

Provisions Concerning Advance Tax and Tax Deducted at Source

Question 1

Compute the amount of tax deduction at source on the following payments made by M/s. S Ltd. during the financial year 2012-13 as per the provisions of the Income-tax Act, 1961.

Sr. No.	Date	Nature of Payment
(i)	1-10-2012	Payment of ₹ 2,00,000 to Mr. "R" a transporter who is having PAN.
(ii)	1-11-2012	Payment of fee for technical services of ₹ 25,000 and Royalty of ₹ 20,000 to Mr. Shyam who is having PAN.
(iii)	30-06-2012	Payment of ₹ 25,000 to M/s X Ltd. for repair of building.
(iv)	01-01-2013	Payment of ₹ 2,00,000 made to Mr. A for purchase of diaries made according to specifications of M/s S Ltd. However, no material was supplied for such diaries to Mr. A by M/s S Ltd.
(v)	01-01-2013	Payment made ₹ 1,80,000 to Mr. Bharat for compulsory acquisition of his house as per law of the State Government.
(vi)	01-02-2013	Payment of commission of ₹ 6,000 to Mr. Y.

Answer

- (i) No tax is required to be deducted at source under section 194C by M/s S Ltd. on payment to transporter Mr. R, provided he furnishes his PAN to M/s. S Ltd.
- (ii) As per section 194J, liability to deduct tax is attracted only in case the payment made as fees for technical services and royalty, individually, exceeds ₹ 30,000 during the financial year. In the given case, since, the individual payments for fee of technical services i.e. ₹ 25,000 and royalty ₹ 20,000 is less than ₹ 30,000 each, there is no liability to deduct tax at source. It is assumed that no other payment towards fees for technical services and royalty were made during the year to Mr. Shyam.
- (iii) Provisions of section 194C are not attracted in this case, since the payment for repair of building on 30.06.2012 to M/s. X Ltd. is less than the threshold limit of ₹ 30,000.
- (iv) According to section 194C, the definition of "work" does not include the manufacturing or supply of product according to the specification by customer in case the material is

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purchased from a person other than the customer.

Therefore, there is no liability to deduct tax at source in respect of payment of ₹ 2,00,000 to Mr. A, since the contract is a contract for 'sale'.

- (v) As per section 194LA, any person responsible for payment to a resident, any sum in the nature of compensation or consideration on account of compulsory acquisition under any law, of any immovable property, is responsible for deduction of tax at source if such payment or the aggregate amount of such payments to the resident during the financial year exceeds ₹ 2,00,000.

In the given case, no liability to deduct tax at source is attracted as the payment made does not exceed ₹ 2,00,000.

- (vi) As per section 194H, any person (other than an individual or HUF) who is responsible for paying commission or brokerage to a resident shall deduct tax at source if the amount of such income or the aggregate of the amounts of such income credited or paid during the financial year exceeds ₹ 5,000.

Since the commission payment made to Mr. Y exceeds ₹ 5,000, the provisions of section 194H are attracted.

The tax to be deducted at source shall be - ₹ 6,000 x 10% = ₹ 600.

Question 2

State the applicability of TDS provisions and TDS amount in the following cases:

- (a) Rent paid for hire of machinery by B Ltd. to Mr. Raman ₹ 2,10,000.
(b) Fee paid to Dr. Srivatsan by Sundar (HUF) ₹ 35,000 for surgery performed to a member of the family.

Answer

- (a) Since the rent paid for hire of machinery by B. Ltd. to Mr. Raman exceeds ₹ 1,80,000, the provisions of section 194-I for deduction of tax at source are attracted.

The rate applicable for deduction of tax at source under Section 194-I on rent paid for hire of plant and machinery is 2% assuming that Mr. Raman had furnished his permanent account number to B Ltd.

Therefore, the amount of tax to be deducted at source:

$$= ₹ 2,10,000 \times 2\% = ₹ 4200.$$

Note: In case Mr. Raman does not furnish his permanent account number to B Ltd., tax shall be deducted @ 20% on ₹ 2,10,000, by virtue of provisions of section 206AA.

- (b) As per the provisions of section 194J, a Hindu Undivided Family is required to deduct tax at source on fees paid for professional services only if it is subject to tax audit under section 44AB in the financial year preceding the current financial year.

However, if such payment made for professional services is exclusively for the personal purpose of any member of Hindu Undivided Family, then, the liability to deduct tax is not attracted.

Therefore, in the given case, even if Sundar (HUF) is liable to tax audit in the immediately preceding financial year, the liability to deduct tax at source is not attracted in this case since, the fees for professional service to Dr. Srivatsan is paid for a personal purpose i.e. the surgery of a member of the family.

Question 3

Ashwin doing manufacture and wholesale trade furnishes you the following information :

Total turnover for the financial year

Particulars	₹
2011-12	1,05,00,000
2012-13	95,00,000

State whether tax deduction at source provisions are attracted for the below said expenses incurred during the financial year 2012-13:

Particulars	₹
Interest paid to UCO Bank	41,000
Contract payment to Raj (2 contracts of ₹ 12,000 each)	24,000
Shop rent paid (one payee)	1,90,000
Commission paid to Balu	7,000

Answer

As the turnover of Ashwin for F.Y.2011-12, i.e. ₹ 105 lakh, has exceeded the monetary limit of ₹ 100 lakh prescribed under section 44AB, he has to comply with the tax deduction provisions during the financial year 2012-13, subject to, however, the exemptions provided for under the relevant sections for applicability of TDS provisions.

Interest paid to UCO Bank

TDS under section 194A is not attracted in respect of interest paid to a banking company.

Contract payment of ₹ 24,000 to Raj for 2 contracts of ₹ 12,000 each

TDS provisions under section 194C would not be attracted if the amount paid to a contractor does not exceed ₹ 30,000 in a single payment or ₹ 75,000 in the aggregate during the financial year. Therefore, TDS provisions under section 194C are not attracted in this case.

Shop Rent paid to one payee – Tax has to be deducted under section 194-I as the rental payment exceeds ₹ 1,80,000.

Commission paid to Balu – Tax has to be deducted under section 194-H as the commission exceeds ₹ 5,000.

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Question 4

List any 5 instances where the tax deductible at source in terms of section 194A will not apply.

Answer

The provisions of section 194A will not apply where the interest credited or paid does not exceed ₹ 10,000 where the payer is a banking company or a cooperative society engaged in the business of banking or where the interest is on any deposit with post office under any scheme framed by the Central Government and notified by it. In respect of other cases, TDS provisions under section 194A would not apply where the interest credited or paid or likely to be credited or paid during the financial year does not exceed ₹ 5,000.

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

- (1) interest is credited or paid by a firm to a partner of the firm;
- (2) interest is credited or paid to any banking company or any financial corporation established by or under a Central, State or Provincial Act or Life Insurance Corporation of India or Unit Trust of India or any company or co-operative society carrying on the business of insurance or such other institution, association or body or class of institutions, associations or bodies notified by the Central Government;
- (3) interest credited or paid by a co-operative society to a member thereof or to any other co-operative society;
- (4) interest credited or paid in respect of deposits under any scheme framed by the Central Government and notified by it in this behalf;
- (5) interest credited or paid in respect of deposits with primary agricultural credit society or a primary credit society or a co-operative land mortgage bank or a co-operative land development bank;
- (6) interest income credited or paid by the Central Government under any provision of the Income-tax Act, the Estate Duty Act, the Wealth-tax Act etc.;
- (7) income credited or paid by way of interest on the compensation amount awarded by the Motor Accidents Claims Tribunal where the amount of such income or, as the case may be, the aggregate of the amounts of such income credited or paid during the financial year does not exceed ₹ 50,000;
- (8) income paid or payable by an infrastructure capital company or infrastructure capital fund or public sector company or scheduled bank in relation to a zero coupon bond issued on or after 1.6.2005.

Note – Any five of the above mentioned may be given in the answer.

Question 5

Answer the following question with regard to the provisions of the Income-tax Act, 1961:

State the concessions granted to transport operators onwards in the context of cash payments under section 40A(3) and deduction of tax at source under section 194-C.

Answer

Section 40A(3) provides for disallowance of expenditure incurred in respect of which payment or aggregate of payments made to a person in a day exceeds ₹ 20,000, and such payment or payments are made otherwise than by account payee cheque or account payee bank draft.

However, in case of payment made to transport operators for plying, hiring or leasing goods carriages, the disallowance will be attracted only if the payments made to a person in a day exceeds ₹ 35,000. Therefore, payment or aggregate of payments up to ₹ 35,000 in a day can be made to a transport operator otherwise than by way of account payee cheque or account payee bank draft, without attracting disallowance under section 40A(3).

Under section 194C, tax had to be deducted in respect of payments made to contractors at the rate of 1% in case the payment is made to individual or Hindu Undivided Family or at the rate of 2% in any other case.

However, no deduction is required to be made from any sum credited or paid or likely to be credited or paid during the previous year to the account of a contractor, during the course of the business of plying, hiring or leasing goods carriages, if the contractor furnishes his permanent account number (PAN) to the person paying or crediting such sum.

Question 6

Briefly discuss the provisions relating to payment of advance tax on income arising from capital gains and casual income.

Answer

The proviso to section 234C contains the provisions for payment of advance tax in case of capital gains and casual income.

Advance tax is payable by an assessee on his/its total income, which includes capital gains and casual income like income from lotteries, crossword puzzles, etc.

Since it is not possible for the assessee to estimate his capital gains, or income from lotteries etc., it has been provided that if any such income arises after the due date for any installment, then, the entire amount of the tax payable (after considering tax deducted at source) on such capital gains or casual income should be paid in the remaining installments of advance tax, which are due.

Where no such installment is due, the entire tax should be paid by 31st March of the relevant financial year.

No interest liability on late payment would arise if the entire tax liability is so paid.

Question 7

What are the due dates of installments and the quantum of advance tax payable by companies?

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Answer

The due dates of installments and quantum of advance tax payable by a company assessee are as under:

Due date of installment	Amount payable
On or before the 15 th June	Not less than 15% of advance tax liability
On or before the 15 th September	Not less than 45% of advance tax liability as reduced by the amount paid in earlier installment
On or before the 15 th December	Not less than 75% of advance tax liability as reduced by the amount paid in earlier installments
On or before the 15 th March	The whole amount of advance tax liability as reduced by the amount paid in earlier installments

Question 8

Mrs. Indira, a landlord, derived income from rent from letting a house property to M/s Vaibhav Corporation Ltd. of ₹ 1,00,000 per month. She charged service tax @ 12.36% on lease rent charges. Calculate the deduction of tax at source (TDS) to be made by M/s Vaibhavi Corporation Ltd. on payment made to Mrs. Indira and narrate related formalities in relation to TDS.

Answer

- (1) As per Circular No. 4/2008 dated 28th April, 2008 issued by the CBDT, 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 collection of service tax. Therefore, tax deducted at source under section 194-I would be required to be made on the amount of rent paid or payable excluding the amount of service tax, i.e. tax has to be deducted under section 194-I on ₹ 12 lakh.
- (2) Tax is deductible @ 10% under section 194-I.
- (3) Hence, in the given case, TDS under section 194-I would amount to ₹ 10,000, to be deducted every month.
- (4) Tax deducted should be deposited within prescribed time i.e. on or before seven days from the end of the month in which the deduction is made and upto 30th April for the month of March.

Question 9

Explain the difference between tax deduction at source and tax collection at source.

Answer

Tax deduction at source means any tax which has been deducted at source by the payer at the time of accrual or payment to the payee. Persons responsible for making payment of income covered by the scheme of tax deduction are required to be deducting tax at source at the prescribed rates. Tax so deducted should be deposited within the prescribed time. Tax is largely deducted on expense and not supply of goods.

Tax collection at source is effected by the seller from the buyer at the time of debiting the amount to the account of the buyer or at the time of receipt of amount, whichever is earlier. Certain specified goods when sold must be subjected to tax collection at source and taxes collected thereon must be remitted into government's account within the prescribed time.

EXERCISES

1. Under section 194G, any person making payment by way of commission or remuneration exceeding ₹ 1000 to any person stocking, distributing, purchasing or selling lottery tickets is liable to deduct tax at the rate of -
 - a) 10%
 - b) 20%
 - c) 30%
2. Any person responsible for paying to a resident any sum exceeding ₹ 2 lakh towards compensation for compulsory acquisition of his urban industrial land under any law has to deduct income-tax at the rate of -
 - a) 10%
 - b) 15%
 - c) 20%
3. The rate of TDS on rental payments of plant, machinery or equipment is -
 - a) 2%
 - b) 5%
 - c) 10%
4. For non-payment or short payment of advance tax -
 - a) interest is payable under section 234A
 - b) interest is payable under section 234B
 - c) interest is payable under section 234C
5. For deferment of advance tax -
 - a) interest is payable under section 234A
 - b) interest is payable under section 234B
 - c) interest is payable under section 234C
6. Write short notes on -
 - (a) Certificate for deduction of tax at lower rate
 - (b) Installments of advance tax and due dates for payment of advance tax
 - (c) Payment of advance tax in case of capital gains
7. Explain the meaning of the following terms in the context of section 194J -

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- (a) Professional services
 - (b) Fees for technical services
8. Who are the "persons responsible for paying" taxes deducted at source as per section 204?
 9. Which are the payments for which individuals and HUFs, who are liable to get their accounts audited under section 44AB, are vested with the liability to deduct tax at source? Discuss.
 10. What is the time-limit for passing an order under section 201(1) deeming a person to be an assessee-in-default for failure to deduct tax from a person resident in India?
 11. What are the consequences of failure to deduct tax at source or pay the tax deducted at source to the credit of Central Government?
 12. Briefly explain the provisions of section 197 in respect of obtaining certificate for deduction of tax at a lower rate.
 13. What are the consequences of failure to deduct or pay tax?

Answers

1. a; 2. a; 3. a; 4. b; 5. c.