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TDS from sum paid to buy an Immovable Property

Section 194-IA provides that any person buying an immovable property (other than rural agricultural land) from a resident seller shall deduct tax at the rate of 1% from the sales consideration or the stamp duty value of such property, whichever is higher. The tax shall be deducted if the amount of sales consideration or stamp duty value is Rs. 50 lakhs or more.

Deductor

Any person (buyer) who is responsible for making payment of sales consideration in respect of purchasing an immovable property (other than rural agriculture land) shall deduct tax under this provision. The tax is deducted at the time of payment or at the time of credit of consideration, whichever is earlier.

There is no requirement to apply or obtain Tax Deduction or Collection Account Number (TAN) for deducting tax under this section. Hence, a deductor can use his PAN in place of TAN.

Deductee

The seller of immovable property shall be the deductee under this provision. However, the tax shall be required to be deducted under this section only if the seller is resident in India. If the seller is a non-resident in India, the tax shall be deducted under Section 195.

Rate of TDS and threshold limit

The tax shall be deducted at the rate of 1% of sales consideration or stamp duty value, whichever is higher if the amount of consideration or the stamp duty value of the immovable property is Rs. 50 lakhs or more.

The rate shall not be further increased by Surcharge and Health & Education Cess. If the deductee does not furnish his PAN to the deductor, the tax shall be deducted at the rate of 20% under Section 206AA.

Note: If there is more than one transferor or transferee in respect of any immovable property, then the consideration shall be the aggregate of the amounts paid or payable by all the transferees to the transferor or all the transferors for the transfer of such immovable property. (w.e.f. 01-10-2024)

Meaning of Sales Consideration

Sale consideration shall include all charges which are incidental to the transfer of such immovable property, such as club membership fee, car parking fee, electricity or water facility fee, maintenance fee, advance fee, or any other charges of similar nature.

Meaning of Stamp Duty Value

"Stamp duty value" means the value adopted or assessed or assessable by any authority of the Central Government or a State Government for the purpose of payment of stamp duty in respect of the immovable property.

Exemption from TDS

No tax is required to be deducted from any sum paid or payable to the following:

- a) The Government
- b) The Reserve Bank of India

- c) Corporation established by or under a Central Act which is, under any law for the time being in force, exempt from income tax on its income
- d) Mutual Fund specified under Section 10(23D); or
- e) Payment made to 'Air India Limited' for the transfer of immovable property to 'Air India Holding Limited' under a plan approved by the Central Government.

Further, if the immovable property is transferred by way of compulsory acquisition. The tax, in this case, shall be deducted under Section 194LA from the amount of compensation or enhanced compensation paid or payable on the compulsory acquisition of immovable property.

Deposit of TDS

Tax deducted under this provision is required to be deposited to the credit of the Central Government through Form 26QB within 30 days from the last day of the month in which the tax was deducted.

Filing of TDS statement

The person responsible for the deduction of tax at source under this provision is required to furnish a challan-cum-statement in Form 26QB electronically.

TDS Certificate

The deductor shall issue a TDS certificate to the assessee in Form No. 16B within 15 days from the due date of furnishing of the TDS statement.

Consequences for failure to deduct or deposit tax

Where any person responsible for deducting tax at source fails to deduct tax or after deducting fails to deposit the same, he shall be treated as assessee-in-default. In that case, interest under section 201 will be applicable.

If the deductor fails to deduct TDS, interest at the rate of 1% per month or part of the month shall be applicable, till such failure continues. Interest shall be calculated from the date when such tax was required to be deducted till the date such tax is actually deducted.

Further, if the deductor after having deducted the tax, fails to deposit the same to the credit of the Central Government, interest at the rate of 1.5% per month or part thereof shall be applicable till such failure continues. The interest computation shall commence from the date on which the tax was deducted and end with the date when such tax was deposited to the government.

Penalty and Prosecution for not deducting or depositing TDS

Failure to comply with the provisions of deduction of tax at source under this provision may result in penalties and prosecution as per the following provisions:

- (a) If a person fails to deduct tax at source, he shall be liable for payment of penalty under Section 271C;
- (b) If a person deducts tax but fails to deposit the same to the credit of the Central Government, he shall be liable for the penalty under Section 221 and prosecution under Section 276B.

However, no person shall be punishable under Section 276B if he proves that there was reasonable cause for the failure. Further, a person can also file an application for compounding of offence.

Consequences for failure to furnish TDS Statement

Where any person fails to furnish a TDS statement, section 234E shall be applicable, wherein the deductor is liable to pay fees at the rate of Rs. 200 per day during such default continues. However, such fees should not exceed the amount of TDS.

Moreover, he shall be liable for penalties under sections 271H of Rs. 10,000 which can be extended to Rs. 100,000, and 272A of Rs. 500 for every day during which failure continues.

Consequences for failure to issue TDS Certificates

Where any person, responsible for issuing TDS Certificates, fails to issue such certificates, a penalty under section 272A shall be applicable of Rs. 500 for every day during which failure continues.

INCOME TAX DEPARTMENT

MCQs on TDS from sum paid to buy an immovable property

Q1. The tax under section 194-IA shall be deducted if the amount of sales consideration or stamp duty value is _____.

- (a) Rs. 50 lakhs or more
- (b) Rs. 40 lakhs or more
- (c) Rs. 1 crore or more
- (d) Up to Rs. 50 lakhs

Correct answer – (a)

Explanation: The tax under section 194-IA shall be deducted if the amount of consideration or the stamp duty value of the immovable property is Rs. 50 lakhs or more.

Q2. What is the tax rate for the deduction of tax under section 194-IA?

- (a) 5%
- (b) 10%
- (c) 1%
- (d) 0.1%

Correct answer – (c)

Explanation: The tax under section 194-IA shall be deducted at the rate of 1% if the amount of consideration or the stamp duty value of the immovable property is Rs. 50 lakhs or more.

Q3. Tax under section 194-IA is deductible at the rate of 1% if the _____ is Rs. 50 lakhs or more.

- (a) Sales Consideration
- (b) Stamp Duty Value of such property
- (c) Higher of (a) or (b)
- (d) Lower of (a) or (b)

Correct answer – (c)

Explanation: The tax under section 194-IA shall be deducted at the rate of 1% of sales consideration or stamp duty value, whichever is higher if the amount of consideration or the stamp duty value of the immovable property is Rs. 50 lakhs or more.

Q4. TAN is not required for the tax deduction under section 194-IA.

- (a) True
- (b) False

Correct answer – (a)

Explanation: There is no requirement to apply or obtain a Tax Deduction or Collection Account Number (TAN) for deducting tax under section 194-IA. Hence, a deductor can use his PAN in place of TAN.

Q5. Which of the following TDS return is required to be furnished if tax is deducted under section 194-IA?

- (a) 26Q
- (b) 26QB
- (c) 27Q
- (d) 24Q

Correct answer – (b)

Explanation: The person responsible for the deduction of tax at source under section 194-IA is required to furnish a challan-cum-statement in Form 26QB electronically.

Q6. Tax deducted under section 194-IA is required to be deposited to the credit of the Central Government through Form 26QB within _____ from the last day of the month in which the tax was deducted.

- (a) 15 days
- (b) 30 days
- (c) 7 days
- (d) 10 days

Correct answer – (b)

Explanation: Tax deducted under section 194-IA is required to be deposited to the credit of the Central Government through Form 26QB within 30 days from the last day of the month in which the tax was deducted.

Q7. Which form is required to be issued as a TDS certificate if tax is deducted under section 194-IA?

- (a) 16A
- (b) 16B
- (c) 16C
- (d) 16D

Correct answer – (b)

Explanation: The deductor shall issue a TDS certificate to the assessee in Form No. 16B within 15 days from the due date of furnishing of the TDS statement.

INCOME TAX DEPARTMENT