

## Specific Issues Related to Above Provisions

### Section 194C: Contracts



**"WORK"** shall include—

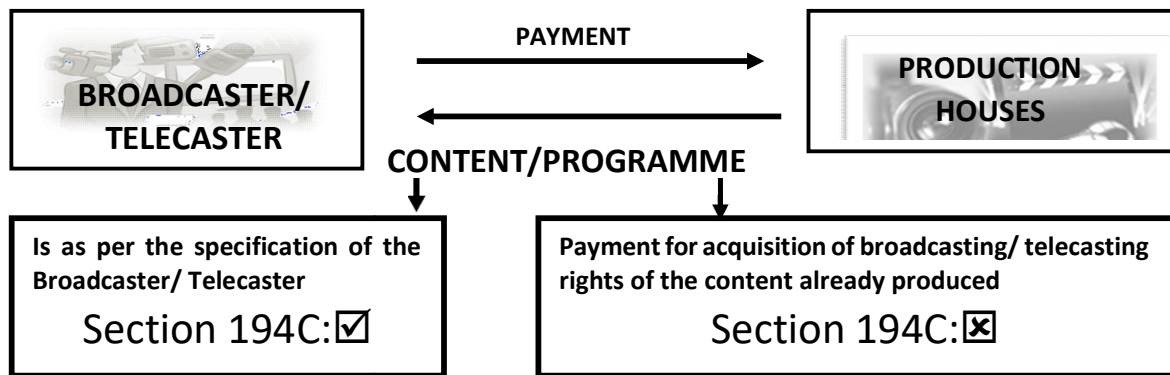
- (a) advertising;
- (b) broadcasting and telecasting including production of programmes for such broadcasting or telecasting;
- (c) carriage of goods or passengers by any mode of transport other than by railways;
- (d) catering;
- (e) manufacturing or supplying a product according to the requirement or specification of a customer by using material purchased from such customer **or its associate**, being a person placed similarly in relation to such customer as is the person placed in relation to the assessee under the provisions contained in section 40A(2)(b)

**but does not include** manufacturing or supplying a product according to the requirement or specification of a customer by using material purchased from a person, other than such customer **or associate** of such customer.

**Note:**

For any amount paid for carrying out the Work, TDS will be deducted on –

- On Invoice Value if value of material is not mentioned separately.
- On Invoice Value excluding material value if value of material is mentioned separately.



**COLD STORAGE CHARGES PAID FOR KEEPING ARTICLES IN COLD STORAGE:**

**Main Function:** Preserve perishable goods by means of a mechanical process.

**Storage of such goods is only incidental in nature.** Cooling charges are not in the nature of rent, as the customer is not given any right to use any demarcated space/place or the machinery of the cold storage and thus, does not become a tenant.

∴ Section 194-I: ✗ Section 194C: ✓

**CBDT CIRCULAR**

It is clarified that in case the owner/seller of gas sells as well as transport the gas to purchaser till the point of delivery, where the ownership of gas to purchaser is simultaneously transferred, remains essentially a contract for sale and not work contract. Hence, the provision of sec 194C will not apply on transportation of gas. However, transport charges paid to third party by seller or purchaser will be covered u/s 194C.

**Question 1:**

**Max Ltd pays Rs. 1,02,000 to Mini Ltd, a resident contractor who under the contract dated 15<sup>th</sup> May, 2022, manufactures a product according to specification of Max Ltd by using materials purchased from Max Ltd. Explain the applicability of the provisions of TDS.**

**Solution:**

The definition of “works” for TDS u/s 194C will include manufacturing, supplying of product according to the requirement or specification of the customer by using material purchased from such customers **or its associates**. In the instant case, Mini Ltd manufactures the product as per the specification given by Max Limited using the raw materials purchased from Max Ltd. Therefore, it falls within the definition of ‘work’ u/s 194C. Consequently, tax is to be deducted (u/s 194C) on the invoice value excluding the value of material purchased from such customer or its associates if such value is mentioned separately in the invoice. If not mentioned separately, Tax is to be deducted on whole amount of the invoice value.



**Case Laws:**

**Indian Oil Corporation (HC):**

The contract is one for transportation of goods and, therefore, is a contract of work within the meaning of section 194C and not section 194-I.

**Shree Choudhary Transport Co. v ITO [2020] 426 ITR 0289**

If the Assessee becomes the responsible person to transport the goods, irrespective of whether such a contract was reduced into writing or not between the assessee and the transporters, which simultaneously makes the Assessee liable for TDS obligation & also as there is no privity between the consignor company and the truck operators or owners.

SECTION	 PAYER	 PAYEE	TIME OF DEDUCTION	RATE	THRESHOLD	OTHER REMARKS
<b>OTHER COMMISSION</b>						
<b>194D:</b> Insurance Commission	Any person	Resident	Credit or Payment, whichever is earlier	Existing Rate- 5% From 14/05/20 to 31/03/21 Rate- 3.75%	<b>Rs. 15,000 p.a. (w.e.f. 01/6/16)</b>	<b>No TDS</b> , if declaration is given u/s 197A in Form 15G/ 15H.
<b>SECURITIES/LIC SALE OR MATURITY PROCEEDS</b>						
<b>194DA:</b> Any Sum under Life Insurance Policy	Insurance Companies	Resident	Payment	5% on the amount of income comprised therein i.e., after deducting the amount of insurance premium paid by the resident assessee from the total sum received. (w.e.f. 01/09/19)	<Rs. 1,00,000 p.a.	<p>➤ <b>NO TDS</b>, IF MATURITY PROCEEDS OF A LIC INCLUDING BONUS IS EXEMPT U/S 10(10D).</p> <p>➤ <b>NO TDS</b>, IF DECLARATION IS GIVEN U/S 197A. As Sec 194DA, Right to receive sum from insurance policy is a capital asset within the meaning of section 2(14) and any income or losses arising on its transfer shall be chargeable to tax under the head "Capital Gains".</p>

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