

F.No.385/08/2009-IT(B)
Government of India
Ministry of Finance
Department of Revenue
Central Board of Direct Taxes

New Delhi, dated the 24th November, 2009

Sub: Applicability of provisions under Section 194J of Income Tax Act'61 in the case of transactions by the Third Party Administrators (TPAs) with Hospitals etc.

A number of representations have been received from various stakeholders regarding applicability of provisions under Section 194J of Income Tax Act'61 on payments made by Third Party Administrators (TPAs) to hospitals on behalf of insurance companies for settling medical/insurance claims etc with the hospitals.

2. The matter was examined by the Board. As per provisions of section 194J (1) '*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]

[(c) royalty, or

(d) any sum referred to in clause (va) of section 28,]

*shall, at the time of credit of such sum to the account of the payee or at the time of payment thereof in cash or by issue of a cheque or draft or by any other mode, whichever is earlier, deduct an amount equal to ten per cent of such sum as income-tax on income comprised therein...". Further as per Explanation (a) to 194J "**professional services**" means services rendered by a person in the course of carrying on legal, medical, engineering or architectural profession etc..?'*

3. The services rendered by hospitals to various patients are primarily medical services and, therefore, provisions of 194J are applicable on payments made by TPAs to hospitals etc. Further for invoking provisions of 194J, there is no stipulation that the professional services have to be necessarily rendered to the person who makes payment to hospital. Therefore TPAs who are making payment on behalf of insurance companies to hospitals for settlement of medical/insurance claims etc under various schemes including Cashless schemes are liable to deduct tax at source under section 194J on all such payments to hospitals etc.

3.1. In view of above, all such past transactions between TPAs and hospitals fall within provisions of Section 194J and consequence of failure to deduct tax or after deducting tax failure to pay on all such transactions would make the deductor (TPAs) deemed to be an assessee in default in respect of such tax and

also liable for charging of interest under Section 201 (1A) and penalty under Section 271C.

4. Considering the facts and circumstances of the class of cases of TPAs and insurance companies, the Board has decided that no proceedings u/s 201 may be initiated after the expiry of **six years** from the end of financial year in which such payment have been made without deducting tax at source etc by the TPAs. The Board is also of the view that tax demand arising out of Section 201 (1) in situations arising above, may not be enforced if the deductor(TPA) satisfies the officer in charge of TDS that the relevant taxes have been paid by the deductee assessee (hospitals etc.). A certificate from the auditor of the deductee assessee stating that the tax and interest due from deductee assessee has been paid for the assessment year concerned would be sufficient compliance for the above purpose. However, this will not alter the liability to charge interest under Section 201 (1A) of the Income Tax Act till payment of taxes by the deductee assessee or liability for penalty under Section 271C of the Income Tax Act as the case may be.

5. The contents of the circular may be brought to the notice of officers and officials working under you for strict compliance.

Hindi version will follow

(Ansuman Pattnaik)
Director (Budget)

Copy to:-

1. The Chairman, Members and other offices in CBDT of the rank of Under Secretary and above.
2. All Chief Commissioners and Director Generals of Income Tax.
3. 100 copies to DIT (PR, PP & OL) for printing in the quarterly tax bulletin and for circulation as per their usual mailing list.
4. DIT (TDS), DIT (Recovery), DIT (System), DIT (DOMS), DIT (Vigilance) and DIT (IT).
5. All CIT (TDS).
6. The Comptroller and Auditor General of India (40 copies).
7. Guard File.

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