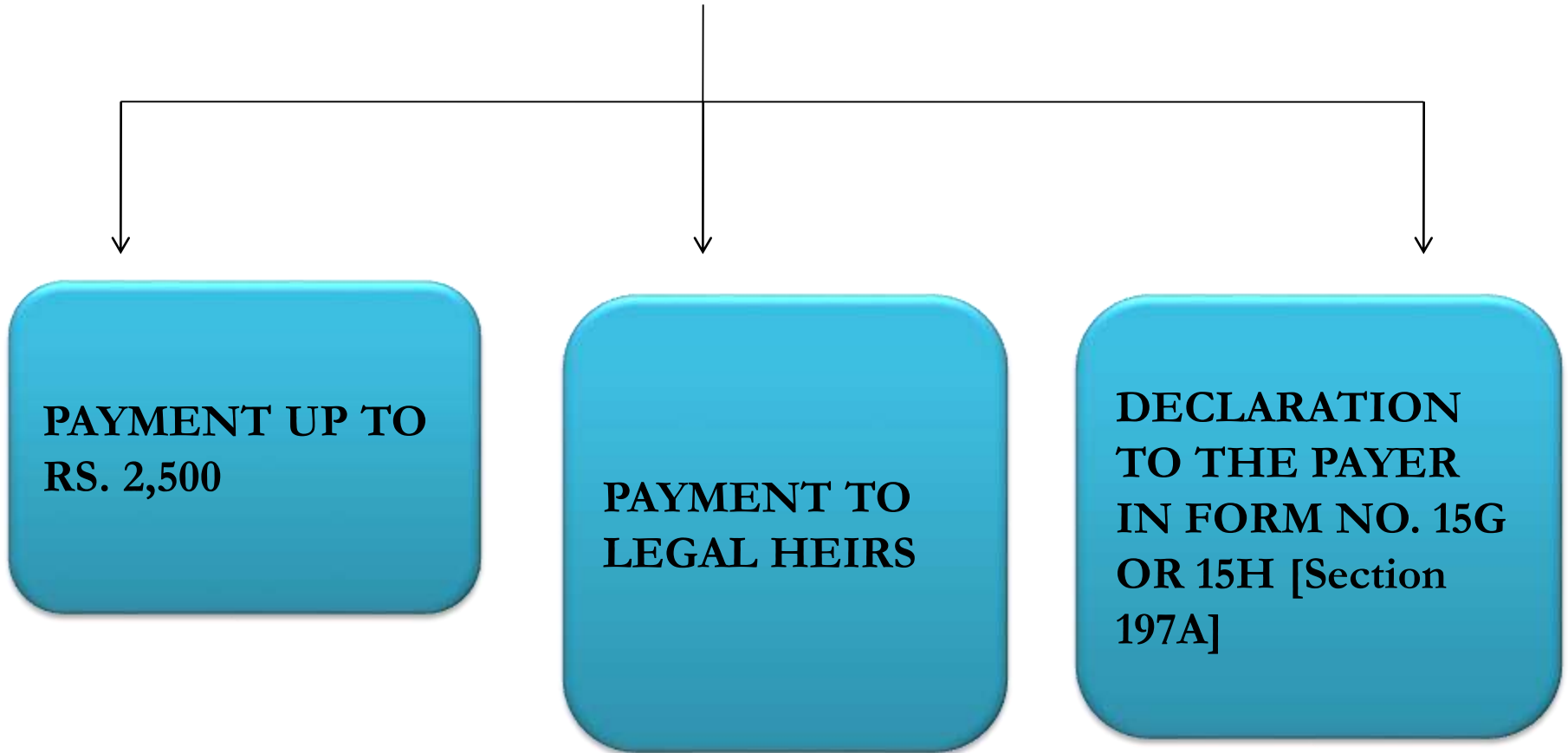
@ 10%

If the recipient does not furnish his PAN to the deductor,  
tax will be deducted



@ 20%

# WHEN NO TDS IS DEDUCTIBLE UNDER SECTION 194EE



## TDS RETURN FILING U/S 194EE



The Deductor, under section 194EE of the Income Tax Act, 1961, is required to furnish TDS return in [Form 26Q](#)

# RELEVANT RULES AND FORMS FOR THE PURPOSE OF THIS SECTION

## RULES

**RULE 30**

**RULE 31A**

**RULE 37**

**RULE 29C**

**RULE 31**

**RULE 31  
AB**

## FORMS

**FORM 15**

**FORM 15H**

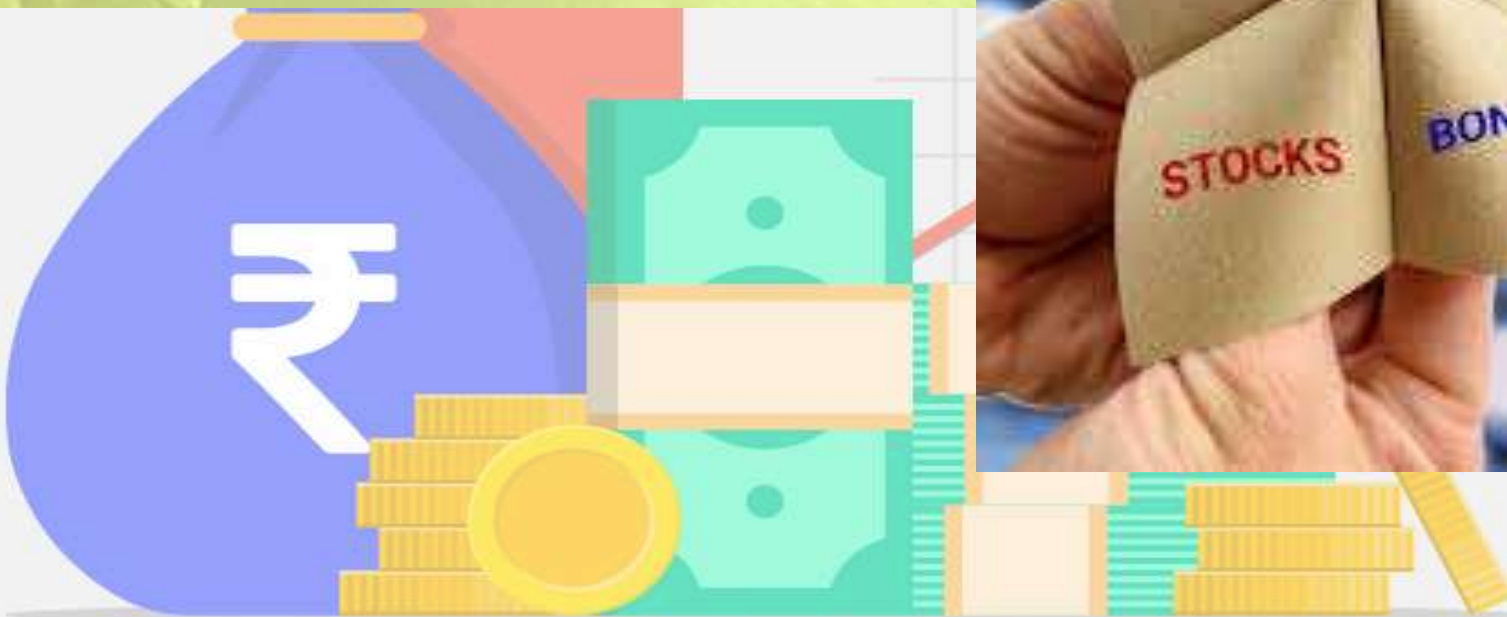
**FORM 16A**

**FORM 26**

**FORM 26AS**

**FORM 26Q**

**SECTION 194F – PAYMENT ON**  
**ACCOUNT OF REPURCHASE OF UNITS**  
**BY MUTUAL**  
**FUNDS OR UTI**



# **SECTION 194F**

**PAYMENTS ON ACCOUNT OF REPURCHASE OF  
UNITS BY MUTUAL FUND OR UTI**

**PERSON LIABLE TO DEDUCT TDS U/S 194F**



**MUTUAL FUNDS or UTI IS  
LIABLE TO DEDUCT TDS ON**

**PAYMENT TO ANY PERSON ANY AMOUNT  
REFERRED TO IN Subsection (2) of section 80CCB**

## SECTION 80 CCB (2)



Amount which is invested by the assessee in the units being issued under a plan formulated under the [Equity Linked Savings Scheme](#).



The amount so invested has been allowed as a deduction, however, the amount invested (whole or part) is returned back to the assessee by the Fund / Trust either by way of repurchase of the units or on the termination of the plan

# TIME OF DEDUCTION OF TDS UNDER SECTION 194F



AT THE TIME OF MAKING PAYMENT OF THE REQUISITE AMOUNT

# TIME OF DEPOSIT OF TDS WITH THE GOVERNMENT



within a period of **7 days** from **the end of the month** in which TDS is deducted. However, the TDS deducted in the **month of March** is to be deposited **on or before 30<sup>th</sup> April**.

# **RATE AT WHICH TDS UNDER SECTION 194F IS TO BE DEDUCTED**



**@ 20 %**

**There is no exemption limit provided under section 194F**

## **CATEGORY OF PAYEE**



**Individuals And HUF**

# RELEVANT RULES AND FORMS FOR THE PURPOSE OF THIS SECTION

## RULES

**RULE 31**

**RULE  
31AB**

**RULE 30**

**RULE 31A**

**RULE 27**

## FORMS

**FORM 16A**

**FORM 26AS**

**FORM 26**

**FORM 26Q**

194 F omitted wef 01.10.2024

# SECTION 194 G



**TDS on  
Commission on the  
sale of lottery tickets**



# ***SECTION 194G***

**COMMISSION ON SALE OF LOTTERY TICKETS**

**PERSON LIABLE TO DEDUCT TDS U/S 194G**



person, who is paying any income by way of

commission

remuneration

prize on lottery tickets to  
the person who has been  
stocking / distributing /  
purchasing / selling the  
lottery tickets

# **TIME OF DEDUCTION OF TDS UNDER SECTION 194G**



the Deductor is required to deduct TDS within earlier of the following prescribed dates –

At the time of  
payment in cash /  
cheque / draft /  
any other mode

**OR**

At the time of  
credit of income  
to the account of  
the payee

# RATE AT WHICH TDS UNDER SECTION 194G IS TO BE DEDUCTED

@ 5%  
(2%)

It should be noted that no surcharge, education cess or SHE cess shall be levied on the said rate of 5%.

If the recipient does not furnish his PAN to the deductor, tax will be deducted

@ 20%

→ MAXIMUM  
MARGINAL RATE

# EXEMPTION LIMIT U/S 194 G



Liable to deduct TDS under section 194G only if the income amount exceeds INR 15,000

**Provision of lower / NIL TDS deduction**



The payee can, by filing an application in **Form no. 13**, request the assessing officer for lower TDS deduction or NIL / no TDS deduction. If the payee receives the appropriate certificate from the Assessing Officer, the Deductor would **deduct TDS at a lower rate or NIL rate**, as directed

However, **section 206AA(4)** states that **no certificate** for lower / NIL deduction shall be granted **unless the application** contains the **Permanent Account Number (PAN)** of the applicant

# RELEVANT RULES AND FORMS FOR THE PURPOSE OF THIS SECTION

## RULES

**RULE 28**

**RULE 28  
AA**

**RULE 28  
AB**

**RULE  
31AB**

**RULE 30**

**RULE 31**

**RULE 31A**

**RULE 37**

## FORMS

**FORM 16A**

**FORM 13**

**FORM 26AS**

**FORM 26**

**FORM 26Q**

# CONSEQUENCES A DEDUCTOR WOULD FACE IF HE FAILS TO DEDUCT TDS OR AFTER DEDUCTING THE SAME FAILS TO DEPOSIT IT TO THE GOVERNMENT'S ACCOUNT

## Disallowance of expenditure

- [section 40\(a\)\(i\)](#)
- [section 40\(a\)\(ia\)](#)
- [Section 58\(1A\)](#)

## Levy of interest

- [section 201](#)

## Levy of Penalty

- [section 271C](#)

## Prosecution

- [Section 276 B](#)

## *SECTION 194H*

# *TDS ON COMMISSION AND BROKERAGE*



# ***APPLICABILITY***



**Individuals and Hindu Undivided Family who were covered under section 44AB are also required to deduct TDS. However, From FY 2020-21, individual and HUF whose turnover from business is above Rs. 1 crore or gross receipts from profession are above Rs. 50 lakh are also required to deduct TDS.**

## **RATE AT WHICH TDS UNDER SECTION 194G IS TO BE DEDUCTED**

**@5%  
(2%)**

**It should be noted that no surcharge, education cess or SHE cess shall be levied on the said rate of 5%.**

If the recipient does not furnish his PAN to the deductor,  
tax will be deducted

**@20%**

**MAXIMUM  
MARGINAL  
RATE**

# ***NON-APPLICABILITY***



- ❑ No deduction shall be made under this section in a case where the amount or the aggregate amounts of such income to be credited or paid during the financial year does not exceed INR 15,000.**
- ❑ The Person can make an application to the assessing officer under section 197 for deduction of tax at NIL rate or at a lower rate.**



## TIME LIMIT FOR DEPOSITING IN TDS

❖ **Tax Deducted during the month of April to February is to be deposited on or before the 7th of next month. Tax Deducted in the month of March is to be deposited on or before 30th April.**

### **FOR EXAMPLE:**

**Tax deducted on 25 April is to be deposited on or before 7th May and tax deducted on 15 March is to be deposited on or before 30 April.**

## Points To Be Noted

Is Discounts are considered as “Commission”?

The High Court accepted that the discount is the price rebate and hence the same is not a commission.

## Meaning of Commission

Commission or brokerage **includes any payment**

- ❖ received or receivable,
- ❖ directly or indirectly, OR
- ❖ by a person acting on behalf of another person

TDS on commission or brokerage includes,

- for services rendered (**not being professional services**), or
- for any services in the course of buying or selling of goods, or
- in relation to any transaction relating to any asset, valuable article or thing, except securities

## When Brokerage Is Exempted Under Section 194H?

- An employer is paying salary or commission to the employee (comes under Section 192 and not 194H).
- Commission on insurance income and loan underwriting.
- An individual with a lower or nil TDS certificate from an authorized body will enjoy TDS exemption for all services.
- Paying financial corporations under the range of central finance.
- Charges imposed for warehouse services.
- Interest from the NRI account.
- Payments done by the Reserve Bank of India to any bank.
- Income by interest from any savings with bank and post office.
- Brokerage for providing security to the public.
- Commission imposed on the transaction by using debit or credit card in between an acquirer bank and merchant organization.

## **Circular No.5/2016, dated 29/02/2016**

### **Section 194H, read with section 194C of the Income Tax Act,1961- Deduction of tax at source- Commission or Brokerage etc**

The issue of applicability of TDS provisions on payments made by television channels or media houses publishing newspaper or magazines to advertising agencies for procuring and canvassing for advertisements has been examined by the board view of representations received in this regard.

There are two types of payments related with advertising :-

✓ Payment by client to the advertising agencies,

and

✓ Payment by advertising agencies to the television channel/Newspaper Company

- ❑ The applicability of TDS on these payments has already been dealt with in **Circular No.715, dated 8-8-1999**, where it has been clarified in Question Nos. 1&2 that while TDS under section 194C (as work contract) will be applicable on the first type of payment, there will be no TDS under section 194C on the second type of payment eg. **payment by advertising agency to the media company.**
  
- ❑ However, another issue has been raised in various cases as to whether the fees or charges taken or retained by advertising companies from media companies for canvassing/booking advertisements (typically 15% of the billing) is commission or discount. **It has been argued by the assessee that since the relationship between the media company and the advertising company is on a principal-to-principal basis such payments are in the nature of trade discount and not commission and, therefore, outside the purview of TDS under section 194H.** The Department, on the other hand has taken the stand in some cases that since the **advertising agencies act on behalf of the media companies for procuring advertisements, the margin retained by the former amounts to constructive payment of commission and, accordingly, TDS under section 194H is attracted.**

- ❑ The issue has been examined by the Alahabad High Court in the case of Jagan Prakashan Ltd and Delhi High Court in the matter of Living Media Limited and it was held in both the cases that the relationship between the media company and the advertising agency is that of a principle-to-principal' and, therefore, not liable for TDS under section 194H. The SLPs filed by the Department in the matter of Living Media Ltd and Jagran Prakashan Ltd have been dismissed by the Supreme Court vide order dated 11-12-2009 and order dated S-5-2014, respectively, Though these decisions are in respect of print media, the ratio is also applicable to electronic medial television advertising as the broad nature of the activities involved is similar.
  
- ❑ In view of the above, it is hereby clarified that no TDS is attracted on payments made by television channels newspaper companies to the advertising agency for booking Or procuring of or canvasing for advertisements.

It is also further clarified that

- ❑ Commission referred to in Question No.27 of the **Board's Circular No. 715, dated 8-1995** does not refer to payments by media companies to advertising companies or booking of advertisements but to payments for engagement of models, artists photographers, sportspersons, etc, and, therefore, is not relevant to the issue of TDS referred to in this Circular.

# Special Points to be Noted

Amount received by stamp vendors is discount and not a commission-  
Held in the case *Ahamedabad stamp vendors Association V/s Union of India(2002)*

Airlines pay their agents for services rendered by them for sale of tickets. This is allowed to the agent from the list price. It was held that this can be treated as brokerage and tax should be deducted at source under section 194H.

Followed in the case:-

*Around the World Travel and Tour Pvt Limited V/s Union Of India, Madras HC, ITR 473 AND 477, 2004*

Payments for services relating to transactions in securities in marketing units of various mutual fund schemes to the potential investors, section 194H is attracted.

Held in *CIT V/s. Tandon and Mahendra, 2014*

**Where an hospital had made Arrangement with two sisters for procurement of drugs and medicines making credit available to them for purchases, the amount paid for their services cannot be treated as commission, so as to require tax deduction at source. (*CIT V/s. Jaslok Hospital and Research Centre, 2015*)**

**Where the bank provides to retailers swiping machines for processing its credit cards issued to the customers, the payment by the customers to the bank does not require tax deduction at source as the bank is either buying nor selling goods nor does it render any service in the nature of an agency. It is a case, where the principle of doubtful penalization has to be strictly applied in favor of non-deduction of tax at source. (*CIT V/s. J D S Apparels P Ltd., 2015*)**

**Where a payment was made to the stockiest/dealers under a sales promotion scheme by way of incentives on the basis of their performance, there can be no inference if The brokerage or commission in respect of such payments, where the relationship that of principal to principal. (*CIT V/s. Intervet India Pvt Limited, 2014, Bombay HC*)**

**Amount received for undertaking procurement and marketing milk and milk products through concessionaires is a case of purchases of milk outright and not agency sales. The amount paid for the purchases and the amount charged a maximum retail price does not constitute brokerage or commission, so as to require tax deduction at source. (*CIT V/s. Mother Dairy India Private Limited, Delhi HC, 2013*)**

**Payments to non-executive directors for services rendered cannot be fall within the scope of section 194H. (*DCIT V/s. Kirloskar Oil Engine Limited, 2016*)**

**Payments for service rendered by del credere agents, who were only acting as liaison with no direct service, the payment of special discount through del credere agents depending upon the quantity of the off take does not require tax deduction at source. ( *United Breweries Limited V/s. ITO, 2015, Vishakpatanam Tribunal*)**



## CASE LAWS

### ***Kotak Securities Limited Vs. Dy. Commissioner of Income Tax TDS Circle 2(1) (ITAT Mumbai)***

**When bank issues bank guarantee on behalf of assessee, there is no principal-agent relationship between bank and assessee. So, assessee is not required to deduct TDS.**

### ***CIT vs. Mother Dairy India Ltd.***

**Commission paid by Mother Dairy to concessionaires who sell milk of assessee from booths owned by assessee not liable to TDS under section 194H as principle-agent relationship is missing.**



***CIT vs. Singapore Airlines Ltd.***

Assessee-airlines issued tickets to its travel agents at a concessional price, transaction between assessee and travel agents was that of principal-to-principal and difference in price was discount and therefore, such transaction would not fall within ambit of section 194H.

***Tube Investments of India Ltd. v. ACIT[2009] 223 CTR 99 (MAD).***

Where assessee, a manufacturer of bicycles, was giving trade incentive to dealers, if dealers were selling goods at price for which they were purchasing from company, such trade incentive would amount to commission for purpose of section 194H.



***Vodafone Essar Cellular Limited V/s. ACIT, Cochin Tribunal***

**The distributors were linking the agents in the chain of delivering services to consumers deriving an income so that it can only be treated as commission under section 194H, so as to require to deduct TDS**

***CIT V/s Director, Prasar Bharathi, Kerala***

**In an agreement between Dooradharshan and advertising agencies, the amount retained from the collections made from the agents to be payable to Dhooradharshan was termed as discount. The amount withheld was in nature of commission and liable to deduct TDS under section 194H**

***THANK YOU!***

