

**TDS and TCS Concept in India**

(For the year ending on March 31, 2022 – Ay 2022-23)

**1. TDS on the Making Payments to a 'Non' Resident of India****(i) 'Responsibility' of TDS under the section 195(1)**

- TDS is to be deducted by a person as responsible to pay any interest or 'any other sum' to a non-resident of India.

**(ii) 'Definition' of a Non-Resident**

- Definition of a non-resident is to include an individual and also 'any' kind of entity as located or incorporated 'outside' India

**(iii) TDS on 'Salaries' under the section 192 or 195**

- TDS is to be deducted on payment to a non-resident for salaries under the Section 192 'not' under the Section 195 of Income Tax Act, 1961.

**(iv) TDS on 'Credit' or Payment**

- TDS is to be deducted at time of credit to account of payee or at time of payment whichever is earlier.

**(v) Rate of TDS in 'DTAA'**

- Rate of TDS is to be applied as applicable under the Income Tax Act, 1961 or as applicable in DTAA whichever is 'lower'

**(vi) 'Deemed' Credit of Interest or 'any Other Sum'**

- (a) 'Deemed' credit is to include the following heads :-

- (aa) Interest payable account
- (ab) Suspense account
- (ac) Any 'other' name

- (b) Henceforth TDS is to be deducted beside that same is 'not' directly credited to account of a non-resident payee

**(vii) 'Proportionate' TDS with Permission of Assessing Officer (AO) under the section 195(2)**

- (a) 'Payer' is permitted to apply before AO where he is observing that 100% payments **not** 'chargeable to tax' in India
- (b) Hence payer is permitted to obtain a general or special permission for 'proportionate' TDS from the AO

**(viii) 0% TDS with a Permission of AO under the section 195(3)**

- (a) 'Payee' is permitted to apply before AO under the section **197** for granting a certificate to remit the interest or any other sum 'with 0%' TDS
- (b) Hence payer is permitted 'not' to deduct **0%** TDS till certificate is in force

**(ix) 'Validity' of Certificate under the section 195(4)**

- Certificate will remain in force 'till' date as specified in it or till date of cancellation where certificate is cancelled by AO 'before' expiry of it.

**(x) Important Clarification's**

- (i) Section **195** is covering 'all' payments except those covered under the head 'salaries' under the Section **192**
- (ii) Minimum threshold limit is 'not' prescribed under the Section **195**. However minimum threshold limit is prescribed under the Section **192**
- (iii) Payer is permitted to submit an application before Board for Advance Ruling (BAR) for obtaining an opinion against applicability of under the section **195**
- (iv) Section **195** is to be read along with other sections i.e. **4, 5 and 9** of income tax Act, 1961

**2. Remittance for the Payments to a 'Non' Resident of India****(i) Form No.15 CB is required from a Practicing Chartered Accountant**

- (a) 'Payer' is required to furnish certain information's for a remittance/payment to a non-resident in form No. **15CA** through electronic mode
- (b) Form No. 15CA is to be submitted 'after' obtaining certificate from a practicing Chartered Accountant in India in Form No.**15CB** in accordance to the Rule 37BB

**(ii) Form No.15CB is 'not' required**

- Form No 15CB is 'not' required where payer is remitting for a
  - (a) 'Diplomatic' mission as operating in India.
  - (b) 'Generally' permitted for 'medical expenses' etc. under the Liberalized Remittance Scheme (LRS)
  - (c) 'Specifically' permitted for 'import of goods' etc.

**3. Incomes Deemed to Accrue or Arise by a 'non' resident of India****(i) Incomes Deemed to Accrue or Arise in India under the Section 9**

- (a) TDS is to be deducted on 'all' incomes actually earned or 'deemed' earned by a non-resident in India
  - (aa) Incomes actually or 'deemed' earned through a 'business connection' in India
  - (ab) Incomes from a property as 'located' in India
  - (ac) Incomes from a other asset as 'existed' in India
  - (ad) Incomes from another source as 'existed' in India
  - (ae) Incomes from another property as 'located' in India
- (b) TDS is to be deducted by the 'Govt'. of India on incomes under the head 'salaries' to a citizen of India for the services as provided 'outside' India under the Section 192 'not' 195
- (c) TDS is to be deducted on incomes under the following heads applying at prevailing rates in Income Tax Act, 1961 or in DTAA whichever is 'lower'.
  - (ca) Interest
  - (cb) Royalty
  - (cc) Fees for technical services (FTS)

4. Rates of TDS on the Payments to a 'Non' Resident Individual of India					
S. No	Section	Nature of the 'Payments'	Aggregate payments not exceeding Rs 50 Lacs in %	Aggregate payments as exceeding Rs 50 Lacs in %	Aggregate payments as exceeding Rs 1/2/5 crore in %
(i)	192	Payments under head Salaries (thrash hold limit is 2.5Lac)	Based on Regular Slab Rates		
(ii)	192A	Payments for premature withdrawals from <b>EPF</b>	10.4	11.44	11.96/13/14.248
(iii)	194 B	Payments for winnings from <b>lottery</b> / crossword	31.2	34.32	35.88/39/42.744
(iv)	194BB	Payments for winnings from <b>horse races</b>	31.2	34.32	35.88/39/42.744
(v)	194E	Payments to Non Resident <b>sport Man</b> or Association	20.8	22.88	23.92/26/28.496
(vi)	194EE	Payments for <b>NSS</b>	10.4	11.44	11.96/13/14.248
(vii)	194F	Payments for Re-purchase of units by <b>Mutual Fund</b>	20.8	22.88	23.92/26/28.496
(viii)	194G	Payments for <b>Commission</b> and brokerage on sale of Lottery Tickets	5.2	5.72	5.98/6.5/7.124
(ix)	194LB	Payments for Interest on Infrastructure <b>Debt Fund</b>	5.2	5.72	5.98/6.5/7.124
(x)	194LBA(2)	Payments by <b>Business Trust</b> (Section 10(23FC))	5.2	5.72	5.98/6.5/7.124
(xi)	194LBA(3)	Payments by <b>Business Trust</b> (Section 10(23FCA))	31.2	34.32	35.88/39/42.744
(xii)	194LBB	Payments for Income from units of <b>Investment fund</b> (Section 115UB)	31.2	34.32	35.88/39/42.744
(xiii)	194LBC(2)	Payments for Income from <b>Securitization Trust</b> (Section 115TCA)	31.2	34.32	35.88/39/42.744
(xiv)	194LC	Payments for Interest on <b>Foreign Currency</b> loans and Bonds	5.2	5.72	5.98/6.5/7.124
(xv)	194LD	Payments for Interest on Rupee Bonds to <b>FII</b>	5.2	5.72	5.98/6.5/7.124
(xvi)	195	Payments to Non Resident and Non Domestic Company	10.4 to 31.2	11.44 to 34.32	11.96 to 35.88/ 13 to 39/14.248 to 42.744

(xvii)	<b>196B</b>	Payments for Income on Unit Held by <b>Offshore Fund</b>	10.4	11.44	11.96/13/14.248
(xviii)	<b>196C</b>	Payments for Interest on Foreign Currency <b>Bond</b>	10.4	11.44	11.96/13/14.248
(xix)	<b>196D</b>	Payments for Income to FII from <b>Securities</b>	20.8	22.88	23.92/26/28.496

## 5. Important Clarifications on the Payments to a 'non' resident of India

- (i) (a) TDS is to be deducted on 'all' payments made under head Interest, Royalty and FTS as paid by the 'Govt.' of India or by a 'any' resident of India
- (b) However 'no' TDS is to be deducted where paid by the Govt. of India or a resident of India for utilizing the following things as existed 'outside' India and also these are 'not' chargeable to tax in India
- (ba) Funds as 'formed' Outside India
- (bb) Properties as 'located' Outside India
- (bc) Intellectual Rights as 'existed' Outside India
- (bd) Information's as 'available' Outside India
- (be) Services as 'utilized' for any business, profession or earning incomes outside India.
- (ii) TDS is to be deducted on incomes earned by a non-resident against a business or profession as carried for earning of an income 'in' India
- (iii)(a) Term 'royalty' is defined under explanation 2 of clause (vi) and (vii) of Section 9(1) of Incomes Tax Act, 1961
- (c) However term royalty as defined under the respective DTAA will be 'override'
- (iv) TDS on 'Salaries' payments to a resident and non- resident 'both' are to be deducted along with Education cesses + Surcharge
- (v) TDS Provisions of section 206AA are also applicable to a non-resident where valid Pan is 'not' provided by the payee. Hence TDS @ 20% or applicable rate of TDS whichever 'higher' is required from a non-resident also.
- (vi) TDS is 'not' required on interest payments on NRE and FCNR accounts.
- (vii) TDS Provisions of section 206AA are 'not' applicable to a non-resident where following 'all' information's are provided by the non-resident
- (a) Name
- (b) E-mail id
- (c) Address in the foreign country

- (d) Tax Residency certificate (TRC) from foreign Govt
- (e) Tax Identification Number (TIN) in foreign country 'like' PAN in India
- (viii) TDS + Education Cess + Surcharge are to be deducted on the payments to a non-resident payee
- (ix) TDS @30% + Surcharge + Education cess are to be deducted on payments to a non-resident on 'Non'-Resident Ordinary Account (NRO)

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**6. Rates of TDS on the 'payments' to a Resident Individual and any other entity**

S.No	Section	Nature of the 'Payments'	Aggregate Threshold Limit (Rs.)	Rates (%)		No Invalid PAN
				Individual / HUF	Others	
(i)	<b>192</b>	Payments under head Salaries	2,50,000	Normal Slab Rates	N/A	20% or Normal Slab Whichever is higher
(ii)	<b>192A</b>	Payments for Premature withdrawal from EPF	50,000	10	N/A	MMR
(iii)	<b>193</b>	Payments for Interest on Securities	10,000	10	10	20
(iv)	<b>194</b>	Payments for Dividends	5,000	10	10	20
(v)	<b>194A</b>	Payments for Interest from Banks etc.	40,000/50,000	10	10	20
(vi)	<b>194A</b>	Payments for Interest from Others	5,000	10	10	20
(vii)	<b>194B</b>	Payments for Winning from Lotteries	10,000	<b>30</b>	<b>30</b>	<b>30</b>
(viii)	<b>194BB</b>	Payments for Winning from Horse Race	10,000	<b>30</b>	<b>30</b>	<b>30</b>
(ix)	<b>194C</b>	Payments for 'Single' Transaction to Contractor	30,000	1	2	20
(x)	<b>194C</b>	Payments for 'Multiple' Transactions to Contractor (including Transporter with more than 10 carriages)	1,00,000	1	2	20
(xi)	<b>194D</b>	Payments for Insurance Commission	15,000	5	<b>10</b>	20
(xii)	<b>194DA</b>	Payments for Life Insurance Policy	1,00,000	5	5	20
(xiii)	<b>194EE</b>	Payments for NSS	2,500	10	10	20
(xiv)	<b>194F</b>	Payments for Repurchase of Units by Mutual Funds	---	<b>20</b>	<b>20</b>	<b>20</b>
(xv)	<b>194G</b>	Payments for Lottery Commission	15,000	5	5	20
(xvi)	<b>194H</b>	Payments for Other Commission / Brokerage	15,000	5	5	20
(xvii)	<b>194I</b>	Payments for Rent of Land and Building	2,40,000	10	10	20
(xviii)	<b>194I</b>	Payments for Rent of Plant / Machinery / Equipment	2,40,000	2	2	20
(xix)	<b>194IA</b>	Payments for Transfer of immovable property other than agriculture land	50,00,000	1	1	20
(xx)	<b>194IB</b>	Payments for Rent paid by Individual / HUF (without tax audit)	50,000 PM	5	N/A	20
(xxi)	<b>194IC</b>	Payment for monetary consideration under Joint Development Agreements	---	10	10	20
(xxii)	<b>194J</b>	Professional Fees / Technical Fees / etc.	30,000	10	10	20
(xxiii)	<b>194J</b>	Payments to Call Centre Operator	30,000	2	2	20
(xxiv)	<b>194K</b>	Payment for Income against units	---	10	10	20
(xxv)	<b>194LA</b>	Payments for Compensation on transfer of immovable property other than agricultural land	2,50,000	10	10	20
(xxvi)	<b>194LBA(1)</b>	Payments for Income on units of Business Trust	---	10	10	20
(xxvii)	<b>194LBB</b>	Payments for Income on units other than Business Trust	---	10	10	20

(xxviii)	<b>194LBC(1)</b>	Payments for Income on Investment in Securitization Trust	---	25	<b>30</b>	25/30
(xxix)	<b>194M</b>	Payments 'by' individual / HUF to professional etc.	50,00,000	5	5	20
(xxx)	<b>194N</b>	Payments for Withdrawal of cash from banks etc.	1 crore	2	2	20
(xxxi)	<b>194-O</b>	Payments 'by' E Commerce operator to seller of goods and services	5,00,000	1	1	20
(xxxii)	<b>194-P</b>	Deduction against pension income and bank interest by specified bank for senior citizen (age of 75 or more)	---	Normal slab rate	N/A	20% or Normal Slab Whichever is higher
(xxxiii)	<b>194-Q</b>	Payments for purchase of goods (Applicable from July 01, 2021)	50,00,000	0.1	0.1	5

## 7. Important Clarification's on the payments to a resident of India

- (i) TDS on the 'Salaries' are required to be deducted based on the slab along with education cess + Surcharge (if applicable)
- (ii) TDS is to be deposited up to 7th of following month 'except' April 30 for March month only.
- (iii) TDS Quarterly returns are to be submitted for payments to resident and non-resident 'both' up to 31<sup>st</sup> of following quarter 'except' may 31<sup>st</sup> for March quarter only.
- (iv) (a) TDS @ 20% or tax rate as applicable whichever 'higher' is to be deducted on the payments where valid PAN is 'not' provided by the deductee.
- (b) TDS under the Section 194C is to be deducted on the value of invoice 'excluding' value of material if any supplied by customer to the work contractor where Value is 'separately' mentioned in the invoice
- (v) TDS @ 0% is permitted on interest payment up to Rs. 50 thousand by a bank, co-operative society and post office as primarily engaged in banking business to a 'senior citizen' having minimum age of 60 years. Hence TDS @ 0% is permitted on interest payment up to Rs.40 thousand to a 'non' senior citizen
- (vi) TDS @ 0% is to be deducted on amount of 'income' included in payment against 'life' insurance policy
- (vii) Surcharges and education cesses are 'not' to be deducted in rate of TDS for a 'resident of India' 'except' under the head salaries
- (viii) **TDS on 'Dividend' to Business Trust**
- [AY 2020-21/YE - March 31, 2020 - 'New' insertion section 194]
  - TDS is 'not' to be deducted by a special purpose vehicle (SPV) on payment of dividend to a business trust
- (ix) **TDS on 'Pension' and Interest Income of Senior Citizen**
- [AY 2021-22 / YE March 31, 2021 - section 194 P]
  - **Now** bank is required to deduct 'actual' tax liability as TDS where senior citizen is having

his bank account and age is also exceeding 75 years.

**(x) TDS on 'purchases' of the goods**

- [Applicable w.e.f. July 01, 2021 – 'new' section 194Q]
  - (a) **Now** TDS @ 0.1% is to be deducted by the purchaser against payments of goods where turnover of purchaser is exceeding 10 crore in immediate 'preceding' financial year and also aggregate of purchases from the seller is exceeding 50 Lac in the 'current' financial year
  - (b) **Now** TDS @ 5% is to be deducted by the purchaser against payment of goods where seller has 'not' provided his valid PAN

**(xi) 200% TDS/ TCS against the deductee as 'non-filers' of IT Return**

- [Applicable w.e.f. July 01, 2021 – 'new' section 206AB and 206CCA]
- **Now** TDS and TCS are to be deducted twice (@200%) of the normal rate of TDS or TCS as specified in the relevant section of the act or @ 5% whichever is higher where deductee is 'not' filing his income tax returns for last 2 assessment years and also time limit for filing such tax returns under the section 139(1) is already expired for 'both' the assessment years



**8 Rates of TCS on the 'Collection' of Payments for Sales**

FY - 31.03.2022

AY - 2022-2023

S.No	Section	Nature of the 'Receipts'	Threshold Limit Rs.	Rates(%)	No Valid PAN
(i)	206C	Receipts for sale of Scrap	NIL	1.00	5
(ii)		Receipts for sale of Tendu Leaves	NIL	5.00	10
(iii)		Receipts for sale of Timber obtained under a forest lease or other mode	NIL	2.50	5
(iv)		Receipts for sale of Any other forest produce not being a timber or tendu leave	NIL	2.50	5
(v)		Receipts for sale of Alcoholic Liquor for human consumption	NIL	1.00	5
(vi)		Receipts for sale of Parking Lot, Toll Plaza, Mining and Quarrying	NIL	2.00	5
(vii)		Receipts for sale of Minerals, being coal or lignite or iron ore	NIL	1.00	5
(viii)		Receipts for Sale of motor vehicle	<b>10 Lac</b>	1.00	5
(ix)		Receipts for Remittance under the Liberalized Remittance Scheme (LRS)	<b>7 Lac</b>	5.00	10
(x)		Receipts for Sale of overseas tour	NIL	5.00	10
(xi)		Receipts for Sale of goods	<b>50 Lac</b>	0.10	<b>1</b>

**9 Important Clarrifications on the 'Receipts' of Payments for Sale**

- TCS on remittance under LRS is applicable where 'total' amount in a financial year is 'exceeding' 7 Lac  
Moreover TCS is applicable on the amount 'exceeding' by 7 Lacs

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