



Webinar

Changes in TDS & TCS Provisions

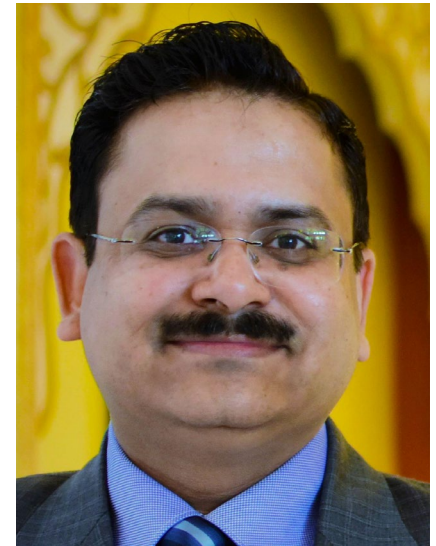
Knowledge partner

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About CA. Deepak Bhholusaria

- Mr. Deepak Bhholusaria is a commerce graduate and fellow member of the Institute of Chartered Accountants of India.
- He has also completed various certificate courses of ICAI on Indirect taxes, Blockchain, Information Systems Audit and Valuation.
- A seasoned professional, author, speaker, public figure and YouTuber with 21+ years of experience.



COVID-19 changes

Changes made by 2020 ordinance

Read with Not. 35/2020

Changes in due date of Q4 TDS returns

Statement	Old due date	New Due date
24Q	31-05-2020	31-07-2020
26Q		
27Q		
27EQ	15-05-2020	31-07-2020

Section 3(1)(b) of The Taxation and Other Laws (Relaxation of Certain Provisions) Ordinance, 2020 read with notification no. 35/2020 dated 24th June 2020

Changes in due date of deposit of TDS for March 2020



Section	Old due date	New Due date
192 (Salaries)	30-04-2020 (if paid/deducted in March) 07-05-2020 (if paid/deducted in April)	No change
Others	30-04-2020	No Change

Changes in due date of TDS returns of 2020-21 (Q1 ~ Q3)



Statement Q1	Old due date	New Due date
24Q, 26Q and 27Q	31-07-2020	31-03-2021
27EQ	15-07-2020	31-03-2021

Statement Q2	Old due date	New Due date
24Q, 26Q and 27Q	31-10-2020	31-03-2021
27EQ	15-10-2020	31-03-2021

Statement Q3	Old due date	New Due date
24Q, 26Q and 27Q	31-01-2021	No change
27EQ	15-01-2021	No change

First para of notification no. 35/2020 dated 24th June 2020

Changes in rate of interest for late deposit of TDS



Due date to deposit tax falls within	Actual date of deposit of tax	Regular interest	Revised Interest
20-03-2020 ~ 29-06-2020 (or extended)	On or before 30-06-2020*	1.5% p.m or part of the month	0.75% p.m or part of the month (50% waiver)
	On or After 01-07-2020		1.5% p.m or part of the month (No benefit)

*** Additional benefit of no-penalty and no-prosecution**

Case study on interest

TDS deducted u/s 194J

Event	Date
Date of payment or credit	28-02-2020
Date of actual deduction	31-03-2020
Actual date of deposit of TDS	15-06-2020

Period	Applicable Rate of Interest	Remarks
28-02-2020 ~ 31-03-2020	1% p.m.	Late deduction
31-03-2020 ~ 15-06-2020	0.75% p.m.*	Late deposit

* Provided tax has been deposited on or before 30-06-2020

Case study on interest



TDS deducted u/s 192

Event	Date
Salary for Feb 2020, paid in March 2020	07-03-2020
Date of actual tax deduction	30-04-2020
Actual date of deposit of TDS	15-06-2020

Period	Applicable Rate of Interest	Remarks
07-03-2020 ~ 30-04-2020	1% p.m.	Late deduction
30-04-2020 ~ 15-06-2020	0.75% p.m.*	Late deposit

* Provided tax has been deposited on or before 30-06-2020

[Proposed] Changes by Press Release dated 13th May 2020

Payments / Credits to RESIDENTS

- a. Rate of TDS/TCS on regular prescribed rates have been reduced by 25%.
- b. No benefit for certificate u/s 197/197A.
- c. Payment must be to residents, non-residents not covered.
- d. Salaries are not covered.
- e. Payment / Credit (i.e. the event to trigger deduction) must be between 14th May 2020 to 31st March 2021.

👉 Please note no legislative amendment has been carried out yet.

Case study



TDS deducted u/s 194J

Event	Date
Provision made for consultancy fee to Adv	1,00,000
Actual invoice for consultancy fee to Adv	1,25,000
Provision date	31-03-2020
Invoice date	01-07-2020

Event date	Amount	Applicable TDS rate
31-03-2020	1,00,000	10%
01-07-2020 (or actual date of booking)	25,000	7.5%

Changes in Rule 31A



Rule 31A(4)(x) ~ (xii)

(4) The deductor at the time of preparing statements of tax deducted shall,—

furnish particulars of amount paid or credited on which *tax was not deducted* or *deducted at lower rate*

- in view of the notification issued under sub-section (5) of section 194A.
- under sub-section (2A) of section 194LBA.
- in view of clause (a) or clause (b) of sub-section (1D) of section 197A.

Section 194A(5) & 194LBA(2A)

Section 194A(5)

(5) The Central Government may, by notification in the Official Gazette, provide that the deduction of tax shall not be made or shall be made at such lower rate, from such payment to such person or class of persons, as may be specified in the said notification.

Section 194LBA(2A)

(2A) Nothing contained in sub-sections (1) and (2) shall apply in respect of income of the nature referred to in sub-clause (b) of clause (23FC) of section 10, if the special purpose vehicle referred to in the said clause has not exercised the option under section 115BAA.

Section 197A (1D)



(1D) Notwithstanding anything contained in this section, no deduction of tax shall be made by the Offshore Banking Unit from the interest paid—

- (a) on deposit made on or after the 1st day of April, 2005, by a non-resident or a person not ordinarily resident in India; or*
- (b) on borrowing, on or after the 1st day of April, 2005, from a non-resident or a person not ordinarily resident in India.*

Finance Act 2020 changes

TDS



192 – Salaries

Section 115BAC

New scheme of taxation



- An option has been given to individual to calculate the tax as per the new rate prescribed.
- However the old tax rates would also be available and the assessee can change the option before filing of return u/s 139(1).

Circular C1/2020 dated 13-04-2020



- Employee may file declaration with his employer if he wants to opt for new scheme.
- If no declaration is filed, employer to deduct TDS as per old scheme of taxation.
- Declaration once filed with employer can not be changed.
- Declaration is only for the purpose of TDS and employee still has the option to change scheme of taxation at the time of filing of return.

ESOPs

Sweat Equity / ESOPs

- When stock options are exercised by employees (*i.e. at the time of allotment of shares*), following is treated as perquisite u/s 17

$$\text{Perk} = \text{FMV of option/share} (-) \text{Actual issue/exercise price}$$

- Employer is required to deduct tax on this perk value u/s 192 at the time of allotment.

Sweat Equity / ESOPs

- Now in case of eligible start-up u/s 80-IAC, TDS deduction event shall occur/deferred to 14 days after earliest of the followings:
 - i. Expiry of 48 months from the end of the relevant assessment year when such options were exercised; or
 - ii. Date of the sale of such specified security or sweat equity share by such employee; or
 - iii. Date of termination of employment of such employee
- Tax rates of original period shall apply, i.e. when income had accrued.

Dividends u/s 194

Dividends u/s 194

- After the omission of Sec 115-O, the companies are not liable to pay dividend distribution tax and the consequential change took place in this section also.
- Further, the companies making arrangement for declaration and payment of dividend shall, before making any payment, deduct TDS @ 10% (earlier it was at the rates in force)
- Threshold for Individual : Rs. 5,000/- (earlier it was 2,500/-)

Applicability of TDS to Individuals and HUFs

TDS by Individuals and HUF

- Till now, in section **194A, 194C, 194H, 194I & 194J** - Individuals or HUF, whose total sales, gross receipts, or turnover from the business or profession carried on by him exceeded the monetary limits specified in Sec 44AB(a)/(b) during the FY immediately preceding the FY were liable to deduct tax.
- Now rather than referring to section 44AB(a) or (b), monetary limit of 1cr for business and 0.50 cr for profession has been specified in respective sections itself.
- This change was necessitated because of insertion of 2 provisos in in section 44AB w.e.f. AY 2020-21

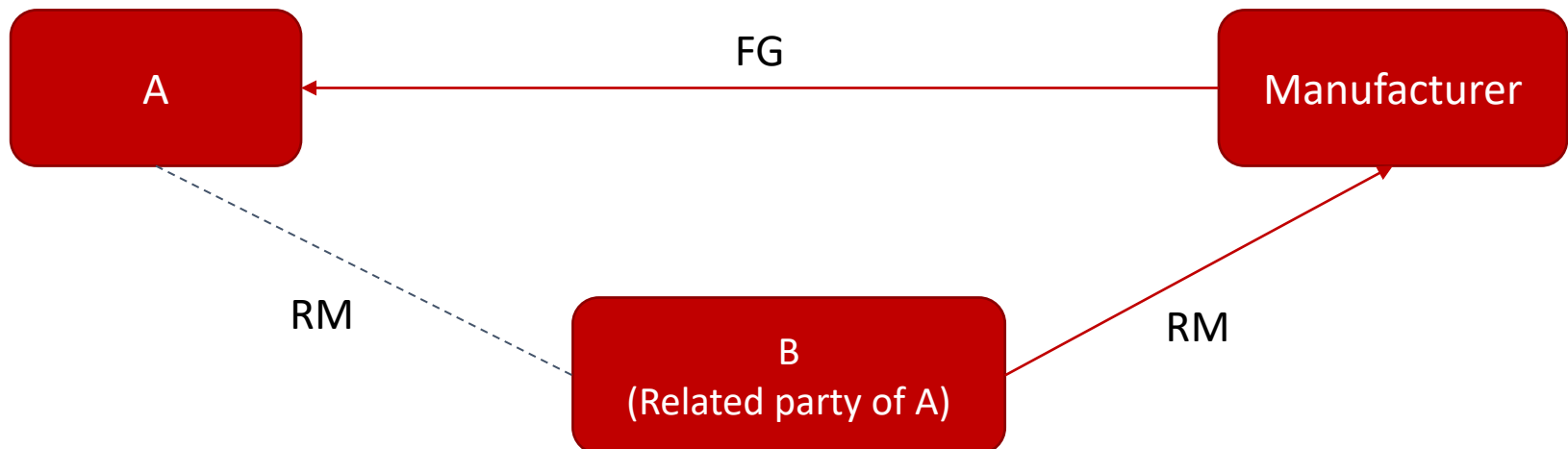
Section 194C

Contract manufacturing

- Current definition of “work” includes OEM manufacturing
- by using material purchased from such customer
- but excluded if material is not purchased directly from such customer

Contract manufacturing

- Some assesses were using the escape clause of the section by getting the contract manufacturer to procure the raw material supplied through its related parties.
- As a result, a substantial amount of income was escaping the tax net.

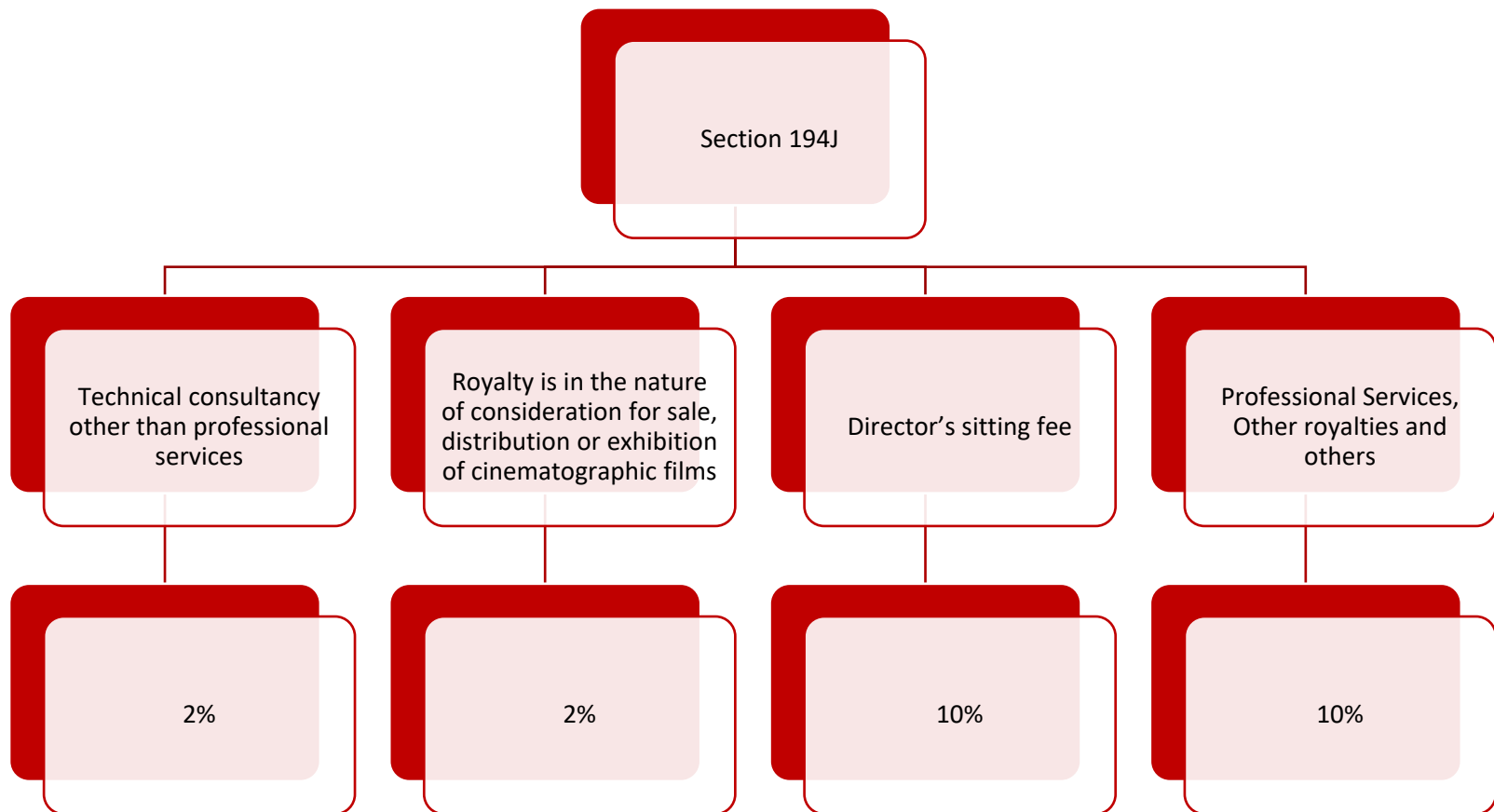


Payment to contractors

- Definition of “work” has been amended for the purpose of TDS under section 194C
- To provide that in a contract manufacturing, the raw material provided by the **assessee or its associate** shall fall within the purview of the ‘work’ under section 194C

Section 194J

Fees for professional or technical services



Section 194K

New Section 194K

- TDS would be deducted @ 10% on any income in respect of :
 - a. units of a Mutual Fund as per Sec 10(23D); or
 - b. units from the Administrator of the specified undertaking; or
 - c. units from the specified company.
- Threshold limit : Rs. 5000; or,
- No TDS if the income is of the nature of capital gains (on redemption of units)

Section 194N

Payment of amount in cash Sec 194N

Tax shall be deducted @ 2% on payment of cash (*in simple terms cash withdrawals*) **exceeding 1 crore** rupees during the previous year, to any person from one or more accounts maintained by the recipient with:

- a banking company
- a co-operative society
- a post office,

Payment of amount in cash Sec 194N

- If the recipient (*basically account holder*) has not filed ITR continuously for Three (3) AY, then threshold and TDS rate will be as follows-

Withdrawal Amount	TDS rate %
Upto 20 lacs	Nil
20 lacs – 1 cr	2%
More than 1 cr	5%

Section 1940

e-commerce Operator Sec 194-O

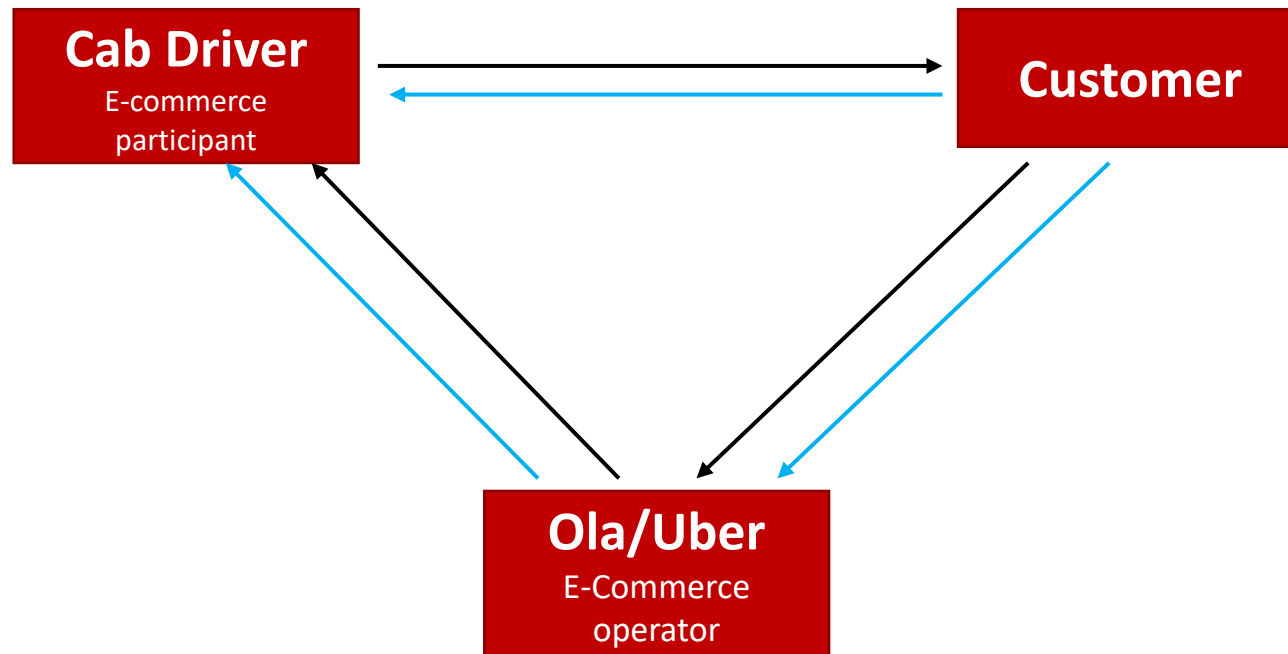


- Where the sale of goods or services
- of an e-commerce participant
- is facilitated by an e-commerce operator
- through its digital platform,
- such e-commerce operator shall,
- at the time of credit of amount of sale or services or both to the account of an e-commerce participant; or at the time of payment thereof to such e-commerce participant by any mode, whichever is earlier,
- deduct income-tax @ 1% of the gross amount of such sales or services or both.

e-commerce Operator Sec 194-O

- TDS not to be deducted when:
 - The e-commerce participant is Individual or HUF.
 - The gross amount of such sale during the previous year does not exceed 5 lakh rupees; and,
 - such e-commerce participant has furnished his PAN or Aadhaar number to the e-commerce operator.
- If there no PAN or Aadhar, the TDS shall be deducted @ 20% as per Sec 206AA.
- A transaction in respect of which TDS has been deducted u/s 194-O or is covered by threshold of 5 lacs, will not be covered by any other TDS provisions

e-commerce Operator Sec 194-O



e-commerce Operator Sec 194-O

- “e-commerce operator” means a person who owns, operates or manages digital or electronic facility or platform for electronic commerce.
- “e-commerce participant” means a person resident in India selling goods or providing services or both, including digital products, through digital or electronic facility or platform for electronic commerce;

Question: What if ECO is non-resident?

Tax collection at Source

206C(1G): Liberalised Remittance Scheme (LERMS)

Threshold: Rs. 7 lacs

TCS Rate : 5% (Normal), 1% if remittance is out of a loan obtained from any financial institution as defined in section 80E, for the purpose of pursuing any education outside India

1. When the person makes the payment to the Authorised Dealer (AD) for remittance out of India under LRS scheme of RBI.
2. As per prevailing regulations, resident individuals may remit up to \$250,000 per financial year. Under the scheme money can be used to pay expenses related to travelling (private or for business), medical treatment, studying, gifts and donations, maintenance of close relatives etc.
3. The remitted amount can also be invested in shares, debt instruments, and be used to buy immovable properties in overseas market.

206C(1G): Packaged tour

TCS Rate : 5% ● Threshold: Nil

Applicable on: Sale of overseas tour programme package

Collector: Seller of package tour

When: Receives any amount from a buyer, being the person who purchases such package,

Sec 206C (1G) Liberalised Remittance Scheme

- “authorised dealer” means a person authorised by the Reserve Bank of India under sub-section (1) of section 10 of the Foreign Exchange Management Act, 1999 to deal in foreign exchange or foreign security;
- “overseas tour program package” means any tour package which offers visit to a country or countries or territory or territories outside India and includes expenses for travel or hotel stay or boarding or lodging or any other expenditure of similar nature or in relation thereto.

Sec 206C (1H) TCS on sale of goods

- This section is applicable when the consideration is received by the seller towards sale of goods of 50 Lakh rupees or more during the previous year.
- The TCS @ 0.1% shall be collected from the buyer at the time of receipt of such amount.
- The buyer has to provide PAN or Aadhar number to the seller. Failing to do so, the TCS rate would be 1% instead of 0.1%.
- *This section is not applicable when a person importing goods into India.*

Sec 206C (1H) TCS on sale of goods

- “seller” means a person whose total sales from the business carried on by him exceed 10 crore rupees during the financial year immediately preceding the financial year in which the sale of goods is carried out.
- Seller may be resident or non-resident.
- Applicable when the seller is resident and buyer is non-resident.
- Applicable when the seller is non resident having a place of business in India and the buyer is non-resident.



Questions

Thanks for your time!

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