Sec. 194 I

Tds on Rent:

❖ Any person (**other than** an individual or a HUF who is **not subject to tax audit** under section **44AB** in the immediately preceding year) who is responsible for paying to **a RESIDENT** any income **by way of rent** shall deduct income tax at the rate of:

- 2% in respect of **rent for** plant, machinery or equipment;
- 10% in respect of **other rental payments** (i.e., rent for use of any land or building, including factory building, or land appurtenant to a building, including factory building, or furniture or fixtures).

❖ TDS RATES	
❖ Nature of payment	❖ Basic rate of TDS
Payment for use of Machinery / Plant / Equipment i.e. For hiring of machinery, plant or equipments	2%
Payment for use of Land / Building / Furniture / Fitting i.e. For renting of land, building, furniture & fittings	10%

No cess to be added. Flat rate of 2% or 10 % is to be deducted.

❖ **This deduction is to be made**

- at the time of credit of such income to the account of the payee or
- at the time of payment thereof in cash or by issue of cheque or draft or by any other mode,
- whichever is earlier.

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- **No deduction need be made**
  - where the amount of such income or the aggregate of the amounts of such income
  - credited or paid or likely to be credited or paid during the financial year to the account of the payee
  - does **not exceed Rs. 1,80,000**

- **Under Sec.194I ; "Rent" means**
  - any payment, by whatever name called,
  - under any **LEASE, SUB-LEASE, TENANCY** or any other **AGREEMENT OR ARRANGEMENT**
  - for the **use** of (either separately or together) any ;
    - Land; or
    - Building (including factory building); or
    - Land appurtenant to a building (including factory building); or
    - Machinery; or
    - Plant; or
    - Equipment; or
    - Furniture; or
    - Fittings,

    whether or not any or all of the above **are owned by the payee**.
  - Subletting is also covered.

- **Where Suspense account is credited ;**
  - Where any **SUCH INCOME** is credited to any account, whether called "Suspense account" or by any other name, in the books of account of the person liable to pay such income, such crediting shall be deemed to be credit of such income to the account of the payee and the provisions of this section will apply accordingly.

- **Security or advance payment ;**
  - In case the landlord collects **Security or Advance Payment**
  - at the time of letting out a building to a tenant on the condition that the **deposit will be refunded** at the time of vacating the building,
  - then such a receipt is **not in the nature of income** and
  - Therefore **no tax is to be deducted at source u/s 194I**.

- However advance rent (**not in the nature of refundable**) paid is subject to tax deduction.

Important Points:

- TDS under this section is necessary **only if** the rent paid or payable during a previous year exceeds Rs. 180000/-.
  - Thus a question would arise as to whether the limit of 180000/-shall apply to the aggregate of rents of all item (mentioned above in the list) hired from one person, **or** will apply individually to each item.
  - The clear interpretation of the language is that is **it will apply to the aggregate of the all rents.**

- Where the property is owned by **two or more owners** and the individual share of each co-owner is definite and ascertainable the limit of Rs.180000/- shall apply to each co-owner separately.

- **Non refundable deposit** given by the tenant is in the nature of advance rent and will be subject to TDS.

- **TDS is not applicable on Service Tax on Rent:**
  - TDS on service Tax on rent is not applicable .
  - The board has further observed that the **Service Tax Paid by the Tenant** does not partake the nature of income of the landlord. The landlord only **acts as a collecting agency** for Government for collection of service tax.
    - Therefore it has been decided that tax deduction at source (TDS) under section194-I of Income Tax Act would be required to be made on the amount of rent paid / payable **without including the service tax**.

- U/s 194C, tax is required to be deducted for carrying out any work which, inter alia, includes carriage of goods and passengers by any mode of transport **other than** by railways.
  - Though generally speaking all types of machinery, plant and equipment **given on hire** get covered u/s. 194-I but **hiring of transport vehicles** get specifically covered u/s. 194-C as far as Tax Deduction at source is concerned.
  - Transport vehicles used for carriage of goods and passengers are to be subjected to TDS provisions under section 194C of the I.T. Act.

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