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TDS on Rent by Certain Individual or HUF

Section 194-IB provides that every Individual and HUF, whose turnover or gross receipt from business or profession doesn't exceed Rs. 1 crore in case of business and Rs. 50 lakhs in case of a profession in the immediately preceding financial year, shall deduct tax from the payment of rent for use of any land or building or both. The tax shall be deducted at the rate of 2% if the rent paid or payable exceeds Rs. 50,000 per month or part of the month.

Deductor

Every Individual or HUF shall be required to deduct tax at source under this provision if his gross receipts or turnover in the financial year immediately preceding the financial year, in which rent is paid or credited, does not exceed Rs. 1 crore in the case of business and Rs. 50 lakhs in case of a profession.

The tax shall be deducted under this provision even if the individual is not engaged in any business or profession and he is just earning salary or any other income.

Further, there is no requirement to apply or obtain Tax Deduction or Collection Account Number (TAN) for deducting tax under this section. Hence, a deductor can use his PAN in place of TAN.

Rent means any payment under any lease, sub-lease, tenancy, or any other agreement or arrangement for use of any land or building or both.

Deductee

Tax is required to be deducted only if the rent is paid or payable to a person who is resident in India. The tax shall be deducted under Section 195 if the sum is payable to a non-resident.

Time of Deduction

If tenancy subsists till the last month of the year

The tax shall be deducted at the time of payment or credit of rent to the account of the payee for the last month of the financial year, whichever happens earlier.

If the property is vacated during the year

If the property is vacated during the year, tax shall be deducted at the time of payment or credit of rent to the account of the payee for the last month of tenancy, whichever happens earlier.

Rate of TDS and threshold limit

The tax shall be deducted at the rate of 2% if the amount of rent exceeds Rs. 50,000 for a month or part of the month during the financial year.

The rate shall not be further increased by Surcharge and Health & Education Cess. If the deductee does not furnish his PAN to the deductor, the tax shall be deducted at the rate of 20% under Section 206AA. In such a case, the amount of TDS cannot exceed the amount of rent payable for the last month of the year or the last month of the tenancy, as the case may be.

Exemption from TDS

No tax is required to be deducted from any sum paid or payable to the following:

- a) The Government
- b) The Reserve Bank of India
- c) Corporation established by or under a Central Act which is, under any law for the time being in force, exempt from income tax on its income
- d) Mutual Fund specified under Section 10(23D); or

Deposit of TDS

Tax deducted under this provision is required to be deposited to the credit of the Central Government through Form 26QC within 30 days from the last day of the month in which the tax was deducted.



Income Tax Department

Ministry of Finance, Government of India

Filing of TDS statement

The person responsible for the deduction of tax at source under this provision is required to furnish a challan-cum-statement in Form 26QC electronically.

TDS Certificate

The deductor shall issue a TDS certificate to the assessee in Form No. 16C within 15 days from the due date of furnishing of the TDS statement.

Consequences for failure to deduct or deposit tax

Where any person responsible for deducting tax at source fails to deduct tax or after deducting fails to deposit the same, he shall be treated as assessee-in-default. In that case, interest under section 201 will be applicable.

If the deductor fails to deduct TDS, interest at the rate of 1% per month or part of the month shall be applicable, till such failure continues. Interest shall be calculated from the date when such tax was required to be deducted till the date such tax is actually deducted.

Further, if the deductor after having deducted the tax, fails to deposit the same to the credit of the Central Government, interest at the rate of 1.5% per month or part thereof shall be applicable till such failure continues. The interest computation shall commence from the date on which the tax was deducted and end with the date when such tax was deposited to the government.

Penalty and Prosecution

Failure to comply with the provisions of deduction of tax at source under this provision may result in penalties and prosecution as per the following provisions:

(a) If a person fails to deduct tax at source, he shall be liable for payment of penalty under Section 271C ;

(b) If a person deducts tax but fails to deposit the same to the credit of the Central Government, he shall be liable for the penalty under Section 221 and prosecution under Section 276B.

However, no person shall be punishable under Section 276B if he proves that there was reasonable cause for the failure. Further, a person can also file an application for compounding of offence.

Consequences for failure to furnish TDS Statement

Where any person fails to furnish a TDS statement, section 234E shall be applicable, wherein the deductor is liable to pay fees at the rate of Rs. 200 per day during such default continues. However, such fees should not exceed the amount of TDS.

Moreover, he shall be liable for penalties under sections 271H of Rs. 10,000 which can be extended to Rs. 100,000, and 272A of Rs. 500 for every day during which failure continues.

Consequences for failure to issue TDS Certificates

Where any person, responsible for issuing TDS Certificates, fails to issue such certificates, a penalty under section 272A shall be applicable of Rs. 500 for every day during which failure continues.

MCQs on TDS from sum paid to buy an immovable property

Q1. The tax under section 194-IB shall be deducted if the rent paid or payable exceeds _____ per month or part of the month.

- (a) Rs. 50,000
- (b) Rs. 40,000
- (c) Rs. 20,000
- (d) Rs. 15,000

Correct answer - (a)

Explanation: The tax under section 194-IB shall be deducted if the rent paid or payable exceeds Rs. 50,000 per month or part of the month.

Q2. What is the tax rate for the deduction of tax under section 194-IB?

- (a) 2%
- (b) 10%



Income Tax Department

Ministry of Finance, Government of India

- (c) 1%
- (d) 0.1%

Correct answer - (a)

Explanation: The tax shall be deducted at the rate of 2% under section 194-IB if the rent paid or payable exceeds Rs. 50,000 per month or part of the month.

Q3. TAN is not required for the tax deduction under section 194-IB.

- (a) True
- (b) False

Correct answer - (a)

Explanation: There is no requirement to apply or obtain a Tax Deduction or Collection Account Number (TAN) for deducting tax under section 194-IB. Hence, a deductor can use his PAN in place of TAN.

Q4. Which of the following TDS return is required to be furnished if tax is deducted under section 194-IB?

- (a) 26Q
- (b) 26QB
- (c) 27Q
- (d) 26QC

Correct answer - (d)

Explanation: The person responsible for the deduction of tax at source under section 194-IB is required to furnish a challan-cum-statement in Form 26QC electronically.

Q5. Tax deducted under section 194-IB is required to be deposited to the credit of the Central Government through Form 26QC within _____ from the last day of the month in which the tax was deducted.

- (a) 15 days
- (b) 30 days
- (c) 7 days
- (d) 10 days

Correct answer - (b)

Explanation: Tax deducted under section 194-IB is required to be deposited to the credit of the Central Government through Form 26QC within 30 days from the last day of the month in which the tax was deducted.

Q6. Which form is required to be issued as a TDS certificate if tax is deducted under section 194-IB?

- (a) 16A
- (b) 16B
- (c) 16C
- (d) 16D

Correct answer - (c)

Explanation: The deductor shall issue a TDS certificate to the assessee in Form No. 16C within 15 days from the due date of furnishing of the TDS statement.