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"This document contains the provisions of the Income-tax Act, 2025, as amended by the Finance Act, 2026."

FAQs on Higher rate of TDS under section 397(2)

Q1. What are the provisions of Section 397(2) of the Income Tax Act, 2025?

Ans: Section 397(2) provides that where any person is entitled to receive any income on which tax is deductible at source, he is required to furnish his PAN to the deductor. In case the PAN is not furnished, the tax shall be deducted at a higher rate under section 397(2).

Relevant Content

Section - 397(2)

Q2. What is the rate of tax if provisions of Section 397(2) are applicable?

Ans: As per Section 397(2), if the recipient fails to furnish his PAN to the deductor, then Tax shall be deducted at the highest of the following rates:

(a) At the rate specified in the relevant provision of the Income-tax Act; or

(b) At the rate or rates in force; or

(c) at the rate of 5% where tax is required to be deducted under section 393(1) [Table: Sl. No. 8(ii) or 8(v)]; or 20% in any other case;

Relevant Content

Section - 397(2)

Q3. Is there any exception to the higher rate prescribed as per section 397(2)?

Ans: Maximum tax rate of 5% instead of 20% shall be applicable where:

a) Tax is required to be deducted by an e-commerce operator under section 393(1) [Table S. No. 8(v)]; or
b) Tax is required to be deducted by a buyer under section 393(1) [Table S. No. 8(ii)].

Relevant Content

Section - 397(2)
Section - 393(1) [Table S. No. 8(ii)]

Q4. Is there any exemption available to a person from the provisions of section 397(2)?

Ans: The provisions of section 397(2) shall not be applicable in respect of the following income received by a non-resident (or a foreign company):

(a) Interest on long-term bonds referred to under Section 393(2) [Table S. Nos. 2, 3 & 4];

(b) Specified payments as referred under Rule 217;

Relevant Content

Section - 397(2)