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TDS Section 194J

TDS Section 194J

- Fees for Profession or Technical Services etc.
- Paid to the **RESIDENT**

Every Person, **other than an Individual or Hindu Undivided Family NOT subject to TAX AUDIT under section 44AB in the immediately preceding financial year**, who is responsible for paying to a **RESIDENT** any sum by way of ;

- Fees for Professional Services; or
- Fees for Technical Services; or
- **ANY** Remuneration or Fees or Commission, by whatever name called, **other than those on which tax is deductible under section 192**, to a Director of a Company (w.e.f 01.07.2012);
  - (viz. Tax is to be deducted under section 194J on any remuneration paid to a director, **other than** in the nature of salary on which tax is deductible under section 192) or
- Royalty, or
- Non-Compete Fees

shall deduct tax at source at the rate of 10%.

Individuals and/ or HUFs who are subject to tax audit u/s 44AB during the financial year immediately preceding the financial year in which such fee for Professional or Technical Services including royalty etc. is credited or paid are liable to deduct tax at source.

More neatly, An individual or a Hindu undivided family, whose total sales, gross receipts or turnover from the business or profession carried on by him **exceed** the monetary limits specified

- Under clause (a) of section 44AB or
- Under clause (b) of section 44AB during the financial year immediately preceding the financial year in which such sum by way of fees for professional or technical services is credited or paid shall be liable to deduct income-tax under this sub-section.

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- However, **SUCH** Individual or Hindu Undivided Family shall **not be liable to deduct income tax** on the sum payable by way of fees for professional services, in case **SUCH** sum is credited or paid **EXCLUSIVELY FOR PERSONAL PURPOSES** of such individual or any member of Hindu Undivided Family.

- Where any fees for **Professional or Technical Services** is credited to any account, whether called suspense account or by any other name, in the books of accounts of the person liable to pay such sum, such crediting shall be deemed to be credit of such sum to the account of the payee and tax has to be deducted accordingly.

- A person is **liable to deduct tax at source** in case aggregate of the amounts of such sums credited or paid or likely to be credited or paid during the financial year by him to the account of, or to the payee **exceeds Rs. 30,000**/-.
- The tax is required to be deducted at the time of credit of such income to the account of the payee or at the time of payment in cash or by issue of cheques or drafts or by any other mode whichever is earlier.

- It connotes that **No tax is required to be deducted** in case amount of such sum or aggregate of amount of such sums credited or paid during the financial year **does not exceed Rs.30,000/-.**

- **No tax deduction is required**
  - **If the amount or the aggregate of the amounts**
    - credited or paid or
    - likely to be credited or paid
    - during a financial year
  - **Does Not Exceed**
    - Rs. 30,000 in the case of fees for **Professional Services**,
    - Rs. 30,000 in the case of fees for **Technical Services**,
    - Rs. 30, 000 in the case of **Royalty** and
    - Rs. 30,000 in the case of **Non-Compete Fees**.

- **The limit of Rs. 30,000 under section 194J is applicable**
  - **Separately** for fees for Professional Services,
  - **Separately** for fees for Technical Services
  - **Separately for** Royalty and
  - **Separately**, for Non-Compete Fees referred to in section 28(va).

- **It implies that if the payment to a PERSON towards each of the above is**
    - **Less than Rs. 30,000,**
    - **NO TAX** is required to be deducted at source,
    - Even though the aggregate payment or credit **exceeds Rs. 30,000.**

Payment made during the F.Y. to	For Professional services in Rs.	For Technical Services in Rs.	Total in Rs. During the F.Y.	Whether Sec.194J applies
Mahesh	25,000	20,000	45,000	No

- **However, there is NO SUCH EXEMPTION limit for deduction of tax on ANY remuneration or fees or commission payable to DIRECTOR of a company .**
    - **E.g.** Sitting fees of Rs.20,000 paid to DIRECTOR of the company
        - **TDS = 20000*10%= Rs.2000**
        - According to section 194J, the company shall be liable to deduct tax at source@10% under this section on **ANY FEES PAID TO A DIRECTOR on or after 1.7.2012**, **on which the tax is NOT DEDUCTIBLE under section 192**.

Some Pivotal remarks:

- **"Professional services"** means Services Rendered by a person in the course of carrying on
    - Legal,
    - Medical,
    - Engineering or
    - Architectural profession or
    - The profession of accountancy or
    - Technical consultancy or
    - Interior decoration or
    - Advertising or
    - **Such other professions** as are notified by the board for the purpose of section 44AA or of this section.

- **Other professions notified** for the purposes of section 44AA are as follows:
    - Profession of "Authorized Representatives";
    - Profession of "Film Artist";
    - Profession of "Company Secretary".

The profession of AUTHORIZED REPRESENTATIVE

- "Authorized representative" means a person who represents any other person, on payment of any fee or remuneration, before any tribunal or authority constituted or appointed by or under any law for the time being in force, **but does not include** an employee of the person so represented or a person carrying on legal profession or a person carrying on the professional accountancy.

The profession of FILM ARTISTs

- "Film artist" means any person engaged in his professional capacity in the production of a cinematograph film, whether produced by him or by any other person, as ,
  - An actor;
  - A cameraman;
  - A director, including an assistant director;
  - A music director, including an assistant music director;
  - An art director, including an assistant art director;
  - A dance director, including an assistant dance director;
  - An editor;
  - A singer;
  - A lyricist;
  - A story writer;
  - A screen-play writer;
  - A dialogue writer; and
  - A dress designer.

- The CBDT has notified the **Services Rendered By Following Persons** in relation to the **SPORTS ACTIVITIES** as Professional Services for the purpose of the section 194J:
  - Sports Persons,
  - Umpires and Referees,
  - Coaches and Trainers,
  - Team Physicians and Physiotherapists,
  - Event Managers,
  - Commentators,
  - Anchors and
  - Sports Columnists.

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- Accordingly, the requirement of TDS as per section 194J would apply to **All the Aforesaid Professions.**
  - The term "profession", as such, is of a very wide import. However, the term has been defined in this section exhaustively.
  - For the purposes of TDS, therefore, all other professions would be outside the scope of section 194J. For example, this section will not apply to professions of **TEACHING, SCULPTURE, PAINTING** etc. unless they are notified.

- The term '**fees for technical services'** means any consideration (including any lump sum consideration) for rendering of any of the following services:
  - Managerial services;
  - Technical services;
  - Consultancy services;
  - Provision of services of technical or other personnel.

- It is expressly provided that the term 'fees for technical services' will not include following types of consideration:
  - Consideration for any Construction, Assembly, Mining or like project, or
  - Consideration which is **chargeable under the head 'Salaries'**.