DEDUCTION OF TAX AT SOURCE

SECTION 190 TO 206AA

- **Section 190 – Deduction at source and advance payment**
- **Section 191 – Direct payment**
- **Section 192 – Deduction of tax from salary income**
- **Section 193 – Deduction of tax from interest on securities**
- **Section 194 – Deduction of tax from Dividend income**
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- **Section 204 – Meaning of "person responsible for paying"**
- **Section 206AA – Requirements to furnish Permanent Account Number**

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Direct Payment   Section 191

In the case of income in respect of which provision is not made for deducting income-tax at the time of payment, and in any case where income-tax has not been deducted income-tax shall be payable by the assessee direct.

If any person referred to in section 200 and in the cases referred to in section 194, the principal officer and the company of which he is the principal officer does not deduct the whole or any part of the tax and such tax has not been paid by the assessee direct, then, such person, the principal officer and the company shall be deemed to be an assessee in default.

Deduction of Tax at Source with regard to Salary Income   Section 192

Every person responsible for payment of salary income shall estimate the tax liability of the recipient and the tax so estimated shall be deducted in 12 monthly installments. However, while estimating the tax liability assessee shall be allowed deduction under section 80C to 80U but only the notified deductions like 80C, 80CCC, 80CCD, 80D, 80DD,80E, 80GG, 80U and some part of 80G shall be considered.

Issue of certificate for not deducting tax at source
As per section 197, if any employee finds that his tax liability shall be less than the amount of tax deducted at source, in that case he may apply to the Assessing Officer to issue him a certificate for not deducting the tax at source or for deducting the tax at a lower rate.

As per Rule 28, application should be given in Form No.13.

As per section 206AA, if the person receiving the payment has not submitted PAN, TDS shall be at the applicable rate or 20%, whichever is higher.

Interest on Securities   Section 193

Section 2(28B) "interest on securities" means,—

(i) Interest on any security of the **Central Government** or a **State Government**.
(ii) Interest on debentures or other securities of a **local authority** or a **company** or a **corporation established by a Central, State or Provincial Act.**

The person responsible for paying to a resident any interest on securities shall deduct income-tax @ **10%**.
No tax shall be deducted from –

1. Any interest payable on any security of the Central Government or a State Government.

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2. Any interest payable to a resident individual or a Hindu Undivided Family on debentures issued by a company in which the public are substantially interested and the interest is paid by the company by an account payee cheque and amount of interest paid or likely to be paid during the financial year by the company to such individual does not exceed **`5,000**.

3. Any interest being paid to life insurance corporation of India or General Insurance Corporation of India.

4. Interest payable by a company in connection with security held in dematerialised form

5. Any other interest income notified under section 193.

Crediting the amount to suspense account or any other similar account
Where any income by way of interest on securities is credited to any account, whether called "Interest payable account" or "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 it will be liable to TDS.

Issue of certificate for not deducting tax at source
As per section 197, if the person receiving the payment finds that his tax liability shall be less than the amount of TDS, he may apply to the Assessing Officer to issue him a certificate not to deduct tax at source or to deduct tax at a lower rate and such certificate shall be submitted to the person making the payment and he shall be bound to comply with.

As per section 197A, if any individual or Hindu Undivided Family has interest income (including income covered under section 194 and 194A) not exceeding the exemption limit and also his tax liability is nil, such individual or HUF can furnish a declaration in Form No. 15G to the person making payment of interest and in that case no tax shall be deducted at source. A senior citizen can give a declaration in Form No 15H if his tax liability is nil.

As per section 206AA, if the person receiving the payment has not submitted PAN, TDS shall be at the applicable rate or 20%, whichever is higher.

Interest other than "Interest on Securities" Section 194A

Any person, who is paying to a resident any interest other than interest on securities, shall at the time of payment shall **deduct tax at source @ 10%.**

TDS in case of payment by an individual or Hindu Undivided Family
An individual or Hindu Undivided Family shall be required to deduct tax at source only if they are liable to auditing under section 44AB during the financial year immediately preceding the relevant year.

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No tax shall be deducted at source 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 does not exceed:

(a) **`10,000**, where the payer is a bank/co-operative bank or post office.

(b) **`5,000** in any other case.

Issue of certificate for not deducting tax at source

As per section 197, if the person receiving the payment finds that his tax liability shall be less than the amount of TDS, he may apply to the Assessing Officer to issue him a certificate not to deduct tax at source or to deduct tax at a lower rate and such certificate shall be submitted to the person making the payment and he shall be bound to comply with.

As per section 197A, if any individual or Hindu Undivided Family has interest income (including income covered under section 193 and 194) not exceeding the exemption limit and also his tax liability is nil, such individual or HUF can furnish a declaration in Form No. 15G to the person making payment of interest and in that case no tax shall be deducted at source. A senior citizen can give a declaration in Form No 15H if his tax liability is nil.

As per section 206AA, if the person receiving the payment has not submitted PAN, TDS shall be at the applicable rate or 20%, whichever is higher.

The provisions of section 194A will not apply in the following cases where the –

(1) Interest paid by a firm to a partner of the firm;

(2) Interest paid to any Banking Company or any Financial Corporation or Life Insurance Corporation of India or Unit Trust of India or any Associations or Bodies notified by the Central Government;

(3) Interest paid by a co-operative society to their member;

(4) Interest paid in respect of deposits under any scheme framed by the Central Government and notified by it;

(5) Interest income credited or paid by the Central Government under any provision of the Income-tax Act, the Wealth-tax Act etc.;

(6) Income paid in relation to a Zero Coupon Bond.

Dividends Section 194

Every domestic company responsible for making payment of dividend covered under section

2(22)(e) shall deduct income-tax at the rate of **10%**.

No such deduction shall be made in the case of a shareholder, being an individual, if—

(a) The dividend is paid by the company by an account payee cheque; and

(b) the amount of such dividend or, as the case may be, the aggregate of the amounts of such dividend distributed or paid or likely to be distributed or paid during the financial year by the company to the shareholder, does not exceed **`2,500**.

The provisions of this section shall not apply to such income credited or paid to—

(a) The Life Insurance Corporation of India.

(b) The General Insurance Corporation of India.

(c) Any other insurer.

Issue of certificate for not deducting tax at source

As per section 197, if the person receiving the payment finds that his tax liability shall be less than the amount of TDS, he may apply to the Assessing Officer to issue him a certificate not to deduct tax at source or to deduct tax at a lower rate and such certificate shall be submitted to the person making the payment and he shall be bound to comply with.

As per section 197A, if any individual or Hindu Undivided Family has dividend income (including income covered under section 193 and 194A) not exceeding the exemption limit and also his tax liability is nil, such individual or HUF can furnish a declaration in Form No. 15G to the person making payment of interest and in that case no tax shall be deducted at source. A senior citizen can give a declaration in Form No 15H if his tax liability is nil.

As per section 206AA, if the person receiving the payment has not submitted PAN, TDS shall be at the applicable rate or 20%, whichever is higher.

Winnings from Lottery or Crossword Puzzle etc. Section 194B

The person responsible for paying to any person any income by way of **winnings from any lottery** or **crossword puzzle** or **card game** and **other game of any sort** in an amount exceeding **`10,000** shall, at the time of payment thereof, **deduct income-tax thereon @ 30%**.

Provided that in a case where the winnings are wholly in kind or partly in cash and partly in kind but the part in cash is not sufficient to meet the liability of deduction of tax in respect of whole of the winnings, the person responsible for paying shall, before releasing the winnings, ensure that tax has been paid in respect of the winnings.

Section 197 is not applicable

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As per section 206AA, if the person receiving the payment has not submitted PAN, TDS shall be at the applicable rate or 20%, whichever is higher.

Winnings from Horse Race   Section 194BB

Any person, being a bookmaker or a person to **whom a licence has been granted by the Government under any law for the time being in force for horse racing in any race course or for arranging for wagering or betting in any race course,** who is responsible for paying to any person any income by way of winnings from any **horse race** in an amount exceeding **`5,000** shall, at the time of payment thereof, **deduct income-tax thereon @ 30%**.

- **Section 197 is NOT applicable**

As per section 206AA, if the person receiving the payment has not submitted PAN, TDS shall be at the applicable rate or 20%, whichever is higher.

Payments to Contractors Section 194C   (V. Imp.)

1. Any person responsible for making payment to a resident contractor for carrying out any work including supply of labour for carrying out any work shall deduct tax at source @ **2%** and in case of payment to individual or Hindu Undivided Family, the rate of TDS shall be **1%** provided the amount being paid is exceeding **`30,000** or the amount paid or payable during the financial year exceeds **`75,000**.

2. TDS in case of payment by individual or Hindu Undivided Family
An individual or Hindu Undivided Family or body of individuals or association of persons shall be required to deduct tax at source only if they are liable to tax audit under section 44AB during the financial year immediately preceding the relevant year.

3. No individual or HUF shall deduct tax at source if the amount is paid for personal purpose of such individual or HUF.

4. Contract for this purpose shall include every type of contract e.g.

(a) Advertising contract

(b) Broadcasting and telecasting including production of programmes for such broadcasting or telecasting

(c) Carriage of goods and passengers by any mode of transport other than by railways

(d) Catering

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(e) Contract for construction

(f) Manufacturing or supplying a product according to the requirement or specification of a customer by using material purchased from such customer, but does not include manufacturing or supplying a product according to the requirement or specification of a customer by using material purchased from a person, other than such customer.

(g) Contract for courier services

(h) Contract of maintenance of plant and machinery etc.

(i) Any other contract

5. No tax shall be deducted at source in case of payment to a contractor in connection with transportation of goods provided the person receiving the payment has furnished permanent account number.

6. While making payment under contract, tax shall be deducted at source including the amount of service tax.

7. As per section 206AA, if the person receiving the payment has not submitted PAN, TDS shall be at the applicable rate or 20%, whichever is higher.

8. Issue of certificate for not deducting tax at source
As per section 197, if the person receiving the payment finds that his tax liability shall be less than the amount of TDS, he may apply to the Assessing Officer to issue him a certificate for not deducting tax at source or for deducting tax at a lower rate and such certificate shall be submitted to the person making the payment and he shall be bound to comply with.

Insurance Commission Section 194D

Any person responsible for paying to a resident any income by way of remuneration or reward, whether by way of commission or otherwise, for soliciting or procuring insurance business (including business relating to the continuance, renewal or revival of policies of insurance) shall, 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 a cheque or draft or by any other mode, whichever is earlier, deduct income-tax @ **10%**.

Provided further that no deduction shall be made under this section in a case where the amount of such income or, as the case may be, the aggregate of the amounts of such income credited or paid or likely to be credited or paid during the financial year does not exceed **`20,000**.

Issue of certificate for not deducting tax at source
As per section 197, if the person receiving the payment finds that his tax liability shall be less

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than the amount of TDS, he may apply to the Assessing Officer to issue him a certificate not to deduct tax at source or to deduct tax at a lower rate and such certificate shall be submitted to the person making the payment and he shall be bound to comply with.

While making payment of commission by the insurance company, tax shall be deducted at source excluding the amount of service tax.

As per section 206AA, if the person receiving the payment has not submitted PAN, TDS shall be at the applicable rate or 20%, whichever is higher.

Payments to non-resident sportsmen or sports association Section 194E

(1) This Section provides for deduction of tax at source in respect of any income referred to in section 115BBA payable to a non-resident sportsman (including an athlete) or an entertainer who is not a citizen of India or a non-resident sports association or institution.

(2) Deduction of tax at source @ 20% should be made by the person responsible for making the payment.

(3) The following are the income referred to in section 115BBA –

(i) income received or receivable by a non-resident sportsman (including an athlete) by way of –

- (a) participation in any game or sport in India (However, games like crossword puzzles, horse races etc, taxable under section 115BB are not included herein); or
- (b) advertisement; or
- (c) Contribution of articles relating to any game or sport in India in newspapers, magazines or journals.

Commission, etc., on the Sale of Lottery Tickets Section 194G

Any person who is responsible for paying to any person, who is or has been stocking, distributing, purchasing or selling lottery tickets, any income by way of commission, remuneration or prize on such tickets in an amount exceeding `1,000 shall, at the time of credit of such income to the account of the payee or at the time of payment of such income in cash or by the issue of a cheque or draft or by any other mode, whichever is earlier, deduct income-tax thereon at the rate of **10%**.

Issue of certificate for not deducting tax at source

As per section 197, if the person receiving the payment finds that his tax liability shall be less than the amount of TDS, he may apply to the Assessing Officer to issue him a certificate not to deduct tax at source or to deduct tax at a lower rate and such certificate shall be submitted to the person making the payment and he shall be bound to comply with.

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While making payment of commission, tax shall be deducted at source excluding the amount of service tax.

As per section 206AA, if the person receiving the payment has not submitted PAN, TDS shall be at the applicable rate or 20%, whichever is higher.

Commission or Brokerage Section 194H

Any person, not being an individual or a Hindu Undivided Family, who is responsible for paying, to a resident, any income by way of commission (not being insurance commission referred to in section 194D) or brokerage, shall, deduct income-tax thereon at the rate of **10%**.

If the amount paid or payable during a particular year to a particular person is not exceeding **`5,000**, in that case no tax shall be deducted at source.

TDS in case of payment by individual or Hindu Undivided Family
An individual or Hindu Undivided Family shall be required to deduct tax at source only if they are liable to auditing under section 44AB during the financial year immediately preceding the relevant year.

Section 197 is applicable.
While making payment of commission, tax shall be deducted at source excluding the amount of service tax.

As per section 206AA, if the person receiving the payment has not submitted PAN, TDS shall be at the applicable rate or 20%, whichever is higher.

Rent Section 194-I (V. IMP.)

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1. Any person who is responsible for paying to a resident any income by way of rent, shall, 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 the issue of a cheque or draft or by any other mode, whichever is earlier, deduct income-tax thereon at the rate of—

(a) **2%** for the use of any machinery or plant or equipment.

(b) **10%** for the use of any land or building (including factory building) or land appurtenant to a building (including factory building) or furniture or fittings.

2. No deduction shall be made under this section where the amount of such income or, as the case may be, the aggregate of the amounts of such income credited or paid or likely to be credited or paid during the financial year by the aforesaid person to the account of, or to, the payee, does not exceed `1,80,000.

3. TDS in case of payment by individual or Hindu Undivided Family

An individual or Hindu Undivided Family shall be required to deduct tax at source only if they are liable to auditing under section 44AB during the financial year immediately preceding the relevant year.

Example

(i) Amount of TDS in the following cases shall be:

Person receiving the payment	Mr. Y	Mr. X	XY Firm	X Ltd. (Indian company)
Person making the payment	Individual (not having audit in P.Y. 11-12)	Individual (having audit in P.Y. 11-12)	Partnership firm	Company (Indian company)
Rent for house property Amount of TDS	`2,00,000 Nil	`2,00,000 `20,000	`2,00,000 `20,000	`2,00,000 `20,000
Rent for plant and machinery Amount of TDS	`2,00,000 Nil	`2,00,000 `4,000	`2,00,000 `4,000	`2,00,000 `4,000
Rent for house property Amount of TDS	`1,00,000 Nil	`1,00,000 Nil	`1,00,000 Nil	`1,00,000 Nil
Rent for plant and machinery Amount of TDS	`1,00,000 Nil	`1,00,000 Nil	`1,00,000 Nil	`1,00,000 Nil

4. <u>“Rent”</u> 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, –

(a) Land; or

(b) Building (including factory building); or

(c) Land appurtenant to a building (including factory building); or

(d) Machinery; or

(e) Plant; or

(f) Equipment; or

(g) Furniture; or

(h) Fittings,

Whether or not any or all of the above are owned by the payee.

5. <u>Issue of certificate for not deducting tax at source</u>

<u>As per section 197,</u> if the person receiving the payment finds that his tax liability shall be less than the amount of TDS, he may apply to the Assessing Officer to issue him a certificate not to deduct tax at source or to deduct tax at a lower rate and such certificate shall be submitted to the person making the payment and he shall be bound to comply with.

As per Circular No. 4/2008 dated 28.04.2008, if any payment is being made by the tenant, tax shall be deducted at source excluding the amount of service tax.

As per section 206AA, if the person receiving the payment has not submitted PAN, TDS shall be at the applicable rate or 20%, whichever is higher.

Fees for Professional or Technical Services   Section 194J

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1. Every person responsible for making payment to any resident in connection with professional services or 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 or royalty or any sum for not pursuing any business or profession, shall deduct tax at source at the time of making the payment at the rate of **10%** of the sum payable. No tax shall be deducted at source where the amount paid or payable during the year do not exceed **`30,000**.

2. TDS in case of payment by individual or Hindu Undivided Family
An individual or Hindu Undivided Family shall be required to deduct tax at source only if they are liable to auditing under section 44AB during the financial year immediately preceding the relevant year.

3. "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 profession as is notified by the Board for the purposes of section 44AA or of this section.

4. "Fees for technical services" or royalty shall have the same meaning as given in section 9.

5. If individual or HUF is making payment for **professional services** and it is for personal purpose, no tax shall be deducted at source.

6. Issue of certificate for not deducting tax at source
As per section 197, if the person receiving the payment finds that his tax liability shall be less than the amount of TDS, he may apply to the Assessing Officer to issue him a certificate not to deduct tax at source or to deduct tax at a lower rate and such certificate shall be submitted to the person making the payment and he shall be bound to comply with.

While making payment for professional / technical services, tax shall be deducted at source including the amount of service tax.

As per section 206AA, if the person receiving the payment has not submitted PAN, TDS shall be at the applicable rate or 20%, whichever is higher.

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Payment of Compensation on Acquisition of certain Immovable Property   Section 194LA

Any person responsible for paying to a resident any compensation or the enhanced compensation on account of compulsory acquisition of any immovable property, deduct an amount equal to **10%** of such sum.

However no deduction shall be made if the aggregate amount of such payment to a resident during the financial year does not exceed **`2,00,000**.
Section 197 is applicable.

As per section 206AA, if the person receiving the payment has not submitted PAN, TDS shall be at the applicable rate or 20%, whichever is higher.

Income by way of interest from infrastructure debt fund   Section 194LB

Where any income by way of interest is payable to a non-resident, not being a company, or to a foreign company, by an infrastructure debt fund referred to in clause (47) of section 10, the person responsible for making the payment shall, 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 a cheque or draft or by any other mode, whichever is earlier, deduct income-tax thereon at the rate of five per cent.

Income by way of interest from Indian company engaged in certain business   Section 194LC
(Self Reading)

(1) Where any income by way of interest referred to in sub-section (*2*) is payable to a non-resident, not being a company or to a foreign company by a specified company, the person responsible for making the payment, shall 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 a cheque or draft or by any other mode, whichever is earlier, deduct the income-tax thereon at the rate of five per cent.

(2) The interest referred to in sub-section (*1*) shall be the income by way of interest payable by the specified company,—

(*i*) in respect of monies borrowed by it at any time on or after the 1st day of July, 2012 but before the 1st day of July, 2015 in foreign currency, from a source outside India under a loan agreement approved by the Central Government in this behalf; and

(*ii*) to the extent to which such interest does not exceed the amount of interest calculated at the rate approved by the Central Government in this behalf, having regard to the terms of the loan and its repayment.

Explanation.—For the purpose of this section—

(*a*) "foreign currency" shall have the meaning assigned to it in clause (*m*) of section 2 of the Foreign Exchange Management Act, 1999 (42 of 1999);

(*b*) "specified company" means an Indian company engaged in the business of—

(*i*) generation or distribution or transmission of power; or

(*ii*) operation of aircraft; or

(*iii*) manufacture or production of fertilizers; or

(*iv*) construction of road including toll road or bridge; or

(*v*) construction of port including inland port; or

(*vi*) construction of ships in a shipyard; or

(*vii*) construction of dam; or

(*viii*) developing and building a housing project as referred to in sub-clause (*vii*) of clause (*c*) of sub-section (*8*) of section 35AD.

Other sums Section 195 (Self Reading)

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(1) Any person responsible for paying to a non-resident, not being a company, or to a foreign company, any interest or any other sum chargeable under the provisions of this Act (not being income chargeable under the head “Salaries”) shall, 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 the issue of a cheque or draft or by any other mode, whichever is earlier, deduct income-tax thereon at the rates in force :

Provided that in the case of interest payable by the Government or a public sector bank within the meaning of clause (*23D*) of section 10 or a public financial institution within the meaning of that clause, deduction of tax shall be made only at the time of payment thereof in cash or by the issue of a cheque or draft or by any other mode:

Provided further that no such deduction shall be made in respect of any dividends referred to in section 115-O.

Explanation.—For the purposes of this section, where any interest or other sum as aforesaid is credited to any account, whether called “Interest payable account” or “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 shall apply accordingly.

(2) Where the person responsible for paying any such sum chargeable under this Act (other than salary) to a non-resident considers that the whole of such sum would not be income chargeable in the case of the recipient, he may make an application to the Assessing Officer to determine, by

general or special order, the appropriate proportion of such sum so chargeable, and upon such determination, tax shall be deducted under sub-section (1) only on that proportion of the sum which is so chargeable.

(3) Subject to rules made under sub-section (5), any person entitled to receive any interest or other sum on which income-tax has to be deducted under sub-section (1) may make an application in the prescribed form to the Assessing Officer for the grant of a certificate authorizing him to receive such interest or other sum without deduction of tax under that sub-section, and where any such certificate is granted, every person responsible for paying such interest or other sum to the person to whom such certificate is granted shall, so long as the certificate is in force, make payment of such interest or other sum without deducting tax thereon under sub-section (1).

(4) A certificate granted under sub-section (3) shall remain in force till the expiry of the period specified therein or, if it is cancelled by the Assessing Officer before the expiry of such period, till such cancellation.

(5) The Board may, having regard to the convenience of assessees and the interests of revenue, by notification in the Official Gazette, make rules specifying the cases in which, and the circumstances under which, an application may be made for the grant of a certificate under sub-section (3) and the conditions subject to which such certificate may be granted and providing for all other matters connected therewith.

(6) The person referred to in sub-section (1) shall furnish the information relating to payment of any sum in such form and manner as may be prescribed by the Board.

Interest or Dividend or other sums payable to Government, Reserve Bank or Certain Corporations Section 196 (Self Reading)

No deduction of tax shall be made by any person from any sums payable to—

(i) the Government, or

(ii) the Reserve Bank of India, or

(iii) a 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, or

(iv) a Mutual Fund specified under clause (23D) of section 10,

where such sum is payable to it by way of interest or dividend in respect of any securities or shares owned by it or in which it has full beneficial interest, or any other income accruing or arising to it.

Certificate for Deduction at Lower Rate Section 197 (V. Imp.)

If on income of any person, income-tax is required to be deducted at the time of payment under section 192, 193, 194, 194A,194C, 194D,194G, 194H, 194-I, 194J, 194K, 194LA, and 195 and the Assessing Officer is satisfied that the total income of the recipient justifies the deduction of income-tax at any lower rates or no deduction of income-tax, as the case may be, the Assessing Officer shall, on an application made by the assessee in this behalf, give to him such certificate as may be appropriate.

Application should be given in Form No. 13.

(Section 197 is not applicable in case of TDS under section 194B, 194BB, 194E)

Duty of Person Deducting Tax Section 200 (V. Imp.)

Payment of TDS to the Government Section 200 / Rule 30

Any person deducting any sum in accordance with the foregoing provisions of this Chapter shall pay within the prescribed time, the sum so deducted to the credit of the Central Government or as the Board directs.

As per Rule 30, the payment is to be made in general within 7 days from the last day of the month in which the deduction is made.

If the tax has been deducted in the month of March, tax should be deposited on or before 30th April.

In certain cases, Assessing Officer may permit the payments on quarterly basis.

Quarterly Statement of Tax Deducted at Source Section 200 / Rule 31A

Every person deducting tax at source has to submit quarterly statement containing details of the tax deducted at source. The statement should be submitted latest by 15th of the month succeeding the relevant quarter but statement for the quarter ending March can be submitted upto 15th May. e.g. Statement for quarter ending March, 2013 can be submitted upto 15th May, 2013.

If there is any delay in submitting the statement, penalty shall be charged @ **`200** per day but maximum to the extent of tax deducted at source.

(Form No. 24Q Quarterly statement for salary)
(Form No. 26Q Quarterly statement for others)

Consequences of Failure to Deduct or Pay Section 201 (V. Imp.)

If any person does not deduct the tax or after deducting fails to pay the tax as, he shall be deemed to be an assessee in default in respect of the tax :

Provided that any person, including the principal officer of a company, who fails to deduct the whole or any part of the tax in accordance with the provisions of this Chapter on the sum paid to a resident or on the sum credited to the account of a resident shall not be deemed to be an assessee in default in respect of such tax if such resident—

(*i*) has furnished his return of income under section 139;

(*ii*) has taken into account such sum for computing income in such return of income; and

(*iii*) has paid the tax due on the income declared by him in such return of income, and the person furnishes a certificate to this effect from an accountant in such form as may be prescribed.

Provided that no penalty shall be charged under section 221 from such person, principal officer or company unless the Assessing Officer is satisfied that such person or principal officer or company, as the case may be, has without good and sufficient reasons failed to deduct and pay the tax.

If any such person, principal officer or company does not deduct the whole or any part of the tax or after deducting fails to pay the tax as required by or under this Act, he or it shall be liable to pay simple interest,—

(i) at one per cent for every month or part of a month on the amount of such tax from the date on which such tax was deductible to the date on which such tax is deducted; and

(ii) at one and one-half per cent for every month or part of a month on the amount of such tax from the date on which such tax was deducted to the date on which such tax is actually paid, and such interest shall be paid before furnishing the quarterly statement for each quarter in accordance with the provisions of section 200.

Provided that in case any person, including the principal officer of a company fails to deduct the whole or any part of the tax in accordance with the provisions of this Chapter on the sum paid to a resident or on the sum credited to the account of a resident but is not deemed to be an assessee in default under the first proviso of sub-section (*1*), the interest under clause (*i*) shall be payable from the date on which such tax was deductible to the date of furnishing of return of income by such resident.

Certificate for Tax Deducted   Section 203 / Rule 31

TDS Certificate

Every person deducting tax at source shall issue a certificate to the person with regard to whom tax has been deducted at source. In case of payment of salary, certificate shall be issued in Form No. 16 and in other cases it will be in Form No. 16A.

The certificate in Form No. 16 should be given upto 31^{st} May of the succeeding year in case of an employee and it will be an annual certificate.

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In other cases certificate in Form No. 16A should be issued on quarterly basis and it should be issued within 15 days from the last date of submitting the quarterly statement under section 200.

Tax Deduction Account Number (TAN) Section 203A

Every person, deducting tax or collecting tax, who has not been allotted a tax deduction account number shall, within such time as may be prescribed, apply to the Assessing Officer for the allotment of a "tax deduction and collection account number".

As per Rule 114A, application should be given in Form No.49B within one month from the end of the month in which tax was deducted for the first time.

Furnishing of Statement of Tax Deducted Section 203AA / Rule 31AB

Income Tax Authorities shall prepare annual statement for every person with regard to whom tax has been deducted at source and such statement shall be prepared in the Form No. 26AS on the basis of quarterly return filed by the person deducting tax at source. Such statement shall be sent to every person upto 31st July of assessment year. Tax credit can be claimed on the basis of such statement. In case of any discrepancy, such person shall report it to the Income Tax Department.

Meaning of "Person Responsible for Paying" Section 204

The person responsible for paying means –

(i) In case of salary payments, the employer and if the employer is a company, it will include the company and also its principal officer.

(ii) In case of interest on securities, the local authority, corporation or the company including its principal officer.

(iii) In any other case the person making the payment.

Requirement to Furnish Permanent Account Number Section 206AA

Every person on whose behalf, tax is being deducted at source shall submit his PAN to the person deducting tax at source otherwise rate of TDS shall be the actual rate or 20% whichever is higher. The person deducting tax at source has to mention such PAN in the quarterly statement.

Question: Explain provisions of Tax Deduction at Source (TDS) with regard to Service Tax.
Answer:

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If any service recipient has to make the payment to the service provider and tax has to be deducted at source, in that case, while deducting tax at source, service tax shall also be included in some of the cases and it will not be included in some other cases and is as given below:

TDS excluding Service Tax

1. If the service recipient is making payment of **Rent**, tax shall be deducted at source under section 194-I @ 10% and tax shall be deducted excluding service tax.

2. If the service recipient is making payment of **Commission / Brokerage**, tax shall be deducted at source under section 194-H @ 10% and tax shall be deducted excluding service tax.

3. If the service recipient is making payment of **Commission for Sale of Lottery Tickets**, tax shall be deducted at source under section 194-G @ 10% and tax shall be deducted excluding service tax.

4. If the service recipient is making payment of **Commission for Insurance Business**, tax shall be deducted at source under section 194-D @ 10% and tax shall be deducted excluding service tax. There is a Reverse Charge and service tax has to be paid by the Insurance Company (Such services are called Insurance Auxiliary Services)

TDS including Service Tax

1. If the service recipient is making payment for **Professional / Technical** services, tax shall be deducted at source under section 194-J @ 10% and tax shall be deducted including service tax.

2. If the service recipient is making payment for any **Contract** e.g. **Advertising Contract** or **Catering Contract** etc tax shall be deducted at source under section 194-C @ 2% but if payment is being given to any individual or HUF, tax shall be deducted at source @ 1% and tax shall be deducted including service tax.

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