

FOR PRIVATE  
CIRCULATION  
ONLY

**TDS**

REVISION IN TDS RATES  
UNDER INCOME TAX ACT, 1961  
FOR THE FINANCIAL YEAR 2020-21

**SAMIR SANGHAVI & ASSOCIATES**  
**CHARTERED ACCOUNTANTS**

BKC • FORT • PANVEL • PUNE  
info@samirsanghavi.com

29<sup>th</sup> May 2020

## REVISION IN TDS RATES UNDER INCOME TAX ACT, 1961 FOR THE FINANCIAL YEAR 2020-21

### I. BACKGROUND

In order to provide more funds at the disposal of the taxpayers for dealing with the economic situation arising out of COVID-19 pandemic, the Government of India, Ministry of Finance, Department of Revenue, CBDT vide its Press Release dated 13<sup>th</sup> May, 2020, **has reduced the rates of tax deduction at source ("TDS") by 25% for non-salaried specified payments made to residents during the period 14<sup>th</sup> May, 2020 to 31<sup>st</sup> March, 2021. The Press Release has not made any revision in the rates of TDS for non-residents.** TDS will be continued to be charged at original rates under all other sections as also to all payments made to non-residents.

### II. REVISION IN TDS RATES APPLICABLE TO PAYMENTS MADE TO RESIDENTS

The revised rates of TDS applicable to non-salaried specified payments to residents, relevant to the real estate sector, during the period 14<sup>th</sup> May, 2020 till 31<sup>st</sup> March, 2021 are tabulated hereunder :

|              |   | Revised TDS Rates (being 25% of the original TDS Rates) applicable for the period from 14 <sup>th</sup> May, 2020 to 31 <sup>st</sup> March, 2021 for different Categories of Resident Recipient |                  |                     |
|--------------|---|--|------------------|---------------------|
| Main Section | Nature of payment   | Resident Individual/ HUF/AOP/ BOI  | Resident Company | Resident Firm / LLP |
| 193          | <b>Interest on Debenture issued by a Company</b><br>Basic exemption Rs. 5000/-, where the payee is a resident individual or HUF | 7.50%  | 7.50%            | 7.50%               |
|              | <b>Interest on listed Securities of a Company held in dematerialized form</b>   | Nil  | Nil              | Nil                 |
| 194          | <b>Dividends</b><br>(Basic exemption limit Rs.5,000/-)<br>(Refer Note No. 2A below)   | 7.50%  | 7.50%            | 7.50%               |
| 194K         | <b>Dividends on Units</b><br><b>(Basic exemption limit Rs.5,000/-)</b><br><b>(Refer Note No. 2B below)</b>                      | <b>7.50%</b>   | <b>7.50%</b>     | <b>7.50%</b>        |

|              |  | Revised TDS Rates (being 25% of the original TDS Rates) applicable for the period from 14th May, 2020 to 31st March, 2021 for different Categories of Resident Recipient |                                |                                |
|--------------|--|--|--------------------------------|--------------------------------|
| Main Section | Nature of payment  | Resident Individual/ HUF/AOP/ BOI  | Resident Company               | Resident Firm / LLP            |
| 194A         | <b>Interest other than interest on securities</b><br>i.e. interest on loan etc. (Basic Exemption - Rs.40,000/- (Rs.50,000/- for Senior Citizen w.e.f. 1 <sup>st</sup> April, 2018) where the payer is a Banking Company, Co-op. Society engaged in the business of banking and Post Office; and Basic Exemption - Rs. 5,000/- for all other types of payers)   | 7.50%  | 7.50%                          | 7.50%                          |
| 194C         | <b>Payments to Contractors</b><br><b>(1) In case of Contract/Sub-Contract</b><br><b>(2) Contractor / Sub-Contractor in Transport Business</b><br><b>(provided Transporter furnishes his PAN)</b><br><b>(Basic Exemption –Rs.30,000/- per Contract subject to overall limit, of Rs.1,00,000/- per annum per contractor) - Individuals/ HUFs whose total turnover exceed Rs. 1 Crore in case of business or Rs. 50 Lakhs in case of profession would be covered by Section 194C in respect of payments made by them to a resident contractor.</b><br><b>(Refer Note No. 3 below)</b> | <b>0.75%</b><br><br><b>Nil</b>   | <b>1.50%</b><br><br><b>Nil</b> | <b>1.50%</b><br><br><b>Nil</b> |
| 194M         | <b>Payment by Individual/ HUF to contractors and professionals</b> (Basic Exemption - Rs. 50,00,000/-) – Applicable to Individuals/ HUFs whose total turnover does not exceed Rs. 1 Crore in case of business or Rs. 50 Lakhs in case of profession.   | 3.75%  | 3.75%                          | 3.75%                          |
| 194H         | <b>Commission or Brokerage</b><br>(Basic Exemption –Rs.15,000/-)   | 3.75%  | 3.75%                          | 3.75%                          |
| 194-I        | <b><u>Rent to Residents</u></b><br><br><b>-Rent on Plant, Machinery and Equipment</b><br>(Basic Exemption-Rs.2,40,000/- per person)<br><b>-Rent for Land &amp; Building or Furniture or Fittings</b><br>(Basic Exemption-Rs.2,40,000/- per person)   | 1.50%<br><br>7.50%   | 1.50%<br><br>7.50%             | 1.50%<br><br>7.50%             |
| 194-IB       | <b>Rent payable by Individuals/ HUFs for use of Land or Building in excess of Rs.50,000/- per month or part of the month</b> – Applicable to Individuals/ HUFs whose total turnover does not exceed Rs. 1 Crore in case of business or Rs. 50 Lakhs in case of profession  | 3.75%  | 3.75%                          | 3.75%                          |

|                     |  | <b>Revised TDS Rates (being 25% of the original TDS Rates) applicable for the period from 14th May, 2020 to 31st March, 2021 for different Categories of Resident Recipient</b> |                         |                            |
|---------------------|--|---|-------------------------|----------------------------|
| <b>Main Section</b> | <b>Nature of payment</b>   | <b>Resident Individual/ HUF/AOP/ BOI</b>  | <b>Resident Company</b> | <b>Resident Firm / LLP</b> |
| 194-IA              | <b>Consideration for transfer of immovable property (other than agricultural land)</b><br>(Basic exemption - Rs.50 lakhs)<br>Applies to person other than the person referred to in Section 194LA<br>(Refer Note No. 4 below)  | 0.75%   | 0.75%                   | 0.75%                      |
| 194-IC              | <b>Monetary consideration payable by Developer to the Land owner being Individual / HUF under a specified agreement (Joint Development Agreement) referred to in Section 45(5A)</b>  | 7.50%   | -                       | -                          |
| 194LA               | <b>Payment of compensation/ consideration on compulsory acquisition of certain immovable property</b><br>(Basic Exemption - Rs. 2,50,000/-)  | 7.50%   | 7.50%                   | 7.50%                      |
| 194J                | <b>Fees for technical services</b><br>(Basic Exemption - Rs. 30,000/- per person, per annum) (Refer Note No. 5 below)  | 1.50%   | 1.50%                   | 1.50%                      |
| 194J                | <b>Fees for other professional services</b><br>(Basic Exemption - Rs. 30,000/- per person, per annum) - Individuals/ HUFs whose total turnover exceed Rs.1 Crore in case of business or Rs.50 Lakhs in case of profession would be covered by Section 194J in respect of payments made by them of professional fees.<br>(Refer Note No. 5 below) | 7.50%   | 7.50%                   | 7.50%                      |
| 194J                | <b>Remuneration (not in the nature of salary), fees or commission to Directors (w. e. f. 1<sup>st</sup> July, 2012)</b>  | 7.50%   | -                       | -                          |
| 194N                | <b>Cash payments by banks and post office in excess of Rs 1,00,00,000/- in a financial year</b>  | 2%  | NA                      | NA                         |
| 194-LBA             | <b>Distribution by a Business Trust to its resident unit-holders of any interest or dividend or any income received from renting or leasing or letting out any real estate asset owned directly by it</b>  | 7.50%   | 7.50%                   | 7.50%                      |

### III. TDS RATES APPLICABLE TO PAYMENTS MADE TO NON-RESIDENTS

The rates of TDS applicable to payments made to non-residents relevant to the real estate sector, during the period 1<sup>st</sup> April, 2020 till 31<sup>st</sup> March, 2021 are tabulated hereunder :

| Main Section | Nature of Payment  | TDS Rates for different categories of Non-Resident Recipient |   |
|--------------|--|--|---|
|              |  | Non-Resident / Non Corporate Person (including surcharge)    | Foreign Company (including surcharge)             |
|              | For a period exceeding 24 months   | 23.92%   | 21.84%  |
|              | For a period up to 24 months   | 35.88%   | 43.68%  |
| 195          | <b>Dividends</b><br>(Refer Note No. 6 below)   | 20% or rate prescribed in DTAA, whichever is less            | 20% or rate prescribed in DTAA, whichever is less |
| 194-LBA      | <b>Distribution by a Business Trust to its non-resident unit-holders (not being a company) or a foreign company of -</b> | <b>Non-Resident (not being a company)</b>                    | <b>Foreign Company</b>                            |
|              | Income being in the nature of interest income  | 5%   | 5%  |
|              | Income being in the nature of dividend income  | 10%  | 10%   |
|              | Income being in the nature of rent from renting or leasing or letting out any real estate asset owned directly by it     | 30%  | 30%   |

#### Notes :

1. **Extension for validity of TDS certificates for lower deduction of tax at source or NIL deduction of tax issued for the F. Y. 2019-20**

The validity of TDS certificates issued by the TDS Department for lower deduction of tax at source or NIL deduction of tax for F. Y. 2019-20 has been extended till 30.06.2020 by the *Taxation and Other Laws (Relaxation of Certain Provisions) Ordinance, 2020* promulgated on 31<sup>st</sup> March, 2020, due to COVID-19 pandemic.

2A. **TDS on Dividend Income [Section 194]**

The following amendments have been made with effect from F. Y. 2020-21 (A. Y. 2021-22) :

- (a) In light of the abolition of dividend distribution tax under Section 115-O, the third proviso to Section 194 relating to non-applicability of the provision relating to deduction of tax at source on dividends referred to in Section 115-O has been deleted, thereby making all the dividends declared and paid on or after 1<sup>st</sup> April, 2020 exceeding the threshold limit liable for deduction of tax at source.
- (b) The threshold limit requiring deduction of tax at source has been increased to Rs.5,000/- from the existing Rs.2,500/-.

## **2B. TDS on Units of Mutual Funds [Section 194K]**

With effect from F. Y. 2020-21 (A. Y. 2021-22) :

- (a) A new Section 194K has been introduced which require the mutual funds to deduct tax at source @ 10% on any income payable to a resident, at the time of payment or credit, whichever is earlier.
- (b) Section 194K explicitly provides that no tax shall be deducted from the sum payable which is in the nature of capital gains.
- (c) Section 194K shall not apply where the amount of such income or the aggregate of such income paid or credited during the financial year does not exceed the threshold limit of Rs.5,000/-.

## **3. TDS on payments to Contractors [Section 194-C]**

With effect from F. Y. 2020-21 (A. Y. 2021-22) the following amendments have been made in Section 194-C relating to TDS on payments to contractors:

- (a) The term "work" defined under Section 194C is amended to cover material purchased from any associate of the customer, thereby requiring the payer to deduct TDS under Section 194-C.

The word "associate" is defined to mean a person who is placed similarly in relation to the customer as is the person placed in relation to the assessee under the provisions contained in clause (b) of Section 40A(2).

4. **TDS on consideration for transfer of immovable property (other than agricultural land) [Section 194-IA]**

**With effect from 1st September, 2019, the Finance Act, 2019 which received the presidential assent on 1st August, 2019 has amended the term “consideration for immovable property” to include all charges of the nature of club membership fees, car parking fees, electricity and water facility fees, maintenance fees, advance fees or any other charges of similar nature, which are incidental to transfer of the immovable property.**

5. **TDS on Technical Fees [Section 194J]**

With effect from F. Y. 2020-21 (A. Y. 2021-22), the rate of TDS in case of fees for technical services (other than professional services) under Section 194J has been reduced to 2% from the existing 10%. This amendment is made to reduce litigations on the issue of short deduction of tax treating assessee in default, where the assessee deducts tax under Section 194C @ 1% or 2%, while the tax officers claim that tax should have been deducted under Section 194J @ 10%.

6. **Rate of TDS on dividend distributed to a Non-resident or Foreign Company [Section 195]**

With effect from 1<sup>st</sup> April, 2020, domestic companies distributing dividends to its non-resident shareholders are required to deduct tax at source @ 20%. However, where dividend income of a non-resident person is chargeable to tax at the reduced rate as per the provisions of DTAA, then tax shall be deducted at a rate provided under DTAA.

7. **Time of deduction of tax**

Except in case of salary (wherein tax is to be deducted at the time of payment), tax is to be deducted at the time of payment or credit, whichever is earlier.

8. **Time of deposit of tax**

All sums deducted shall be deposited with the government within 7 days from the end of the month in which the deduction is made and where

payment is made under Section 194-IA (i.e. TDS on Purchase of Immovable Property) or Section 194-IB (Rent), the amount shall be deposit within 30 days from the end of the month in which it was deducted. However, where the amount is credited or paid to the account of the payee in the month of March, the tax is required to be deposited with the government on or before 30 April.

9. **Mode of making payment of Tax**

All company-deductors who are liable to tax audit have to make payment of tax by electronic mode. Others can make payment of tax either physically or by electronic mode.

10. **TDS Return**

Person deducting tax is required to file quarterly statements for the quarter ending on 30 June, 30 September, 31 December and 31 March in each financial year, in Form 26Q (Form 24Q for Salary), on or before 31 July, 31 October, 31 January, and 31 May respectively. Form 26Q and Form 24Q are to be filed electronically.

11. **Certificate for tax deduction in case of non-salary payments**

TDS Certificate in Form 16A is required to be issued on quarterly basis within 15 days from the due date of furnishing the statement of TDS i.e. on or before 15 August, 15 November, 15 February and 15 June for quarters ended 30 June, 30 September, 31 December and 31 March respectively.

12. **Certificate for tax deduction in case of salary payments**

TDS Certificate in Form 16 is required to be issued on annual basis by 31 May of the financial year immediately following the financial year in which the income was paid and tax deducted.

13. **Higher TDS rate of 20% for not furnishing PAN**

In case the payee does furnish his / her / its PAN to the payer, tax shall be deducted at higher of the rates specified in the relevant provisions of the Act or at the rates in force or 20%.



14. **Liability of Individual or HUF to deduct tax at source**

**Individuals and HUFs are liable to deduct tax at source in case of Salary payments under Section 192, Interest other than securities under Section 194A, consideration payable for transfer of an immovable property under Section 194-IA, rent payable for use of land and building under Section 194-IB and payments to contractors and professionals under Section 194M, even if their turnover does not exceed Rs.1 Crore in case of business or Rs.50 Lakhs in case of profession.**

15. **Consequence for delay in deposit of tax at source**

- (a) As per the provisions of Section 201(1A), an assessee shall be liable to pay interest @ 1% per month from the date the tax was deductible to the date on which tax is deducted and @ 1.5% per month from the date of tax deduction till the date of tax payment to the Government.
- (b) Amid COVID-19 outbreak, the Finance Minister addressed the concerns relating to statutory and regulatory compliance. To give effect to such announcement, the *Taxation and Other Laws (Relaxation of Certain Provisions) Ordinance, 2020* was promulgated on 31<sup>st</sup> March, 2020. As per the said Ordinance for delayed payments of *inter alia* TDS to be made between 20.03.2020 and 30.06.2020, reduced interest rate @ 9% (i.e. 0.75% per month) shall be levied, instead of 12% / 18%, as applicable.
- (c) No late fee/ penalty shall be charged for delay relating to this period.

16. **No Penalty in certain cases**

As per the provisions of Section 201 read with Section 201(1A), any person who fails to deduct the whole or any part of the tax on the sum **paid to a resident** or on the sum credited to the account **of the**

**resident**, shall not be deemed to be an assessee in default in respect of such tax if the resident-payee:

- (a) Has furnished his return of income under Section 139;
- (b) Has taken into account such sum for computing income in such return of income; and
- (c) Has paid tax due on the income declared by him in such return of income, and the resident-payee furnishes a certificate to this effect from a chartered accountant in the prescribed form. Accordingly, no penalty shall be leviable on such person under Section 221. However, such person shall still be liable to interest under Section 201(1A).
- (d) Furthermore, if any person does not deduct the whole or any part of the tax or after deducting fails to pay the tax, he shall be liable to pay simple interest under Section 201(1A) as specified in Para 15 above.

#### **IV. CONCLUSION**

Perusal of the aforesaid chart read with the press release issued by the Government on 13<sup>th</sup> May, 2020 reveals that there are some categories of taxpayers who will not benefit from this announcement of reduction in the TDS rates.

**Firstly**, where the recipient of income does not provide PAN or Aadhaar to the tax deductor then the lower rates of TDS will not be applicable to such payments.

**Secondly, though the TDS is charged on salary income, as per the applicable income tax slab rate, the relief in the form of lower TDS has not been extended to salaried individuals. This means that the salary income will continue to attract TDS at the same rate as earlier.**

**Thirdly**, the benefit of lower TDS rate can only be availed by resident individuals and is not available to non-resident taxpayers.

**Fourthly, in respect of non-salaried specified payments made to residents or credited to a resident payee's account on or before 13<sup>th</sup> May, 2020, the benefit of lower TDS rate will not be available and TDS will have to be deducted at the full rates.**

**Fifthly, in respect of any payments credited to a resident payee's account during the F. Y. 2019-20, but paid during the F. Y. 2020-21, the benefit of lower TDS rate will not be available and TDS will have to be deducted at the original rates.**

**Authored by :**

**Mr. Juzar Meeyajiwala**

**Mr. Dharmesh Shah**

**Vaibhav Chambers, 3<sup>rd</sup> Floor, Opp. Income Tax Office, BKC, Bandra (E), Mumbai 400051.**

**DISCLAIMER**

The analysis / views in this article do not purport to be and should not be treated as a professional opinion. This article should not be relied upon for taking any actions / decisions on the basis of contents of this article, without taking proper professional or legal advise.

❧\*❧