Section 194R- TDS on Benefits or Perquisite

Outset

Benefits and perquisites received in the course of business or profession ought to be disclosed by the recipient u/s 28(vi) of the Income Tax Act as income. However, it is practically found that many businesses are not disclosing and reporting the same in their ITR, thus leading to incorrect furnishing of ITR. Therefore, in order to curb this practice and increase the tax parlance, the Government, in the Finance Bill, 2022, has inserted Section 194R.

Such gifts, benefits or perquisites can be in cash or kind.

TDS is to be deducted @ 10% of the value or aggregate value of such gift, benefit or perquisite. If the gift or benefit is made in cash, TDS @ 10% has to be deducted before making such payment. However, if the gift is in kind, it is solely dependent on or is the responsibility of the **benefit provider** to deposit the TDS on such gift, benefit or perquisite from its own pocket or recover such sum from the recipient and deposit the same to the Government before releasing it.

The TDS benefit so deposited would be reflecting on the Recipient's AIS and is available to his credit.

Hence, w.e.f July 1st, 2022, every person falling under this section, shall before remitting any such benefit or perquisite ensure to comply with the requirement of deducting tax or must ensure that the tax should have been discharged w.r.t. that benefit or perquisite.

KEY POINTS

RATE OF TDS
10% of value or aggregate of gift, benefit or perquisite.

PAYMENT IN KIND
Benefit provider is responsible to pay TDS.

NON- APPLICABILITY

- Provision not applicable if benefit value in Financial Year does **not** exceed Rs. **20000.00/-**. Nonetheless, it is classified as business receipt and this transaction does not fall under the ambit of Section 194R.
- Recipient is **Non Resident.**
- **Benefit providers' turnover** in preceding year is Rs. 1 crore.
- The section is applicable only for business to business(or professfion) gifts, benefits or perquisites i.e., it is not applicable on gifts given by business/profession to individuals in personal capacity. This is not a Business Receipt but a Personal Receipt. Now, this receipt would be taxable u/s 56(2)(x) and not u/s 94R if it satisfies the conditions mentioned therein.

Thank You
Pooja Prasad