TDS & TCS

UPDATE

- Residents

-Non residents

CA D R VENKATESH
B.Com, LLB, FCA
CA SANDEEP CHALAPATHY
B.Com, FCA
Partners, MSSV & Co
Chartered Accountants, B'lore

Coverage:

- Finance Bill 2022
- Finance Act 2021
- Finance Act 2020
- Finance Act 2019 and earlier Acts
- Circulars / Notifications
- Conclusion

Finance Bill, 2022

- Section 194IA – (Amendment) – w.e.f 01.04.2022
- Section 194IB – (Amendment) – w.e.f 01.04.2022
- Section 194R – (New Section) – w.e.f 01.04.2022
- Section 194S – (New Section) – w.e.f 01.07.2022

Finance Act, 2021

- Section 194P – (New Section) – w.e.f 01.04.2021
- Section 194Q – (New Section) – w.e.f 01.07.2021
- Section 206AB – (New Section) – w.e.f 01.07.2021
- Section 206CCA – (New Section) – w.e.f 01.07.2021

Finance Act, 2020

- Section 194A - (Amendment) - Insertion of new provision 194(3)(V) w.e.f 01.04.2020
- Section 194J - (Amendment) - w.e.f 01.04.2020
- Section 194N - (Restated new provisions) – w.e.f 01.07.2020

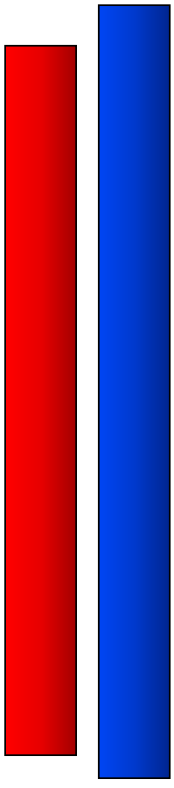
Finance Act, 2020

- Section 194O - (New Section) – w.e.f 01.10.2020
- Section 197B - (New Section) – w.e.f 14.05.2020 to 31.03.2021
- Section 206C(1H)- (New Sub-section) – w.e.f 01.10.2020

Finance Act, 2019

- Section 194IB (Amendment) – w.e.f 01.06.2017
- Section 194IC (Amendment) – w.e.f 01.04.2017
- Section 194M (New Section) – w.e.f 01.09.2019
- Section 194N (New Section) – w.ef 01.09.2019 to 30.06.2020

Finance Bill 2022



Section 194IA :- TDS on Transfer of immovable property (Other than agricultural Land)

- Payer – Buyer - Any person
- Payee – Seller - Any Resident Person
- Rate – 1% of sum or ***Stamp duty Value, Whichever is higher***
- No TDS if consideration for transfer of immovable property ***and the stamp duty value of such property*** is less than 50 Lakhs
- ***Insertion of clause (c) in the explanation:***

'(c) "stamp duty value" shall have the same meaning as assigned to it in clause (f) of the Explanation to clause (vii) of sub-section (2) of section 56.'.

Section 194IB :- TDS on Rent

- (4) In a case where the tax is required to be deducted as per the provisions of section 206AA **[*~~or section 206AB~~***], such deduction shall not exceed the amount of rent payable for the last month of the previous year or the last month of the tenancy, as the case may be.

Section 194R :- TDS on benefit of perquisite in respect of business or profession

- Payer : Any Person
- Payee : Resident
- Rate : 10% of the value or aggregate of value of such benefit or perquisite
- No TDS if,

  a) Benefit or perquisite is upto Rs.20,000 or

  b) The payer is an individual or a HUF, whose total sales, gross receipts or turnover does not exceed 1 Cr in case of business or 50 lakh in case of profession, during the immediately preceding FY

Section 194R :- TDS on benefit of perquisite in respect of business or profession

- In a case where benefit or perquisite is
  a) wholly in kind or
  b) partly in cash and partly in kind

but such part in cash is not sufficient to meet the liability of deduction of tax, the payer shall, before releasing the benefit or perquisite, ensure that tax has been paid in respect of the benefit or perquisite

Section 194S – TDS on Payment on transfer of virtual digital asset

- Payer : Any Person
- Payee : Resident
- Rate : 1% of the sum
- In a case where the consideration for transfer of virtual digital asset is—

(a) wholly in kind or in exchange of another virtual digital asset, where there is no part in cash; or

(b) partly in cash and partly in kind but the part in cash is not sufficient to meet the liability of deduction of tax,

The Payer shall, before releasing the consideration, ensure that tax has been paid in respect of such consideration for transfer

Section 194S – TDS on Payment on transfer of virtual digital asset

- The provisions of sections 203A and 206AB shall not apply to a specified person
- No TDS if,

  a) the consideration is payable by a specified person & value of such consideration does not exceed Rs.50,000 during the FY or

  b) the consideration is payable by any person other than a specified person and the value of such consideration does not exceed Rs.10,000 during the FY
- If TDS is deducted u/s 194S then such transaction shall not be liable to deduction or collection of tax at source under any other provisions of this chapter

Section 194S – TDS on Payment on transfer of virtual digital asset

- Where any sum referred to in sub-section (1) is credited to any account, whether called "Suspense Account" or by any other name, in the books of account of payer, such credit of the sum shall be deemed to be the credit of such sum to the account of the payee and the provisions of this section shall apply accordingly.
- "Specified person" means,
  a) an individual or a HUF, whose total sales, gross receipts or turnover does not exceed 1 Cr in case of business or 50 lakh in case of profession, during the immediately preceding FY
  b) an individual or HUF, not having any income under the head "Profits and gains of business or profession

Section 194S – TDS on Payment on transfer of virtual digital asset

- As per section 2(47A) virtual digital asset" means—

(a) any information or code or number or token(not being Indian currency or foreign currency),generated through cryptographic means or otherwise, by whatever name called, providing a digital representation of value exchanged with or without consideration, with the promise or representation of having inherent value, or functions as a store of value or a unit of account including its use in any financial transaction or investment, but not limited to investment scheme; and can be transferred, stored or traded electronically;

(b) a non-fungible token or any other token of similar nature, by whatever name called;

(c) any other digital asset, as the Central Government may, by notification in the Official Gazette specify

Finance Act 2021

New Section 194P :- Deduction of Tax in case of Specified Senior Citizen

- W.e.f. 01.04.2021
- (1) Notwithstanding anything contained in the provisions of Chapter XVII-B, in case of a specified senior citizen, the specified bank shall, after giving effect to the deduction allowable under Chapter VI-A and rebate allowable under section 87A, compute the total income of such specified senior citizen for the relevant assessment year and deduct income-tax on such total income on the basis of the rates in force.
- (2) the provisions of section 139 shall not apply to a specified senior citizen for the assessment year relevant to the previous year in which the tax has been deducted under sub-section (1).

New Section 194P :- Deduction of Tax in case of Specified Senior Citizen

- "Specified senior citizen" means an individual, being a resident in India–

(i) who is of the age of seventy-five years or more at any time during the previous year;

(ii) who is having income of the nature of pension and no other income except the income of the nature of interest received or receivable from any account maintained by such individual in the same specified bank in which he is receiving his pension income; and

(iii) has furnished a declaration to the specified bank containing such particulars, in such form and verified in such manner, as may be prescribed.

New Section 194Q – Deduction of tax at source on payment of certain sum for purchase of goods.

- W.e.f 01.07.2021
- The buyer has to deduct TDS at the rate of 0.1% if the aggregate purchase value of goods in excess of Rs. 50 Lakhs.
- Buyer means whose total sales, gross receipts or turnover from the business carried on by him exceed Rs.10 crore during the immediately preceding financial year.
- In case seller do not provide PAN, TDS shall be deducted at 5% instead of 0.1%. as per section 206AA.
- If on a transaction TCS is required under section 206C(1H) as well as TDS under this section, then on that transaction only TDS under this section shall be carried out.

New Section 194Q – Deduction of tax at source on payment of certain sum for purchase of goods - Issues

- Mr. A (Seller) whose turnover is 12 crores during the FY ending 31.03.2021
- Mr. B (Buyer) whose turnover is 13 crores during the FY ending 31.03.2021
- Which of the following transactions determine the applicability of section 194Q or section 206C(1H) ?

i. Mr. A sells goods worth Rs.75 lakhs to Mr.B in the month of May 2021

ii. Mr.B purchases fixed assets worth Rs.100 lakhs from Mr.A in the month of June 2021

New Section 194Q – Deduction of tax at source on payment of certain sum for purchase of goods - Issues

iii. Mr.B Purchases fixed assets worth Rs.150 lakhs from 'Mr.C' whose turnover is less than Rs.10 crores for the year ending 31.03.2021

iv. Mr.B's Turnover is more than Rs.10 crores for the year ended 31.03.2021 and his estimated turnover for the year ending 31.03.2022 is less than 10 crores. Whether 194Q is applicable?

New Section 194Q – Deduction of tax at source on payment of certain sum for purchase of goods - Issues

- If a non-resident is a buyer, whether the provisions of section 194Q is applicable to him?
- Whether tax is required to be deducted when the seller is a person whose income is exempt?
- Whether tax is required to be deducted on Advance payment ?
- Whether provisions of section 194Q of the Act is applicable to a buyer in the year of incorporation ?

New Section 194Q – Deduction of tax at source on payment of certain sum for purchase of goods - Issues

- Whether provisions of section 194Q of the Act is applicable to a buyer if the turnover from his business is Rs.10 crores or less?
- The sales/ gross receipts/ turnover from a business carried on by a person must exceed Rs.10 crores. His turnover/receipts from non- business activity should not be counted for this purpose.
- Cross application of sub-section (1H) of section 206C and section 194Q of the Act.

New Section 194Q – Deduction of tax at source on payment of certain sum for purchase of goods - Issues

- Whether this section is applicable to professional payments?
- Whether GST to be included while deducting tax under this section ?
- For determination of turnover of buyer i.e 10 crores, whether GST & other charges levied in the invoice to be included?
- Advance paid by the buyer , whether TDS to be deducted under this section ?

New Section 194Q – Deduction of tax at source on payment of certain sum for purchase of goods - Issues

- Purchases have been made from a seller who has various branches at different states (Separate GSTIN). How to determine the threshold limit of Rs.50 lakhs ? Whether branch wise or all branches together ?
- TDS deducted under this section, subsequently purchases are returned. How to deal with this type of situation ?
- Purchases from APMC agents, whether this section is applicable ?

New Section 206AB – Deduction of tax at source for non-filers of Income Tax return

- W.e.f 01.07.2021
- Tax is required to be deducted at source under the provisions of chapter XVIIB, other than sections 192, 192A, 194B, 194BB, 194LBCor 194N
- Payments made to following "Specified persons" on which TDS provisions apply

a. Who has not filed return of income for both the previous years preceding the previous year in which tax is required to be deducted.

New Section 206AB – Deduction of tax at source for non-filers of Income Tax return

b. TDS or TCS of such person is more than Rs.50,000 in each year for such 2 previous years.

- TDS shall be at the higher of the following rates:

  (i) at twice the rate specified in the relevant provision of the Act; or

  (ii) at twice the rate or rates in force; or

  (iii) at the rate of five per cent.

New Section 206AB – Deduction of tax at source for non-filers of Income Tax return: Issues

- Whether returns to be filed for both the years ?
- Whether TDS or TCS has to be more than Rs.50,000 in each year for 2 years ?
- Whether this section is applicable to a person who is not required to file return of income u/s 139 or who has started the business a year back ?
- Whether this section is applicable, where the payment / credit to a person is less than threshold limit under TDS provisions ?

New Section 206CCA – Collection of tax at source for non-filers of Income Tax return

- W.e.f 01.07.2021
- Amounts received from following "Specified persons" on which TCS provisions apply

a) Who has not filed return of income for both previous years preceding the the previous year in which tax is required to be collected.

b) TDS or TCS of such person is more than Rs.50,000 in each year for such 2 previous years.

New Section 206CCA – Collection of tax at source for non-filers of Income Tax return

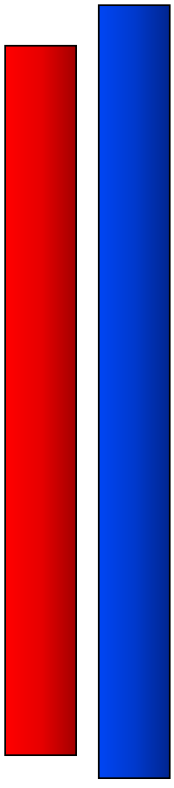
- TCS shall be at the higher of the following rates:

  (i) at twice the rate specified in the relevant provision of the Act; or

  (ii) at twice the rate or rates in force; or

  (iii) at the rate of five per cent.

Finance Act 2020



Section 194N(Re-stated New Provision) :-Payment of certain amounts in cash

- W.e.f 01.07.2020
- Provided that in case of a recipient who has not filed the returns of income for all three previous years immediately preceding the previous year in which the payment of sum is made to him, the provision of this section shall apply with the following modification:
  - The sum shall be the amount or the aggregate of amounts in CASH exceeding twenty lakh rupees.

Section 194N (Amendment) :-

Payment of certain amounts in cash

- The deduction shall be-

  - 2% if amount is exceeding twenty lakh rupees but up to one crore rupees.

  - 5% if amount is exceeding one crore rupees

Section 194N (Amendment) :- Payment of certain amounts in cash: Issues

1. Whether specified person should collect in details of return of income filed ?
2. Whether this provision is applicable to each bank or all accounts together ?

Section 194A (Amendment):-Interest other than " Interest on securities"

- W.e.f 01.04.2020
- Section 194A(3)(V) – Exemption

V) To such income credited or (paid by a co-operative society (other than a co-operative bank) to a member thereof or to such income credited or paid by a co-operative society) to any other co-operative society

- Proviso to section 194A(3)(V) w.e.f 1st April 2020

Section 194A (Amendment):-Interest other than " Interest on securities"

- Provided that a co-operative society referred to in clause (v) or clause (viia) shall be liable to deduct income-tax in accordance with the provisions of sub-section (1), if—

  (a) the total sales, gross receipts or turnover of the co-operative society exceeds fifty crore rupees during the financial year immediately preceding the financial year in which the interest referred to in sub-section (1) is credited or paid; and

Section 194A (Amendment):-Interest other than " Interest on securities"

(b) the amount of interest, or the aggregate of the amounts of such interest, credited or paid, or is likely to be credited or paid, during the financial year is more than fifty thousand rupees in case of payee being a senior citizen and forty thousand rupees in any other case.]

Section 194J (Amendment):-Fees for professional or technical services

- W.e.f 01.04.2020
- TDS on payments towards Technical services and Royalty is reduced to **2%** w.e.f 01.04.2020 (previously 10%)
- TDS on payments towards Professional services continues to be at **10%**

New Section 194O:- Payment of certain sums by E-commerce operator to E-commerce participant.

- W.e.f 01.10.2020
- E-commerce operator shall deduct TDS on E-commerce participant (seller / service provider) at the time of payment or credit for sale of goods or service or both.
- Rate of TDS: 1% of the gross amount of sale of goods or service or both.

New Section 194O:- Payment of certain sums by E-commerce operator to E-commerce participant.

- No deduction under this section shall be made if e-commerce participant, being an individual or Hindu undivided family, where the gross amount of such sale or services or both during the previous year does not exceed five lakh rupees.

New Section 197B :-Lower deduction in certain cases for a limited period

- W.e.f 14th May 2020 to 31st March 2021
- In case the provisions of sections 193, 194, 194A, 194C, 194D, 194DA, 194EE, 194F, 194G, 194H, 194-I, 194-IA, 194-IB, 194-IC, 194J, 194K, 194LA, 194LBA(1), 194LBB(i), 194LBC(1), sections 194M and 194-O require deduction of tax at source during the period commencing from the 14th May 2020 to 31st March 2021, then notwithstanding anything contained in these sections the deduction of tax shall be made at the rate being the three-fourth of the rate specified in these sections.

New Sub-Section 206C(1H):-

- W.e.f 01.10.2020
- Applicability – Turnover of the seller is more than Rs.10 Crores in the Previous year ended 31st March 2020.
- Every person, being a seller, who receives any amount as consideration for sale of any goods of the value or aggregate of such value exceeding fifty lakh rupees in any previous year shall collect tax from the buyer at 0.1% of the sale consideration exceeding fifty lakhs.

New Sub-Section 206C(1H):-

- **Non-inclusions**

- Goods specified under sub-section 1, 1F and 1G of section 206C.
- Transactions covered by TDS provisions
- Export sales
- The buyer is either Central Government, a State Government, an embassy, a High Commission, legation, commission, consulate and the trade representation of a foreign State, local authority or any other entities notified by Central Government.

New Sub-Section 206C(1H):- Issues

- (a) Whether the seller should collect tax on receipts from 1-4-2020 to 30-9-2020?
- (b) Whether there is a basic exemption of Rs 50 lakh meaning whether tax is to be collected only in excess of Rs 50 lakh in a financial year ?
- (c) Whether the threshold limit of collection of Rs.50 lakh is to be reckoned from 01-04-2020 or from 1-10-2020 ?
- (d) Whether this section is applicable where Sales done is earlier to 01-10-2020 but amount received is after 01-10-2020?

Finance Act 2019 & earlier Acts

Section 194IB(New section):- Payment of rent by certain individuals or HUF

- W.e.f 01.06.2017
- Rent exceeding Rs.50,000 per month
- TDS @ 5%
- TDS at the time of last month of previous year or last month of tenancy.
- The provisions of section 203A shall not apply

Section 194IB(New section):- Payment of rent by certain individuals or HUF : Issues

1. Whether this section is applicable to salaried individuals , non- business assessee (other than those referred in the proviso to section 194-I) ?
2. Whether rent is for residence or commercial purpose?

Section 194IC (New section):-Payment under specified agreement

- W.e.f 01.04.2017
- Any sum by way of consideration not being consideration in kind
- Agreement referred to in section 45(5A) - Specified agreement
- At the time of payment in cash or issue of cheque or draft or by any other mode
- At the rate of 10%

New Section 194M :- Payment of certain sums by certain individuals or HUF

- W.e.f 01.09.2019
- Payer being Individual or HUF other than those covered u/s 194C, 194H and 194J has to deduct tax @ **5%** on payment made to any resident person for carrying out any work (including supply of labour for carrying out any work) in pursuance of a contract or by way of commission or brokerage or fees for professional services
- Threshold limit – 50 Lakhs

New Section 194M :- Payment of certain sums by certain individuals or HUF: Issues

1. Whether threshold limit of Rs.50 lakhs is applicable to each Payment of expenses covered u/s 194C, 194H or 194J ?
2. Whether this section is applicable to individuals or HUF, salaried persons , non- businesses assessee ?

New Section 194N :- Payment of certain amounts in cash

- W.e.f 01.09.2019 to 30.06.2020
- Payer being Banks, Co-operative Banks or Post office has to deduct tax @ **2%** on payment made to any person
- TDS is applicable only if payer paying sum or aggregate of sum in CASH is in excess of Rs.1 Crore in P.Y from one or more accounts maintained by Payee.
- TDS applicable only on excess of amount over 1 Crore.

New Section 194N :- Payment of certain amounts in cash

- This section is not applicable if Payee is Government, Bank, Co-operative Bank, Post office or White Label ATM Operator or any other person may be notified by RBI.
- The CBDT, hereby clarifies that section 194N inserted in the Act, is to come into effect from 1st September, 2019. Hence, any cash withdrawal prior to 1st Sep 2019

New Section 194N :- Payment of certain amounts in cash

will not be subjected to the TDS under section 194N. However, since the threshold of Rs. 1 crore is with respect to the previous year, calculation of amount of cash withdrawal for triggering deduction under section 194N of the Act shall be counted from 1st April, 2019.

Circulars / Notifications

Circulars/ Notifications:-

- **Circular No. 11 of 2021** dated 21st June 2021- regarding use of functionality under Section 206AB and 206CCA of the Income-tax Act, 1961- reg.

- **Circular No. 14/2020** dated 20th July 2020 - Clarification in relation to notification issued under clause (v) of proviso to section 194N of the Income-tax Act, 1961 (the Act) prior to its amendment by Finance Act, 2020 (FA, 2020)-Reg.

Circulars/ Notifications:-

- **Circular No. 17 of 2020** dated 29th September 2020 - Guidelines under section 194-0 (4) and section 206C (1-1) of the Income-tax Act, 1961 -reg.

- **Circular No. 23 /2017** dated 19th July 2017 - Modification of Circular No.1 of 2014 in view of substitution of Service Tax by Goods and Services Tax (GST).
- **Circular No.13/2021** dated 3rd June 2021 – Guidelines under section 194O of the Income-tax Act, 1961 - reg

Obligation:-

- Deduct
- Remit
- File returns
- Issue certificates

Consequences:-

- Interest u/s 201(1A)
- Disallowance
- Penalty
- Prosecution

TDS & TCS

THANK YOU

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