

17. TAX DEDUCTED AT SOURCE**PROBLEM NO.1**

- a) Since the rent paid for hire of machinery by B. Ltd. To Mr. Raman exceeds Rs. 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:

$$= \text{Rs. } 2,10,000 \times 2\% = \text{Rs. } 4200.$$

Note: In case Mr. Raman does not furnish his permanent account number to B Ltd., tax shall be deducted @ 20% on Rs. 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.

PROBLEM NO.2

- i) Since the sale consideration of house property exceeds Rs. 50 lakh, Mr. David is required to deduct tax at source under section 194-IA at the time of credit of such sum to the account of Mr. Jack or at the time of payment, whichever is earlier. Tax @ 1% of the sale consideration is required to be deducted by Mr. David under section 194-IA.

$$\text{Tax deductible under section 194-IA} = \text{Rs. } 75 \text{ lakh} \times 1\% = \text{Rs. } 75,000$$

- ii) As per section 194LA, tax shall be deducted at source @ 10%, if the compensation / consideration or enhanced compensation/consideration on compulsory acquisition of immovable property (other than agricultural land) during the year exceeds Rs. 2,50,000. Therefore, in this case, since there has been a compulsory acquisition of urban land, tax has to be deducted at source under section 194LA.

$$\text{Tax deductible under section 194LA} = \text{Rs. } 3,50,000 \times 10\% = \text{Rs. } 35,000$$

- iii) Payments made to a non-resident entertainer, shall be subject to tax deduction @ 20% under the provisions of section 194E plus education cess@2% and secondary and higher education cess@1%.

$$\text{Tax deductible under section 194E} = \text{Rs. } 40 \text{ lakh} \times 20.6\% = \text{Rs. } 8,24,000$$

- iv) As per section 194J, a company shall be liable to deduct tax at source @ 10% on any remuneration or fees or commission paid to a director, on which the tax is not deductible under section 192. The limit of Rs. 30,000 under section 194J is not applicable on any remuneration or fees or commission payable to director of a company.

$$\text{Tax deductible under section 194J} = \text{Rs. } 25,000 \times 10\% = \text{Rs. } 2,500$$

PROBLEM NO.3

a)

- i) Section 194A requiring deduction of tax at source on any income by way of interest, other than interest on securities, credited or paid to a resident, excludes from its scope, income credited or paid by a firm to its resident partner. Therefore, no tax is required to be deducted at source under section 194A on interest on capital of Rs. 25,000 and Rs. 30,000 paid by the firm, M/s Duplicate, to its resident partners Mr. Vikul and Mr. Rahul.

- ii) 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 Taneja (HUF) is liable to tax audit in the immediately preceding financial year, the liability to deduct tax at source under section 194J is not attracted in this case since, the fees for professional service paid to Dr. Kunal Garg is for personal purpose i.e. for the purposes of surgery on a member of the family.

- iii) Since the annual premium exceeds 10% of sum assured in respect of a policy taken on 1.4.2012, the maturity proceeds of Rs. 5.50 lakhs are not exempt under section 10(10D) in the hands of Mr. Dheeraj, a resident individual. Therefore, tax is required to be deducted @1% under section 194DA on the maturity proceeds of Rs. 5.50 lakhs payable to Mr. Dheeraj.

b)

- i) **False:** Section 140(b) provides that where the Karta of a HUF is absent from India, the return of income can be verified by any other adult member of the family; such member can be a male or female member.

PROBLEM NO.4

- i) Since the sale consideration of house property exceeds Rs. 50 lakh, Mr. Siddharth is required to deduct tax at source under section 194-IA. The tax to be deducted under section 194IA would be Rs. 80,000, being 1% of Rs. 80 lakh.

TDS provisions under section 194-IA are not attracted in respect of transfer of rural agricultural land.

- ii) As per section 194J, liability to deduct tax is attracted only in case the payment made as fees for professional services and royalty, individually, exceeds Rs. 30,000 during the financial year. In the given case, since, the individual payment for fee of Rs. 28,000 for professional services and royalty of Rs. 25,000 is less than Rs. 30,000 each, there is no liability to deduct tax at source. It is assumed that no other payment towards fees for professional services and royalty were made during the year to Mr. Varun.

- iii) Section 194-I, which requires the deduction of tax at source on payment of rent exceeding Rs. 1,80,000 per annum is applicable to all persons other than individuals and HUF's, who are not subject to tax audit in the immediately preceding financial year. Therefore, the TDS provisions under section 194-I are applicable in respect of rental payments made by a bank. However, under section 196, payments made to Government are exempt from the application of provisions of tax deduction at source.

Hence, Punjab National Bank is not required to deduct tax at source on payment of Rs. 1,00,000 per month as rent to Central Government.

- iv) 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 Rs. 2,50,000.

In the given case, no liability to deduct tax at source is attracted as the payment made does not exceed Rs. 2,50,000.

PROBLEM NO.5

Since the turnover of Mr. Bharghav for F.Y.2016-17, i.e., Rs. 205 lakhs, has exceeded the monetary limit of Rs. 100 lakhs prescribed under section 44AB, he has to comply with the tax deduction provisions during the financial year 2017-18, subject to, however, the exemptions provided for under the relevant sections for applicability of TDS provisions.

- i) **Interest paid to Indian Bank on term loan**

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

- ii) **Advertisement expenses to R (two individual payments of Rs. 24,000 and Rs. 34,000)**

Under section 194C, the provisions for tax deduction at source would not be attracted if the amount paid to a contractor does not exceed Rs. 30,000 in a single payment or Rs. 100,000 in the aggregate during the financial year. Therefore, provisions for deduction of tax at source under section 194C are not attracted in respect of payment of Rs. 24,000 to R.

However, payment of Rs. 34,000 to R would attract TDS@1% under section 194C, since it exceeds Rs. 30,000. The tax to be deducted would be Rs. 340, being 1% of Rs. 34,000.

iii) Factory rent of Rs. 1,85,000 paid to C

Tax has to be deducted under section 194-I as the rental payment exceeds Rs.1,80,000. The tax to be deducted is Rs. 18,500, being 10% of Rs. 1,85,000.

iv) Brokerage of Rs. 16,000 paid to B, a sub-broker

Tax has to be deducted@5% under section 194-H as the brokerage exceeds Rs.15,000 during the F.Y. 2017-18. The tax to be deducted is Rs. 800, being 5% of Rs. 16,000.

Note: students are advised to change the total turnover years for 2015-16, 2015-16 as 2016-17 and 2017-18 respectively.

PROBLEM NO.6

- a) Section 194E provides that the person responsible for payment of any amount to a non-resident sportsman for contribution of articles relating to any game or sport in India in a newspaper, has to deduct tax at source @ 20%. Further, since Jacques Kallis, a South African cricketer, is a non-resident, education cess @2% and secondary and higher education cess @1% on TDS should also be added.

Therefore, tax to be deducted = Rs. 27,000 x 20.60% = Rs. 5,562.

- b) As per section 194-I, tax is to be deducted at source @ 2% on payment of rent for use of plant and machinery, only if the payment exceeds Rs. 1,80,000 during the financial year.

Since rent of Rs. 1,70,000 paid by a partnership firm does not exceed Rs.1,80,000, tax is not deductible under Sec.194-I but the same shall be subjected to Sec.194C deduction.

- c) Under section 194BB, tax is to be deducted at source, if the winnings from horse races exceed 10,000. The rate of deduction of tax at source is 30%. Assuming that winnings are paid to the residents, education cess@2% and secondary and higher education cess@1% has not been added to the tax rate of 30%.

Hence, tax to be deducted = Rs. 1,50,000 x 30% = Rs. 45,000.

- d) 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 required to deduct tax at source @ 10%, if such payment or the aggregate amount of such payments to the resident during the financial year exceeds Rs. 2,50,000.

In the given case, there is no liability to deduct tax at source as the payment made to Mr. A does not exceed Rs. 2,50,000.

PROBLEM NO.7

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 Rs. 10,000, and such payment or payments are made otherwise than by account payee cheque or account payee bank draft or use of electronic banking system.

However, in case of payment made to transport operators for plying, hiring or leasing goods carriages, the disallowance will be attracted only if the payment(s) made to a person in a day exceeds Rs. 35,000. Therefore, payment or aggregate of payments up to Rs. 35,000 in a day can be made to a transport operator otherwise than by way of account payee cheque or account payee bank or use of electronic banking system, 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 following conditions are fulfilled:-

- (1) He owns ten or less goods carriages at any time during the previous year.
- (2) He is engaged in the business of plying, hiring or leasing goods carriages;
- (3) He has furnished a declaration to this effect along with his PAN.

Problem No.8

1. ABC Co-operative Bank has to deduct tax at source@10% on the interest of Rs. 45,000 ($9\% \times \text{Rs. } 10 \text{ lakh} \times \frac{1}{2}$) under section 194A. The tax deductible at source under section 194A from such interest is, therefore, Rs. 4,500.
2. XYZ Bank has to deduct tax at source@10% under section 194A, since the aggregate interest on fixed deposit with the three branches of the bank is Rs. 20,250 [$1,00,000 \times 3 \times 9\% \times 9/12$], which exceeds the threshold limit of Rs. 10,000. Since XYZ Bank has adopted CBS, the aggregate interest credited/paid by all branches has to be considered. Since the aggregate interest of Rs. 20,250 exceeds the threshold limit of Rs. 10,000, tax has to be deducted@10% under section 194A.
3. Tax has to be deducted under section 194A by PQR Bank on the interest of Rs. 10,400 falling due on recurring deposit on 31.3.2018 to Mr. Rajesh, since –
 - a) “recurring deposit” is included in the definition of “time deposit”; and
 - b) Such interest exceeds the threshold limit of Rs.10,000.

THE END

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