

(i) such other profession as is notified by the Board for the purpose of section 44AA or of this section.

Notification No. 88/2008 / F.No. 275/43/2008-IT(B), DATED 21-8-08

SECTION 194J OF THE INCOME-TAX ACT, 1961 DEDUCTION AT SOURCE OF TAX NOTIFIED PROFESSIONAL SERVICES

In exercise of the powers conferred by clause (a) of the Explanation to section 194J of the Income Tax Act, 1961, Central Board of Direct Taxes hereby notifies the services rendered by following persons in relation to the sports activities as Professional Services for the purpose of the said section, namely:

Sports Persons,
Umpires and Referees,
Coaches and Trainers,
Team Physicians and Physiotherapists,
Event Managers,
Commentators,
Anchors and
Sports Columnists.

Practical 52

East Bengal Club, a renowned football club, has engaged Raghu, a resident in India, as its coach at a remuneration of Rs. 6 lacs per annum. The club wants to know from you whether it is liable to deduct tax at source from such remuneration.

Solution

- The CBDT has, vide **Notification No.88 dated 21.8.2008**, in exercise of the powers conferred by clause (a) of the Explanation to section 194J has notified the services rendered by coaches and trainers in relation to the sports activities as professional services for the purposes of section 194J.
- Therefore, the club is liable to deduct tax at source under section 194J from the remuneration payable to the Coach, Raghu.

Reader's Note:

Practical 53

Explain in the context of provisions contained in Chapter XVII of the Act and also work out the amount of tax to be deducted by the payer of income in the following cases:.

- (i) Payment of Rs.5 lacs made by JCP & Co. to Mr. Pushpendrasingh for organizing a debate competition on the subject "Preservation of Rural Heritage of Rajasthan".
- (ii) A company operating a television channel makes payment of Rs. 5 lacs to a former cricketer for making running commentary of a one-day cricket match.

Solution

- (i) The services of Event Managers in relation to sports activities alone have been notified by the CBDT as "professional services" for the purpose of section 194J. In this case, payment of Rs. 5 lacs was made to Mr. Pushpendrasingh for organization of a debate competition. Hence, the provisions of section 194J are not attracted.

However, TDS provisions under section 194C would be attracted and consequently, tax has to be deducted @ 1% under section 194C.

The tax deductible under section 194C would be Rs.5,000, being 1% of Rs.5 lacs.

- (ii) The service rendered by a commentator in relation to sports activities has been notified by the CBDT as a professional service for the purposes of section 194J vide its Notification No. 88 dated 21st August, 2008. Therefore, tax is required to be deducted@10% from the fee of Rs.5 lacs payable to the former cricketer.

Reader's Note:**Practical 54**

Siddharth Hospitals Pvt. Ltd., has recently been accorded recognition by several insurance companies to admit and treat patients on cashless hospitalization basis. Payment to the assessee hospital will be made by Third Party Administrators (TPA) who will process the claims of the patients admitted and make payments to the various hospitals including the assessee. All TPAs are corporate entities. The assessee wants to know whether the TPAs are bound to deduct tax at source u/s 194J or u/s 194C?

Solution

- As per provisions of section 194J(1), any person, who is responsible for paying to a resident any sum by way of fees for professional services, shall, at the time of credit of such sum 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 an amount equal to 10% of such sum as TDS.
- Further, as per *Explanation* (a) to section 194J “professional services” includes services rendered by a person in the course of carrying on medical profession.
- This issue has been clarified by the CBDT **Circular No.8/2009 dated 24.11.2009** as under:
The services rendered by hospitals to various patients are primarily medical services and, therefore, the provisions of section 194J are applicable on payments made by TPAs to hospitals etc. Further, for invoking provisions of section 194J, there is no stipulation that the professional services have to be necessarily rendered to the person who makes payment to hospital. Therefore, TPAs who are making payment on behalf of insurance companies to hospitals for settlement of medical/insurance claims etc. under various schemes including Cashless Schemes are liable to deduct tax at source under section 194J on all such payments to hospitals etc.
- In view of the above, TPAs are bound to deduct tax at source u/s 194J and not u/s 194C.

Reader's Note:

(F) Meaning of fees for technical services: It shall have same meaning as given in explanation 2 to section 9(1)(vii).

Practical 55

P Ltd. is engaged in manufacturing of a product. It paid a lump-sum deposit and obtained 50 mobile phone services so that the employees of the assessee can be contacted immediately. The company paid Rs. 45,000 every month towards the service and call charges to the mobile phone franchise. On these facts :

- Whether P Ltd has to deduct tax at source on the payment?
- If so, under which provisions of the Act?

Solution

In this case, the assessee pays the service and call charges every month to a mobile phone franchise. Explanation 2 to section 9(1)(vii) provides that “fees for technical services “ means any consideration (including any lump sum consideration) for the rendering of any managerial ,technical, or consultancy services (including the provision of services of technical and other personnel).

Therefore, mere collection of fee by mobile phone franchise from the customers for use of mobile phone services will not amount to receipt of fees towards technical services. The payment made is for the use of airtime. Installation of technical equipment to ensure connectivity to subscriber cannot make it technical services.