

Advance Learning on TDS under section 194-I and 194-C

The person (not being an Individual or HUF) who is responsible for paying any income to resident by way of rent is liable to deduct tax at source in case the aggregate of the amount of such income credited or paid or likely to be credited or paid during the financial year by the aforesaid person to the account of, or to payee exceeds Rs. 1,80,000/-. Individuals and /or HUFs who are subject to tax audit are also under an obligation to deduct the tax at source. The limit of Rs. 1,20,000/- was enhanced to Rs. 1,80,000/- w.e.f. 1.7.2010.

Meaning:-

‘Rent’ means any payment, by whatever name called, under any lease, sub-lease, tenancy or any other agreement or arrangement for the use of (either separately or together) any:-

- a) land; or
- b) Building (including factory building); or
- c) Land appurtenant to a building (including factory building); or
- d) Machinery; or
- e) Plant; or
- f) Equipment; or
- g) Furniture; or
- h) Fittings

whether or not any or all of the above are owned by the payee-*Explanation* (i) to Sec. 194-I. Sub-letting is also covered.

In case the landlord collects security or advance payment at the time of letting out a building to a tenant on the condition that the deposit will be refunded at the time of vacating the building, such a receipt is not in the nature of income and, therefore, no tax is to be deducted at source u/s 194-I. However, advance rent (not in the nature of refundable security deposit) paid is, subject to tax deduction. Moreover, where any such rent is credited to ‘suspense account’ or to any other account shall also be liable to deduct tax at source.

Application of Sec. 194-I

The Finance Act, 1994 inserted the Sec. 194-I, regarding deduction of tax from payment of rent. The Government felt that an item of income which needs to be covered within the scope of deduction of income-tax at source is the income by way of rent. In a number of countries also such income is subject to deduction of income-tax at source.

Any person, not being an individual or a H.U.F., who is responsible for paying to a resident any income by way of rent is liable to deduct tax at source as and when aggregate of the amount of such income credited or paid or likely to be credited or paid during financial year exceeds Rs. 1,80,000/-. Individuals or H.U.F.s who were subject to tax audit under Sec. 44AB during the financial year immediately preceding the financial year in which such rent was paid or credited are also liable to deduct tax at source.

TDS deduction under Sec. 194-I

Income from letting out of factory building:-

Where a factory building is let out, the rent received generally is income from business in the hands of the lessor or the owner of the factory. Only in a few cases it is income from property in the lessor's hands. But such payment also, which is business income in the hands of the lessor and for which he will necessarily be paying advance tax and finally be returning the rental income, will be subject to tax deduction at source. This is an unnecessary burden on both taxpayer and the tax administrator, because collection of tax will take place as TDS from the lessor without much delay.

Rent includes service charges:-

Service charges payable to business centres are covered under the definition of rent, as they cover payments by whatever named called.

TDS requirement where building and furniture, etc., let out by separate persons:-

In case where building is let out by one person, and furniture, fixtures, etc., are let out by another person, then the payee is required to deduct tax under Sec. 194-I only from the rent paid/credited for the hire of building.

TDS requirement where rent not payable on monthly basis:-

Sec. 194-I does not mandate that the tax deduction should be made on month-to-month basis. Therefore, if the crediting of the rent is done on quarterly basis then deduction at source will have to be made on the quarterly basis only. Where the rent is paid on yearly basis deduction also will have to be made once a year on the basis of actual payment or crediting.

Charges regarding cold storage facility:-

In the case of cold storage where milk, ice cream, vegetables, etc., are stored, the payment may be styled as charges for use of plant and not for use of building. Cold storage is a plant.

Hall rent paid by an association for use of it:-

Since the association is assessed as an association of persons and not as an individual or HUF, the obligation of tax deduction will be there, provided payment for the use of hall exceeds Rs. 1,80,000.

Payments to hotels for holding seminars including lunch:-

Where hotels do not charge for use of premises but charge for catering/meal only, then provisions of Sec.194I would not apply. However, Sec.194C would apply for catering part.

No deduction in certain cases:-

Amount payable/paid not exceeding Rs. 1,80,000 during the financial year:-

No tax from the amount payable in respect of rent is deductible where the amount of such rent credited or paid or likely to be credited or paid during the financial year to the payee-landlord or lessee does not exceed Rs. 1,80,000.

Where tenant is individual or Hindu Undivided Family:-

Deduction is not required under Sec. 194I if the amount is paid or payable by an individual or Hindu Undivided Family. If : (a) the individual/HUF is not carrying on any business/profession or (b) individual/HUF not liable to tax audit in preceding year

Sharing or proceeds of film exhibition between a film distributor and a film exhibitor owning a cinema theatre:-

Representations have been received from various quarters regarding applicability of the provisions of Sec. 194-I of the Income Tax Act to the sharing of the proceeds of film exhibition between film distributor and film exhibitor owning a cinema theatre. The matter has been examined by the Board and the Board is of the view that the provisions of Sec.194-I would not be attracted to such payment because:

the exhibitor does not let out the cinema hall to the distributor.

Generally, the share of the exhibitor is on account of composite services; and

The distributor does not take cinema building on lease or sub-lease or tenancy or under an agreement of similar nature.

Where the payee is the Government or agency:-

Under the provisions of Sec. 196, no tax is required to be deducted at source from any sums payable to the government.

The matter with regard to the statutory authorities and the local authorities referred to, has been examined by the Board. Sec. 190 provides for deduction of income-tax at source as one of the modes of collection of income-tax in respect of an income, notwithstanding that the regular assessment in respect of such an income is to be made in a later assessment year. The income of an authority constituted in India by or under any law enacted either for the purpose of dealing with and satisfying the need for housing accommodation or for the purpose of planning, development or improvement of cities, towns and villages, is exempt from income-tax under Sec. 10(20A). Similarly, the income of a local authority which is chargeable under the head 'Income from house property' or 'Income from other sources', is exempt from Income-tax under Sec.10(20). There is no other condition specified in these two clauses of Sec.10 which is necessarily to be satisfied to avail of the income-tax exemption.

There is no requirement to deduct income-tax at source on income by way of 'rent' if the payee is the governmental agency. In the case of the local authorities and the statutory authorities, there will be no requirement to deduct income-tax at source from income by way of rent if the person responsible for paying it is satisfied about his tax-exempt status under clause (20) or (20A) of Sec.10 on the basis of certificate to this effect given by the said authorities.

When tax needs to be deducted at source:-

Tax is required to be deducted at source at the time of credit of 'income by way of rent' to the account of the payee or at the time of payment thereof in cash or by the issue of a cheque or draft or by any other mode, whichever is earlier.

Credit of rental income in 'suspense account':

The incidence of tax deduction under Sec. 194-I will arise at mere incidence of crediting to the rental income in the lessee's books of account, be it even a suspense account. The

Explanation (ii) to sec. 194-I deemed such crediting to be credit of such income to the account of the payee.

Rates of tax deduction:-

Ser. No.	Nature of Payment	Income tax %
1.	Rent of plant and machinery	2
2.	Rent of land or building or furniture or fitting	10

No deduction or deduction at lower rate under Sec. 197:-

On application by payee in Form no. 13, if the Assessing Officer is satisfied that this total income justifies no deduction of tax or deduction at lower rate, he may issue a certificate in Form No. 15AA to that effect directly to the payer.

Time limit within which tax is to be deposited.

	Due date for payment
<ul style="list-style-type: none"> Where the payment is made by or on behalf of the Government Where the payment is made in any other case than the Government- <ul style="list-style-type: none"> a) If the amount is credited or paid in the month of March b) In any other case. 	(i) On the same day (without using any challan form). (ii) on or before 7 days from end of month in which deduction is made where tax is paid accompanied by an Income-tax challan. On or before April 30th On or before 7 days from the end of the month in which the deduction is made.

Issue of TDS certificate to the payee:-

In case of payments other than salary, TDS certificates are to be issued on quarterly basis in Form No.16A.

As per rule 31, every person responsible for deduction of tax from payments other than salary has to issue a quarterly TDS certificate in Form No. 16A. The certificate is to be issued by following dates :

Quarter	Due date for Non-Government deductor	Due date for Government deductor
April to June	30 th July	15 th August
July to September	30 th October	15 th November
October to December	30 th January	15 th February
January to March	30 th May	30 th May

As per CBDT Circular No. 1/2012, dated 9-4-2012, it is mandatory for all the deductors to issue TDS certificate in Form No. 16A by generating the certificate through TIN central system by downloading the certificate from the TIN website with a unique TDS

certificate number. These provisions are applicable in respect of all sums deducted on or after 1-4-2012. The certificate so issued can be authenticated either by using digital signature or manual signature.

FAQs

1. What are the provisions relating to TDS on rent ? From which date same are applicable?

As per the Finance Act, 1994 the provisions of TDS on rent have been introduced w.e.f. 1.6.1994. The salient feature of Sec. 194-I are as under:-

1. The provisions are applicable only in cases where the person making the payment of rent is an individual or HUF who is required to get his accounts audited u/s 44AB in the immediately preceding financial year (w.e.f. 1.6.2002) or any other person responsible for paying to a resident any income by way of rent. Prior to 1.6.2002 no individual or HUF was liable to deduct TDS from rent.
2. The TDS is required to be deducted in case the rent paid or payable to a particular person during a financial year exceeds Rs. 1,80,000 w.e.f.1.7.2010 (upto 30.6.2010 the limit was Rs. 1,20,000).
3. A facility has also been provided to obtain a certificate from the Assessing Officer for deduction of income-tax at a lower rate or for no deduction of income-tax in appropriate cases by making application in Form No.13.
4. For the purpose of this section rent means any payment by whatever name called, under any lease, sub-lease, tenancy or any other agreement or arrangement for the use of any land or building or factory building together with furniture, fixture, fittings and land appurtenant thereto. It will not be relevant whether the payee is the owner of the building or not?
W.e.f. asst. year 2007-08, the Taxation Laws (Amendment) Act, 2006 have enlarged the scope of rent for the purpose of Sec. 194I, so as to include machinery, plant and equipment, whether rented together with building or separately, irrespective of the fact whether they are owned by the payee or not?
5. The rates of TDS on rent are as under:

Particulars	Rate upto 30.09.09	Rate w.e.f. 01.10.09
a) Use of any land, building, furniture or fittings	15% (when payee is individual or HUF) 20% in other cases.	10% for all assessees
b) Use of plant, machinery or equipment	10% (from 1.6.07 to 30.9.09) prior to 1.6.07 the rate was same as rent of land and building	2% for all assessees

W.e.f. Financial Year 2009-10, education cess or higher education cess is not required to be deducted at source in case of payment to domestic companies or any person who is resident in India. However, education cess is to be deducted in case the payment is made for salary.

6. W.e.f. 1.4.2010, where the deductee fails to furnish its PAN or furnishes an incorrect PAN to the deductor, the deductor will be required to deduct tax at higher of the following rates:

- a. At the rate specified under the Income Tax Act; or
- b. At the rates in force; or
- c. At the rate of 20%.

2. Will tax be deducted from service tax included in rent?

Service tax paid by the tenant does not partake the nature of income of landlord. The landlord only acts as a collecting agency for Government for collection of service tax. Therefore tax deduction at source (TDS) under Sec. 194-I of the Income-tax Act would be required to be made on the amount of rent paid/payable without including service tax.

3. What does the 'rent' mean for the purpose of Sec. 194-I?

'Rent' means any payment, by whatever named called, under any lease, sub-lease, tenancy or any other agreement or arrangement for the use of (either separately or together)any,-

- a. Land; or
- b. Building (including factory building); or
- c. Land appurtenant to a building (including factory building); or
- d. Machinery; or
- e. Plant; or
- f. Equipment; or
- g. Furniture; or
- h. Fittings,

whether or not any or all of the above are owned by the payee.

In other words, besides tax on land and building, tax shall now also be deductible for leasing out or hiring of machinery, plant, equipment, furniture and fittings whether given separately or together. Further, it shall be deductible whether or not any or all of the above are owned by the payee?

4. What are the circumstances under which no tax is to be deducted at source on rent as defined under Sec. 194-I ?

No tax is required to be deducted at source under this section if the following conditions are satisfied:

- A) Where aggregate amount of rent does not exceed Rs. 180,000:-** No tax is to be deducted if the aggregate amount of rent in the previous year does not exceed Rs. 180,000.
- B) Rent paid to the Government and certain entities:-** No tax at source needs to be deducted from payments by way of rent made to Government and entities whose income is exempt from income-tax under clauses (20) and (20A) of Sec.10 of the Income tax Act.
- C) Certain entities required to file return under Sec. 139(4A) or 139(4C):-** As per rule 28AB certain entities who are required to file return of income under Sec. 139(4A) or 139(4C) may apply in Form No. 13 for no deduction of tax at source provided certain conditions are satisfied.
- D) Certain entities whose income is unconditionally exempt under Sec. 10:-** In case of certain entities whose income is unconditionally exempt under Sec. 10 and who

are statutorily not required to file return under Sec. 139 there will be no requirement for TDS, since their income is any way exempt.

5. Where is the limit of Rs. 180,000 for non-deduction of tax at source applicable in case of each co-owner?

Where the share of each co-owner in the property is definite and ascertainable, the limit of Rs. 180,000 will be applicable to each co-owner separately.

6. What are the provisions regarding low deduction or no deduction of tax on rent under Sec. 194-I ?

Any person to whom rent is payable may make an application in Form No.13 to the Assessing Officer and obtain such certificate from him, as may be appropriate, authorizing the payer not to deduct tax or to deduct tax at lower rate.

As per Sec. 206AA(4), w.e.f. 1-4-2010, no certificate under Sec. 197 for deduction of tax at *Nil* rate or lower rate shall be granted, unless the application made under that section contains the Permanent Account Number of the applicant.

7. What is method of taking credit of TDS on advance rent ?

On advance rent pertaining to more than one financial year, the tax is deducted at source in the year of receipt of advance rent. The credit for TDS shall be allowed to the assessee in the same proportion in which such income from rent is offered for taxation for different assessment years, based on the single TDS certificate furnished for the entire advance rent.

However, if the rent agreement gets terminated in a subsequent year or rented property is transferred and the balance advance is refunded to the transferee or the tenant, as the case may be, the credit for entire balance of TDS which has not been given credit, shall be allowed in the year of termination.

Contract -TDS Implication U/Sec. 194C

Under **Sec. 194C**, deduction of tax at source is required to be made from payments of any sums to resident contractors or sub-contractors. Thus, following two situations are covered under **Sec. 194C**:

- i. Deduction of tax at source from payment to resident-contractors;
- ii. Deduction of tax at source from payment to resident-sub-contractors

Deduction of tax at source from payment to resident-contractors [**Sec. 194C(1)**]

Sec 194C(1) provides that any person responsible for paying any sum to any resident contractor for carrying out any work (including supply of labour for carrying out any work) in pursuance of a contract between the contractor and the following:

- a) The Central Government or any State Government;
- b) Any local authority;
- c) Any corporation established by or under a Central, State or Provisional Act;
- d) Any company;
- e) Any co-operative society; or
- f) Any authority constituted in India by or under any law, engaged either for the purpose of dealing with and satisfying the needs for housing accommodation or for the purpose of planning, development or improvement of cities, towns and villages or for both [e.g., CIDCO, HUDCO, etc.];
- g) Any society registered under the Society Registration Act, 1980 or under any such corresponding law to the Act in any Part of India;
- h) Any trust;
- i) Any university or deemed university;
- j) Any firm;

The expression “work” in this section would include—

- (a) advertising;
- (b) broadcasting and telecasting including production of programmes for such broadcasting or telecasting;
- (c) carriage of goods and passengers by any mode of transportation, other than railways;
- (d) catering;
- (e) Manufacturing or supplying of a product according to the requirement or specification of a customer by using the materials purchased from such customer,

but does not include manufacturing or supplying of a product according to the requirements or specifications of a customer by using the materials purchased from a person, other than such a customer.

A “**Contractor**” for the purpose of the provisions of **Sec. 194C** would be any person who enters into a contract with the Central Government or any State Government, any local authority, any corporation established by or under a Central, State or Provincial Act, any company or any co-operative society for carrying out any work including the supply of labour for carrying out any work. A “sub-contractor” would mean any person who enters into a contract with the contractor for carrying out, or for the supply of labour for carrying out the whole or part of the work undertaken by the contractor under a contract with any of the authorities or for supply of, whether wholly or partly, any labour which the contractor has undertaken to supply in terms of his contract with any of the authorities mentioned under **Sec. 194C**.

The **Encyclopedia Law Dictionary** defines contractor as under:

“Contractor in relation to an establishment means a person who undertakes to produce a given result for the establishment, other than mere supply of goods or articles or manufacture to such establishment.”

According to **Black’s Law Dictionary**, the contractor means ‘any person who enters into a contract, but is commonly reserved to designate one who for a fixed price undertakes to procure works or services on a large scale or the furnishing of goods in large quantities, whether for the public or a company or individual. Such persons are generally classified as general contractors (responsible for entire job) and sub-contractors (responsible for only portion of job).

Applicability of Sec. 194C:-

Provisions of **Sec. 194C** are applicable only in relation to ‘works contracts’ and ‘labour contracts’ but do not cover ‘contract for sale or mere supply of goods’.

Neither Income Tax Act nor Income Tax Rules specifies the difference between the contract for sale and works contract; so there is no standard criteria to determine whether a contract is of contract for sale or a contract for work and labour.?

One of the criteria to differentiate between ‘contract for sale’ and ‘work contract’ is to determine the ownership regarding goods in question. In case of works contract, even though a part or whole of the materials used belongs to the contractor, yet the property in the thing produced will be the performance whereas in the case of contract for sale the things produced generally are the sole property of the party who has performed the work before its delivery and such person and the property therein passes only under the contract relating thereto to other party for price. Mere transfer of property in goods used in the performance of a contract is not sufficient. To constitute a sale there must be an agreement expressed or implied relating to sale of goods and completion of the agreement by passing of title in the very goods constructed to be sold.

Condition precedent for deduction of tax at source from payment to contractors [Sec. 194C(1)]

The following conditions must be satisfied for applicability of **Sec. 194C(1)**:

- i. The payee, i.e., contractor must be resident in India within meaning of Sec. 6 of the Income Tax Act.
- ii. Payment should be made by person specified (mentioned above).
- iii. Payment should be made for carrying out any work including supply of labour for carrying out any work.
- iv. The payment should be made pursuant to a contract whether oral or written between payer and payee.
- v. The consideration of a contract in respect of which payment is made should exceed Rs. 30,000.
- vi. If aggregate of the amount of such sums credited or paid or likely to be credited or paid in the financial year exceeds Rs.75,000/-, TDS is required to be deducted
- vii. Where advance payments are made, tax will have to be deducted if the total payment is likely to exceed Rs. 30,000.
- viii. Where it was expected that the total consideration would not exceed Rs. 30,000 but later on, it was found that consideration would exceed Rs. 30,000, tax will have to be deducted in respect of earlier payments also.

Deduction of tax at source from payment to sub-contractors [Sec. 194C(2)]

Any person (being a contractor and not being an individual or a Hindu Undivided Family) responsible for paying any sum to any resident (hereafter in this section referred to as the sub-contractor) in pursuance of a contract with the sub-contractor for carrying out, or for the supply of labour for carrying out, the whole or any part of the work undertaken by the contractor or for supplying whether wholly or partly any labour which the contractor has undertaken to supply shall, at the time of credit of such sum to the account of the sub-contractor or at the time of payment thereof in cash or by issue of a cheque or draft or by any mode, whichever is earlier, deduct amount equal to one per cent of sum as income-tax on income comprised therein.

Conditions precedent for deduction of tax at source from payment to sub-contractors [Sec. 194C(2)]

The following conditions must be satisfied for applicability of **Sec. 194C(2)**, i.e., where the payment is made to sub-contractors:

- i. Payment is made to a sub-contractor who is resident within the meaning of sec. 6 of the Income Tax Act, 1961.
- ii. Payment is made by a resident contractor, not being an individual or an HUF.
- iii. Payment is made to carry out any work, including supply of labour to carry out any work.
- iv. The amount of consideration of the contract in respect to which payment is made should not be less than Rs. 30,000.

- v. The amount is paid or credited after 31-5-1972.
- vi. A contractor who is an individual or Hindu Undivided Family is exempt from the obligation of tax deduction while making payment to sub-contractors.
- vii. The sum should be credited or paid by the contractor in respect of a contract undertaken by him with the specified bodies.

Exemption from deduction of tax at source in certain cases [Sec. 194C(3)]

No tax is required to be deducted at source under Sec. 194C(1) and 194(2) in the following circumstances:

- i. Where the sum is credited or paid in pursuance of any contract, the consideration for which does not exceed Rs. 30,000; or
- ii. Where the sum is credited or paid before the 1st day of June, 1972; or
- iii. Where the sum is credited or paid before 1st day of June, 1973 in pursuance of a contract between the contractor and the co-operative society or in pursuance of a contract between such contractor and the sub-contractor in relation to any work (including supply of labour for carrying out any work) undertaken by the contractor for the co-operative society.

Meaning of work [Clause (iv) of the Explanation (iv) to Sec. 194C(4)]

“Work” shall include-

- a) advertising
- b) broadcasting and telecasting, including production of programmes for such broadcasting or telecasting;
- c) carriage of goods or passengers by any mode of transport other than by railways;
- d) catering;
- e) manufacturing or supplying a product according to the requirement or specification of a customer by using material purchased from such customer,

but does not include manufacturing or supplying a product according to the requirement or specification of a customer by using material purchased from a person, other than such customer.

Individual or HUF not to deduct tax if the payment or amount credited to contractor is for personal use [Sec. 194C(4)]

No individual or Hindu Undivided Family shall be liable to deduct income-tax on the sum credited or paid to the account of the contractor where such sum is credited or paid exclusively for personal purpose of such individual or any member of Hindu Undivided Family.

Where no tax is to be deducted at source [Sec.194C(5)]:

In the following cases tax is not required to be deducted at source:

- No deduction shall be made from the amount of any sum credited or paid or likely to be credited or paid to the account of, the contractor, if such sum does not exceed Rs. 30,000 (Rs. 20,000 upto 1.7.2010).
- However, where the aggregate of the amounts of such sums credited or paid or likely to be credited or paid during the financial year exceeds Rs. 75,000 (Rs. 50,000 upto 30.6.2010), the person responsible for paying such sums shall be deduct income-tax under this section.
- Thus, the tax will be required to be deducted at source where the amount credited or paid to a contractor exceeds Rs. 30,000 at one time or Rs. 75,000 in the aggregate during a financial year in spite of the fact that separate contracts are entered into with that person.

Provisions for payments and tax deducted at source to transporters [Sec. 194C(6) & (7)]

No deduction shall be made from any sum credited or paid or likely to be credited or paid during previous year to the account of a contractor during the course of business of plying, hiring or leasing goods carriages, on furnishing of his Permanent Account Number, to the person paying or crediting such [Sec. 194C(6)].

The person responsible for paying or crediting any sum to the person referred to in Sec. 194C(6) shall furnish, to the prescribed income-tax authority or the person authorised by it, such particulars, in such form and within such time as may be prescribed. [Sec. 194C(7)].

Where tax is either not to be deducted or is to be deducted at lower rate [Sec. 197 Rule 28 and 28AA]

Any person to whom interest is payable may make an application in Form No. 13 to the Assessing Officer and obtain such certificate from him, as may be appropriate, authorities the payer not to deduct tax or to deduct tax at a lower rate.

As per Sec. 206AA(4) no certificate under Sec. 197 for deduction of tax at *Nil* rate or lower rate shall be granted, unless the application made under that section contains the Permanent Account Number of the applicant.

Procedural Aspects

Person responsible for deduction at tax at source:-

The payer is the person responsible for deduction at source. The meaning of person responsible for paying has been defined under Sec. 204(iii).

When tax to be deducted at source:-

The person responsible for making payment to resident contractor/sub-contractor should deduct tax at source either at the time of crediting such sum to the account to the payee or at the time of payment thereof in cash or by issue of a cheque or by any other mode, whichever is earlier.

Amount credited to suspense account

According to *Explanation II* to Sec. 194C, where any sum referred to in section 194C(1) or 194C(2) is credited to any account, whether called ‘Suspense account’ or by any other name, in the books of account of the person liable to pay such income, such crediting shall be deemed to be credit of such income to the account of the payee and the provisions of sec. 194C shall apply accordingly.

Thus, tax has to be deducted even if amount payable to resident contractor/sub-contractor is transferred to “suspense account” by the payer in his books of account.

No deduction of tax or deduction at lower rate under Sec. 194C(4)

According to Sec. 194C(4) where the Assessing Officer is satisfied that the total income of contractor or sub-contractor justifies the deduction of income-tax at any lower rate or non deduction of income-tax, as the case may be, the Assessing Officer shall, on application made by the contractor or sub-contractor in this behalf give to him such certificate as may be appropriate.

Rates of tax deduction:

Rates of tax deduction at source from payment to contractors and sub-contractors are as under:

<i>S.No.</i>	<i>Nature of Payment</i>	<i>Income Tax %</i>
1.	Payment/credit to resident individual or Hindu Undivided Family	1%
2.	Payment/credit to any resident person other than individual/ Hindu Undivided Family	2%

Special Note:-

- The *nil* rate will be applicable if the transporter quotes in PAN.
- The rate of TDS will be 20% in all the above cases, if PAN is not quoted by the deductee on or after 1.4.2010.
- No surcharge, education cess and SHEC shall be added. Hence, TDS shall be deductible at basic rates.

Deduction of tax at source in case of composite contract where materials are supplied by the Government:

The question whether deduction will be made with reference to gross payment to the contractor or the net payment, i.e., gross payment *minus* deductions, if any, on account of materials supplied by the government or other specified persons, will have to be decided in the light of the terms of the particular contract and the conduct of parties thereto. Where the contractor has undertaken to construct a building or a dam, and the government or other specified person has undertaken to supply all or any of the materials necessary for the work at the stipulated prices,

the deduction will be related to the gross payment without excluding any adjustments on account of cost of materials. Where, however, the contractor has undertaken only to provide the labour for the work, the ownership of the materials supplied remaining at all times with the government or other specified person, the sum payable to the contractor in respect of the contract will only be the amount paid for such labour or services and will, thus, not include the price of the materials supplied by the government or other specified persons.

Thus, the rate of deduction of income-tax from payments made by the government or other specified persons to any contractor will be 2% or 1% of the gross payment or, as the case may be, the net payment, depending on the terms of the contract.

Deduction when party supplies materials to the contractor:-

When materials are supplied no deduction is possible. Consequently, no TDS is required to be made. However, when payment is made either in cash or in kind to contractor/sub-contractor tax is required to be deducted.

Deposit of tax to credit of Central Government:-

The tax deducted is required to be deposited with the Central Government through a challan within the prescribed time by the person making the deduction.

Tax deducted at source is to be deposited by remitting the same to any of the following banks:

- Any branch of the Reserve Bank of India;
- Any branch of the State Bank of India;
- Any branch of selected public sector banks where income-tax offices are situated.

Time limit within which tax is to be deposited

The time limit prescribed by rule 30 is as under:

	<i>Due date for payment</i>
<ul style="list-style-type: none">• Where the payment is made by or on behalf of the Government• Where the payment is made in any other case than the Government-<ul style="list-style-type: none">a) If the amount is credited in the month of Marchb) In any other case.	<p>On the same day (without using any challan form).</p> <p>On or before April 30th</p> <p>Within 7 days from the end of the month in which the deduction is made.</p>

Issue of TDS certificate

In case of payments other than salary, TDS certificates are to be issued on quarterly basis in Form No.16A.

As per rule 31, every person responsible for deduction of tax from payments other than salary has to issue a quarterly TDS certificate in Form No. 16A. The certificate is to be issued by following dates :

Quarter	Due date for Non-Government deductor	Due date for Government deductor
April to June	30 th July	15 th August
July to September	30 th October	15 th November
October to December	30 th January	15 th February
January to March	30 th May	30 th May

As per CBDT Circular No. 1/2012, dated 9-4-2012, it is mandatory for all the deductors to issue TDS certificate in Form No. 16A by generating the certificate through TIN central system by downloading the certificate from the TIN website with a unique TDS certificate number. These provisions are applicable in respect of all sums deducted on or after 1-4-2012. The certificate so issued can be authenticated either by using digital signature or manual signature.

Other Aspect:-

Contract U/Sec. 194C Vs. professional and Technical Fees U/Sec. 194J

Sec. 194C of the Act deals with tax deduction at source on payments to contractors and sub-contractors, whereas Sec. 194J of the Act deals with TDS on fees for professional or technical services. Sec. 194C is on statute book since 1972 while as Sec. 194J was introduced with effect from a July, 1995. Sec. 194J is in a sense an off-shoot of Sec. 194C. Hence, there are a few common points between the two, although there are quite a few points of distinction.

Sec. 194C deals with payment in respect of 'contract of work', however, earlier the CBDT *vide* Circular no. 681, dated 8th March, 1994 sought to invoke these provisions even for contracts of professional work like audits. There was a great resistance and litigation by the professional community, which compelled the CBDT to withdraw the circular. However, the same was achieved through the introduction of new Sec. 194J to specifically cover professional fees and the rate of deduction was made as 5% as against 2% under section 194C.

FAQs

1. Who is liable to deduct tax on payments made to contractors and sub-contractors under Sec. 194C?

As per Sec. 194C, any person responsible for paying any sum to any resident contractor for carrying out any work (including supply of labour for carrying out any work) under a contract in pursuance of a contract between contractor and person specified in question below, shall deduct income-tax at the time of such payment thereof in cash or by issue of a cheque or draft or by any other mode or its credit to contractor's account or any other account, by whatever named called and which ever happens earlier.

W.e.f. 1-10-2009 as per newly inserted Sec. 194C(6), no deduction shall 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 business of plying, hiring or leasing goods carriages, on furnishing of his Permanent Account Number to the person paying or crediting such sum.

2. Who are specified persons as defined under the Income-tax Act, who shall deduct tax in case of payment is made by them to the contractor or sub-contractor?

The following specified persons shall be required to deduct at source in case the payment is made by them to any resident contractor:-

- a) The Central or State Government;
- b) Any local authority;
- c) Any corporation established by or under a Central, State or Provisional Act;
- d) Any company;
- e) Any co-operative society;
- f) Any authority constituted in India or under any law, engaged either for the purpose of dealing with and satisfying the needs for housing accommodation or for the purpose of planning, development or improvement of cities, towns and villages or for both (eg., CIDCO, HUDCO, etc);
- g) Any society registered under the Societies Registration Act, 1860 or under any such corresponding law;
- h) Any trust;
- i) Any university or deemed university;
- j) Any firm;
- k) Any individual or a Hindu Undivided Family or an association of persons or a body of individuals, whether incorporated or not other than those falling under any of the preceding clauses, whose total sales, gross receipts or turnover from the business or profession carried on by it exceed the monetary limits specified under clause (a) or clause (b) of Sec. 44AB

during the financial year immediately preceding the financial year in which such sum is credited or paid to the account of the contractor.

3. Under what circumstance tax is not required to be deducted at source under Sec. 194C?

In the following cases tax is not required to be deducted at source:

A) Where single payment does not exceed Rs. 30,000 or aggregate payment does not exceed Rs. 75,000 [First proviso to Sec. 194C(3)]: No deduction shall be made from the amount of any sum credited or paid or is likely to be credited or paid to the account of or to the contractor or sub-contractor, if such sum does not exceed Rs. 30,000.

Further, where the aggregate of the amounts of such sums credited or paid which is likely to be credited or paid during the financial year exceeds Rs. 75,000 (Rs. 50,000 upto 30-06-2010), the person responsible for paying such sums shall be liable to deduct income-tax under this section; or,

the tax will be required to be deducted at source where the amount credited or paid to a contractor or sub-contractor exceeds Rs. 30,000 at one time or Rs. 75,000 in the aggregate during the financial year in spite of the fact that separate contracts are entered into with that person.

B) No tax is to be deducted at source if the transporter provides Permanent Account Number: W.e.f. 1-10-2009 as per newly inserted Sec. 194C(6), no deduction shall 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 business of plying, hiring or leasing goods carriages, or furnishing of his Permanent Account Number to the person paying or crediting such sum.

The person responsible for paying or crediting any sum to the person referred to in Sec. 194C(6) shall furnish to the prescribed income-tax authority or the person authorised by it such particulars, in such form and within such time as may be prescribed. [Sec. 194C(7)].

4. What are the provisions regarding lower deduction or no deduction of tax under Sec. 194C?

As per Sec. 197, any person to whom the amount is payable may make an application in Form No. 13 to the Assessing Officer and obtain such certificate from him, as may be appropriate, authorizing the payer not to deduct tax or to deduct tax at a lower rate.

As per Sec. 206AA(4), w.e.f. 1-4-2010, no certificate under sec. 197 for deduction of tax at *Nil* rate or lower rate shall be granted, unless the application made under that section contains the Permanent Account Number of the applicant.

5. Is it necessary to deduct tax at source from payment made to foreign shipping company?

Sec. 172 is a self-contained Code for the levy and recovery of the tax, ship-wise and journey-wise, and requires filing of the return within a maximum time of thirty days from the date of departure of the ship.

The provisions of sec. 172 are to apply, notwithstanding anything contained in the other provisions of the Act. Therefore, in such cases the provisions of Sec. 194C and 195 relating to tax deduction at source are not applicable. The recovery of tax is to be regulated for a voyage undertaken from port in India by a ship under the provisions of Sec. 172.

Sec. 194C deals with works contracts, including carriage of goods and passengers by any mode of transport other than the Railways. This section applies to payments made by a person referred to in clauses (a) to (j) of sub-sec.(1) to any “resident”. It is clear from the section that the area of operation of TDS is confined to payment made to any “resident”. On the other hand, sec. 172 operates in the area of computation of profits from shipping business of non-residents. Thus, there is no overlapping in the areas of operation of these sections.

6. What areas are covered under Sec. 194C ?

W.e.f. 1.7.1995, the scope of Sec. 194C was extended by modifying the definition of “work”. As per the *Explanation*, the expression “work” shall also include –

- a) Advertising,
- b) Broadcasting and telecasting including production of programmes for such broadcasting or telecasting,
- c) Carriage of goods and passengers by any mode of transport other than by railways,
- d) Catering

W.e.f. 1.10.09 the definition of ‘work’ has been expanded to include manufacture or supply of product according to the requirements or specifications of a customer by using materials purchased from the customer. However, where the material is not supplied by the customer, such contract shall be excluded from the definition of ‘work’. In case of works contract, tax shall be deducted on the invoice value, excluding the value of materials purchased from the customer where such value is separately mentioned on the invoice, but where no such reference is made taxes shall be deducted on the entire invoice value.

7. What would be the scope of an advertising contract for the purpose of Sec. 194C of the Act ?

The term ‘advertising’ has not been defined in the Act. During the course of the consideration of the Finance Bill, 1995, the Finance Minister clarified on the floor of the House that the amended provisions of TDS would apply when a client makes payment to an advertising agency and not when advertising agency makes payment to the media, which includes both print and electronic media. It was further clarified that when an advertising agency makes payment to their models,

artists, photographs, etc., the tax shall be deducted at the rate of 5% as applicable to fees for professional & technical services u/s 194J.

W.e.f. 1.10.2009 there is no separate rate for advertisement contract. The tax is required to be deducted as on other contract @1% where payee is individual or HUF and @2% in other cases.

MCQ

1. Whether payments made to a hotel for rooms hired during the year would be in the nature of rent ?

- a) True b) False

Correct Answer: a)

Justification of correct answer:

Payment made by persons, other than individuals and HFs for hotel accommodation taken on regular basis will be in the nature of rent subject to TDS under Sec. 194-I. Thus, option a) is correct.

Comment on incorrect answer:

The person (not being an Individual or HUF) who is responsible for paying any income to resident by way of rent is liable to deduct tax at source in case the aggregate of the amounts of such income credited or paid or likely to be credited or paid during the financial year by the aforesaid person to the account of, or to payee exceeds Rs. 1,80,000/-. Thus, option b) is incorrect.

2. In case an individual enters into a contract with a hotel and later on same amount is reimbursed to individual by company, would it attract TDS ?

- a) True b) False

Correct Answer: b)

Justification of correct answer:

In case employees of a company have themselves entered into a contract individually with a hotel and are directly making the payment to the hotel but, subsequently, claiming the same from company. In this case, the company would not be liable to deduct tax at source even where the total amount of reimbursement individually or collectively exceeds Rs. 180,000. Thus, option b) is correct.

Comment on incorrect answer:

The person (not being an Individual or HUF) who is responsible for paying any income to resident by way of rent is liable to deduct tax at source in case the aggregate of the amounts of such income credited or paid or likely to be credited or paid during the financial year by the aforesaid person to the account of, or to payee exceed Rs. 1,80,000/-. Thus, option a) is incorrect.

3. In case company enters into a contract with a hotel whether the same would attract TDS?

- a) True b) False

Correct Answer: a)

Justification of correct answer:

In case company entered into a contract individually with a hotel and is directly making the payment to the hotel, the company would be liable to deduct tax at source even where

the total amount of reimbursement individually or collectively exceeds Rs. 180,000. Thus, option a) is correct.

Comment on incorrect answer:

The person (not being an Individual or HUF) who is responsible for paying any income to resident by way of rent is liable to deduct tax at source in case the aggregate of the amounts of such income credited or paid or likely to be credited or paid during the financial year by the aforesaid person to the account of, or to payee exceeds Rs. 1,80,000/-. Thus, option b) is incorrect.

4. Whether the limit of Rs. 180,000 per annum would apply separately for each co-owner of a property ?

- a) True b) False

Correct Answer: a)

Justification of correct answer:

Under Sec. 194-I, the tax is deductible from payment by way of rent, if such payment to the payee during the year is likely to be Rs. 180,000 or more. If there are a number of payees, each having definite and ascertainable share in the property, the limit of Rs. 180,000 will apply to each of the payee/co-owner separately. The payer and payee are, however, advised not to enter into same agreement to avoid TDS provisions. Thus, option a) is correct.

Comment on incorrect answer:

Each co-owner enjoy a limit of Rs. 1,80,000. Thus, option b) is incorrect.

5. Whether the rent paid should be enhanced for notional income in respect of deposit given to the landlord ?

- a) True b) False c) both

Correct Answer: c)

Justification of correct answer:

The tax is to be deducted from actual payment and there is no need for computing notional income in respect of a deposit given to landlord. If the deposit is adjustable against future rent, the deposit is in the nature of advance rent subject to TDS. Thus, option c) is correct.

Comment on incorrect answer:

If deposit is refundable then same would not be subject to TDS. Thus, options a) & b) are incorrect.

6. Whether payment made by company taking premises on rent but styling the agreement as a business centre agreement would attract the provisions of Sec. 194-I?

- a) True b) False

Correct Answer: a)

Justification of correct answer:

The tax is to be deducted from rent paid for hire of a property. The incidence of deduction of tax at source does not depend upon the nomenclature, but on the content of the agreement. It may be noted that charges paid to a business centre are of composite nature, i.e., charges for use of premises and for other services. If the consideration is for lump sum, then tax will be deductible for entire amount. Therefore, a bifurcation is required. Thus, option a) is correct.

Comment on incorrect answer:

The person (not being an Individual or HUF) who is responsible for paying any income to resident by way of rent is liable to deduct tax at source in case the aggregate of the amounts of such income credited or paid or likely to be credited or paid during the financial year by the aforesaid person to the account of, or to payee exceeds Rs. 1,80,000/-. Thus, option b) is incorrect.

7. Whether in a case of composite arrangement for user of premises and provision of manpower for which consideration is paid as a specified percentage of turnover, Sec. 194-I of the Act would be attracted?

- a) True b) False

Correct Answer: a)

Justification of correct answer:

If the composite agreement in essence is the agreement for taking premises on rent, the tax will be deducted under Sec. 194-I from payments thereof. Thus, option a) is correct.

Comment on incorrect answer:

If agreement can be split in two part, i.e., one is with respect to premises use and other with respect to supply of manpower, premises use only will attract TDS due to implication u/sec. 194-I. Thus, option b) is incorrect.

8. Whether a contract for putting up a hoarding would be covered under Sec. 194-I or 194C?

- a) True b) False c) Both

Correct Answer: c)

Justification of correct answer:

The contract for putting up a hoarding is in the nature of advertising contract and provisions of Sec. 194C would be applicable. It may, however, be clarified that if a person has taken a particular space on rent and thereafter sub-lets the same fully or in part for putting up a hoarding, he would be liable to TDS under Sec. 194-I and not under Sec. 194C. Thus, option c) is correct.

Comment on incorrect answer:

TDS deduction depends upon the nature of expense incurred. Thus, options a) & b) are incorrect.

9. Whether tax is required to be deducted at source where rent has been paid in advance before 1-6-1994?

- a) True b) False

Correct Answer: b)

Justification of correct answer:

Where an advance of rent has been paid before 1-6-1994, there is no requirement for deduction of tax at source. Thus, option b) is correct.

Comment on incorrect answer:

As already clarified before 1st June, 1994 there was no provision to deduct TDS. Thus, option a) is incorrect.

10. Where initial payment is made as a loan or deposit out of which rent is to be adjusted whether TDS will be deducted ?

- a) True b) False c) Both

Correct Answer: a)

Justification of correct answer:

Where initial payment is made as a loan or deposit out of which rent is to be adjusted on month-to-month basis tax will have to be deducted at source. If deposit is refundable then same would not be subject to TDS. Thus, option c) is correct.

Comment on incorrect answer:

TDS applicability is on case-to-case basis whether rent need to be adjusted against deposit or not? Thus, options a) & b) are incorrect.

11. Whether tax is required to be deducted at source where a non-refundable deposits has been made by tenant?

- a) True b) False c) Both

Correct Answer: c)

Justification of correct answer:

Where the tenant makes a non-refundable deposit tax would have to be deducted at source, as, such deposit represents the consideration for the use of the land on the building, etc. Therefore, it partakes the nature of rent as defined in Sec. 194-I. If, however, the deposit is refundable, no tax would be deductible at source. It is further clarified that if the deposit carries interest, the tax to be deducted on the amount of interest will be governed by Sec. 194A of the Income Tax Act. Thus, option c) is correct.

Comment on incorrect answer:

Where initial payment has been made as a loan or deposit out of which rent is to be adjusted on month-to-month basis tax will have to be deducted at source. If deposit is refundable then same would not be subject to TDS. Thus, options a) & b) are incorrect.

12. Whether the tax is to be deducted at source from warehousing charges?

- a) True b) False

Correct Answer: a)

Justification of correct answer:

The term 'rent' defined in the *Explanation* (i) to Sec. 194-I means any payment by whatever name called, under any lease, sub-lease, tenancy or any other agreement or arrangement for the use of the any building or land. Therefore, the warehousing charges will be subject to deduction of tax under Sec. 194-I. Thus, option a) is correct.

Comment on incorrect answer:

The person (not being an Individual or HUF) who is responsible for paying any income to a resident by way of rent is liable to deduct tax at source in case the aggregate of the amounts of such income credited or paid or likely to be credited or paid during the financial year by the aforesaid person to the account of, or to payee exceeds Rs. 1,80,000/-. Thus, option b) is incorrect.

13. Whether the tax is to be deducted at source if the rentals include Municipal tax, ground rent, etc.?

- a) True b) False c) Both

Correct Answer: c)

Justification of correct answer:

The basis of tax deduction at source under Sec. 194-I is “income by way of rent”. Rent has been defined, in the *Explanation* (i) to Sec. 194-I, to mean any payment under any lease, tenancy, agreement, etc., for use of any land or building. Thus, if the Municipal taxes, ground rent, etc., are borne by the tenant, no tax will be deducted on such sum. Thus, option c) is correct.

Comment on incorrect answer:

In case rent is inclusive of these taxes TDS will be applicable. Thus, options a) & b) are incorrect.

14. Whether Sec. 194-I is applicable to rent paid for the use of only a part or a portion of any land or building?

- a) True b) False

Correct Answer: a)

Justification of correct answer:

The definition of the term “any land” or “any building” would include a part or portion of such land or building. Thus, option a) is correct.

Comment on incorrect answer:

The person (not being an Individual or HUF) who is responsible for paying any income to resident by way of rent is liable to deduct tax at source in case the aggregate of the amounts of such income credited or paid or likely to be credited or paid during the financial year by the aforesaid person to the account of, or to payee exceed Rs. 1,80,000/-. Thus, option b) is incorrect.

15. Whether liability to deduct TDS arises at the time of payment of rent or credit of same?

- a) True b) False c) Both

Correct Answer: c)

Justification of correct answer:

Tax should be deducted either at the time of actual payment of rent or at the time of its credit to the account of the payee, whichever is earlier. Thus, option c) is correct.

Comment on incorrect answer:

Tax need to be deducted at the time of actual payment of rent or at the time of credit of same. Thus, option a) & b) is incorrect.

16. Whether tax needs to be deducted where service tax is included in rent?

- a) True b) False

Correct Answer: b)

Justification of correct answer:

Service tax paid by the tenant does not partake the nature of income of the landlord. The landlord only acts as a collecting agency for Government for collection of service tax. Therefore, it has been decided that tax deduction at source under Sec. 194-I of the Income Tax Act would be required to be made on the amount of rent paid/payable without including the service tax. Thus, option b) is correct.

Comment on incorrect answer:

Service tax would not be considered for TDS deduction. Thus, option a) is incorrect.

17. Whether tax is deductible on leasing or hiring of machinery?

- a) True b) False

Correct Answer: a)

Justification of correct answer:

Tax is deductible on leasing or hiring of machinery. Thus, option a) is correct.

Comment on incorrect answer:

As per Sec. 194-I tax will be deductible on leasing or hiring of machinery, plant and equipment, furniture and fittings whether given separately or together. Thus, option b) is incorrect.

18. Whether tax is deductible on rent for plant and equipment?

- a) True b) False

Correct Answer: a)

Justification of correct answer:

Tax is deductible on rent for plant and equipment. Thus, option a) is correct.

Comment on incorrect answer:

As per Sec. 194-I tax will be deductible on leasing or hiring of machinery, plant and equipment, furniture and fittings whether given separately or together. Thus, option b) is incorrect.

19. Whether tax is deductible on rent for furniture and fittings?

- a) True b) False

Correct Answer: a)

Justification of correct answer:

Tax is deductible on rent for furniture's and fittings. Thus, option a) is correct.

Comment on incorrect answer:

As per Sec. 194-I tax will be deductible on leasing or hiring of machinery, plant and equipment, furnitures and fittings whether given separately or together. Thus, option b) is incorrect.

20. Whether tax is deductible on leasing or hiring of machinery?

- a) True b) False

Correct Answer: a)

Justification of correct answer:

Tax is deductible on leasing or hiring of machinery. Thus, option a) is correct.

Comment on incorrect answer:

As per Sec. 194-I tax will be deductible on leasing or hiring of machinery, plant and equipment, furniture's and fittings whether given separately or together. Thus, option b) is incorrect.

21. Whether tax is deductible on rent of plant, machinery of equipment? If yes, what will be the percentage?

- a) Yes b) No

Correct Answer: a)

Justification of correct answer:

TDS @2% will be applicable on rent of plant, machinery of equipment. Thus, option a) is correct.

Comment on incorrect answer:

As per Sec. 194-I 2% deduction will be applicable. Where PAN is not quoted by the deductee TDS rate will be @20%. Thus, option b) is incorrect.

22. Whether tax is deductible at source on adjustable deposit?

- a) Yes b) No c) Both

Correct Answer: c)

Justification of correct answer:

Any deposit given by the tenant which is adjustable against future rent in the nature of advance rent will be subject to TDS. Thus, option c) is correct.

Comment on incorrect answer:

Where initial payment has been made as a deposit out of which rent is to be adjusted on month-to-month basis then tax will have to be deducted at source. If deposit is refundable then same would not be subject to TDS. Thus, options a) & b) are incorrect.

23. Whether tax is required to be deducted at source where a non-refundable deposit has been made by the tenant?

- a) Yes b) No c) Both

Correct Answer: c)

Justification of correct answer:

Where a tenant makes a non-refundable deposit, the tax will have to be deducted at source, as such deposit represents the consideration for the use of land or the building,

The person (not being an Individual or HUF) who is responsible for paying any income to resident by way of rent is liable to deduct tax at source in case the aggregate of the amounts of such income credited or paid or likely to be credited or paid during the financial year by the aforesaid person to the account of, or to payee exceeds Rs. 1,80,000/-. Thus, option b) is incorrect.

a) Yes b) No

Justification of correct answer:

Comment on incorrect answer:

The person (not being an Individual or HUF) who is responsible for paying any income to resident by way of rent is liable to deduct tax at source in case the aggregate of the amounts of such income credited or paid or likely to be credited or paid during the financial year by the aforesaid person to the account of, or to payee exceeds Rs. 1,80,000/-. Thus, option b) is incorrect.

a) True b) False c) Both

Justification of correct answer:

When a client makes payment to an advertising agency the deduction is required to be made at the rate of 1 per cent. Further, when an advertising agency makes payments to their models, artists, photographers, etc., the tax shall be deducted at the rate of 5 per cent as applicable to fees for professional and technical services under Sec. 194J of the Act. W.e.f. 01.10.2009 there is no separate rate for advertisement contract. The tax is required to be deducted @1% where payee is an individual or HUF and 2% in other cases. Thus, option c) is correct.

Comment on incorrect answer:

Vide Circular No. 715, dated 08-08-1995 it was clarified that when a client makes a payment to an advertising agency the deduction is required to be made at the rate of 1 per cent. Further, when an advertising agency makes payments to its models, artists, photographers, etc., the tax shall be deducted at the rate of 5 per cent as applicable to fees for professional and technical services under Sec. 194J of the Act. Thus, options a) & b) are incorrect.

29. Whether the advertising agency would deduct tax at source out of payments made to the media?

The payments released to print media would attract tax deduction. Payments made to Doordarshan, being a government agency, would not attract tax deduction. Thus options a) & b) are incorrect.

32. Whether a contract for putting up a hoarding would be covered under section 194C or 194I of the Act?

- a) 194C b) 194I c) Both

Correct Answer: c)

Justification of correct answer:

The contract for putting up a hoarding is in the nature of an advertising contract and provisions of Sec.194C would be applicable. It may, however, be clarified that if a person has taken a particular space on rent and thereafter sub-lets the same fully or in part for putting up a hoarding, he would be liable to TDS under Sec. 194-I and not under Sec. 194C of the Act. Thus, option c) is correct.

Comment on incorrect answer:

As per Circular No. 715, dated 8-8-1995 putting up hoarding falls under advertising contract and provision of Sec. 194C will be applicable. Thus options a) & b) are incorrect.

33. Whether payment made to a travel agent for purchase of a ticket would fall under ambit of tax deduction?

- a) True b) False

Correct Answer: b)

Justification of correct answer:

The payments made to a travel agent or an airline for purchase of a ticket for travel would not be subjected to tax deduction at source as the privity of the contract is between the individual passenger and the airline/travel agent, notwithstanding the fact that the payment is made by an entity mentioned in Sec. 194C(1). Thus, option b) is correct.

Comment on incorrect answer:

The provision of Sec. 194C shall apply when a plane or a bus or any other mode of transport is chartered by one of the entities mentioned in Sec. 194C of the Act. Thus, option a) is incorrect.

34. Whether a travel agent would be required to deduct tax at source from the sum payable by the agent to an airline?

- a) True b) False

Correct Answer: b)

Justification of correct answer:

The travel agent issuing tickets on behalf of the airlines for travel of individual passengers would not be required to deduct tax at source as he acts on behalf of the airlines. Thus, option b) is correct.

Comment on incorrect answer:

The provision of Sec.194C shall apply when a plane or a bus or any other mode of transport is chartered by one of the entities mentioned in Sec.194C of the Act. Thus, option a) is incorrect.

35. Whether a clearing and forwarding agent would be required to deduct tax at source from the sum payable by the agent to carrier of goods or passengers?

- a) True b) False

Correct Answer: a)

Justification of correct answer:

The clearing and forwarding agents act as independent contractors. Any payment made to them would, be liable for deduction of tax at source. They would also be liable to deduct tax at source while making payments to a carrier of goods. Thus, option a) is correct.

Comment on incorrect answer:

As per Sec. 194C payments are made to clearing and forwarding agent for carriage of goods, the same shall be subjected to tax deduction at source under Sec.194C of the Act. Thus, option b) is incorrect.

36. Whether Sec. 194C would be attracted in respect of payments made to couriers for carrying documents, letters, etc.?

- a) True b) False

Correct Answer: a)

Justification of correct answer:

The carriage of documents, letters, etc., is in the nature of carriage of goods and, therefore, provisions of Sec. 194C would be attracted in respect of payments made to the couriers. Thus, option a) is correct.

Comment on incorrect answer:

Courier service falls under Sec. 194 C ambit, deduction will take place. Thus, option b) is incorrect.

37. Whether each GR can be said to be a separate contract, even though payments for several GRs are made under one bill?

- a) True b) False

Correct Answer: b)

Justification of correct answer:

Normally, each GR can be said to be a separate contract, if the goods are transported at one time. But if the goods are transported continuously in pursuance of a contract for a specific period or quantity, each GR will not be a separate contract and all GRs relating to that period or quantity will be aggregated for the purpose of the TDS. Thus, option b) is correct.

Comment on incorrect answer:

When goods are transported continuously under one contract, each GR will not be considered as a separate contract. Thus, option a) is incorrect.

38. Whether there is any obligation to deduct tax at source out of payment of freight when the goods are received on “freight to pay” basis?

- a) True b) False

Correct Answer: a)

Justification of correct answer:

The provisions of tax deduction at source are applicable, irrespective of the actual payment. Thus, option a) is correct.

Comment on incorrect answer:

As per Circular No. 715, dated 8-8-1995 provision of Sec. 194C will be applicable on freight when goods are received on “freight to pay” basis. Thus, option b) is incorrect.

39. Whether a contract for catering would include serving food in a restaurant/sale of eatables?

- a) True b) False

Correct Answer: b)

Justification of correct answer:

TDS is not required to be deducted when payment is made for serving food in a restaurant in the normal course of running of the restaurant/cafe. Thus, option b) is correct.

Comment on incorrect answer:

As per Circular No. 715, dated 8-8-1995 provision of Sec. 194C will not be applicable on serving food in a restaurant. Thus, option a) is incorrect.

40. Whether payment to a recruitment agency can be covered by Sec. 194C?

- a) True b) False

Correct Answer: b)

Justification of correct answer:

Provisions of Sec.194C apply to a contract for carrying out any work, including supply of labour for carrying out any work. Payments to recruitment agencies are in the nature of payments for services rendered. Accordingly, provisions of Sec. 194C shall not apply. The payment will, however, be subject to TDS under Sec. 194J of the Act. Thus, option b) is correct.

Comment on incorrect answer:

As per Circular No. 715, dated 8-8-1995 provision of Sec. 194C will not be applicable to a recruitment agency's services. Thus, option a) is incorrect.

41. Whether Sec.194C would cover payments made by a company to a share registrar?

- a) True b) False

Correct Answer: b)

Justification of correct answer:

Payments made by a company to a share registrar will not be liable for tax deduction at source under Sec. 194C. But these payment will be liable to tax deduction at source under Sec. 194J. Thus, option b) is correct.

Comment on incorrect answer:

As per Circular No. 715, dated 8-8-1995 provision of Sec. 194C will not be applicable to a share registrar's services. Thus, option a) is incorrect.

42. Whether FD commission and brokerage can be covered under Sec. 194C?

- a) True b) False

Correct Answer: b)

Justification of correct answer:

FD commission and brokerage will not be liable for tax deduction at source under Sec. 194C. Thus, option b) is correct.

Comment on incorrect answer:

As per Delhi High Court's ruling FD commission and brokerage do not fall under Sec. 194C. Thus, option a) is incorrect.

43. Whether Sec.194C would apply in respect of supply of printed material as per prescribed specifications?

- a) True b) False

Correct Answer: a)

Justification of correct answer:

Sec. 194C would apply in respect of supply of printed material. Thus, option b) is correct.

Comment on incorrect answer:

Printed material provided as per specification would fall under Sec. 194C. Thus, option a) is incorrect.

44. Whether tax is required to be deducted at source under Sec. 194C on payment of commission to external parties for procuring orders for the company's products?

- a) True b) False

Correct Answer: b)

Justification of correct answer:

Rendering of services for procurement of orders is not covered under the provisions of Sec.194C. However, rendering of such services may involve payment of fees for professional or technical services, in which case tax may be deductible under the provisions of Sec. 194J. Thus, option b) is correct.

Comment on incorrect answer:

Payment of commission to external parties for procuring orders for the company product will fall under Sec. 194J. Thus, option a) is incorrect.

45. Whether payment of commission to the person who arranges for release of advertisement would be covered under Sec. 194C ?

- a) True b) False

Correct Answer: a)

Justification of correct answer:

Payment of commission to the person who arranges for release of advertisement would be covered under Sec. 194C. Thus option a) is correct.

Comment on incorrect answer:

Commission paid to the person for release of advertisement comes under Sec. 194C. Thus, option b) is incorrect.

46. Whether deduction of tax is required to be made under section 194C for sponsorship of debates, seminars and other functions held in colleges, schools and associations with a view to earn publicity through display of banners put up by the organizers?

- a) True b) False

Correct Answer: a)

Justification of correct answer:

The sponsorship is in essence an agreement for carrying out a work of advertisement. Therefore, provisions of section 194C shall apply. Thus, option a) is correct.

Comment on incorrect answer:

Sponsorship of debates, seminars and other functions held in colleges will come under Sec. 194C. Thus, option b) is incorrect.

47. Whether deduction of tax is required to be made on payments for cost of advertisement issued in the souvenirs brought out by various organizations?

- a) True b) False

Correct Answer: a)

Justification of correct answer:

Deduction of tax is required to be made on payments for cost of advertisements issued in the souvenirs brought out by various organisations. Thus, option a) is correct.

Comment on incorrect answer:

Advertisement issued in the souvenirs will come under Sec. 194C. Thus, option b) is incorrect.

48. Whether the services of a regular electrician on contract basis will fall in the ambit of technical services to attract the provisions of section 194J of the Act?

- a) True b) False

Correct Answer: b)

Justification of correct answer:

The payments made to an electrician or to a contractor who provides the service of an electrician will be in the nature of payment made in pursuance of a contract for carrying out any work, Accordingly, provisions of Sec. 194C will apply in such cases. Thus, option b) is correct.

Comment on incorrect answer:

Payment made for carrying out any work including supply of labour for carrying out any work will fall under Sec. 194C. Thus, option a) is incorrect.

49. Whether a maintenance contract including supply of spares would be covered under Sec. 194C of the Act?

- a) True b) False

Correct Answer: a)

Justification of correct answer:

Routine, normal maintenance contracts which include supply of spares will be covered under Sec. 194C. However, where technical services are rendered the provision of Sec. 194J will apply in regard to tax deduction at source. Thus, option a) is correct.

Comment on incorrect answer:

Payment made for carrying out any work including supply of labour for carrying out any work will fall under Sec. 194C. Thus, option b) is incorrect.

50. Whether the deduction of tax at source under Sec. 194C has to be made out of the gross amount of the bill, including reimbursements or excluding reimbursement for actual expenses ?

- a) True b) False

Correct Answer: a)

Justification of correct answer:

Sec.194C refers to any sum paid. Certainly, reimbursements cannot be deducted out of the bill amount for the purpose of tax deduction at source. Thus, option a) is correct.

Comment on incorrect answer:

TDS required to be deducted on gross amount of bill. Thus, option b) is incorrect.

51. Mr. "X" is required to make a payment of Rs. 15,000/- to a contractor "Y" for the first time during the financial year. Whether such transaction will attract TDS u/s 194C?

- a) True b) False

Correct Answer: b)

Justification of correct answer:

Mr. "X" need not deduct tax at source (TDS), because single payment is below Rs 30,000/-. Thus, option b) is correct.

Comment on incorrect answer:

No TDS is to be made where sum credited or paid or likely to be credited or paid does not exceed Rs.30,000/-. Thus, option a) is incorrect.

52. Mr. "X" is required to make a payment of Rs. 30,200/- to a contractor "Y" for the first time during the financial year. Whether such transaction will attract TDS u/s 194C ?

- a) True b) False

Correct Answer: a)

Justification of correct answer:

Mr. "X" need not deduct tax at source (TDS) because single payment is below Rs 30,200/-. Thus, option a) is correct.

Comment on incorrect answer:

No TDS is to be made where sum credited or paid or likely to be credited or paid does not exceed Rs.30,000/-. Thus option b) is incorrect.

53. Mr. "X" makes following payments to Mr. "Y" during a Financial Year

- Paid Rs. 20,000/- on 10/04/20XX
- Paid Rs. 25,000/- on 15/05/20XX
- Paid Rs 26,000/- on 12/06/20XX
- Paid Rs 10,000/- on 13/07/20XX

Whether such transaction will attract TDS U/s 194C ?

- a) True b) False

Correct Answer: a)

Justification of correct answer:

In such case Mr. "X" need not to deduct tax at source on 10/04/20XX, 15/05/20XX and 12/06/20XX because each is payment below Rs. 20,000 and Aggregate of payments is Rs. 71,000/- as on 12/06/20XX which is less than Rs. 75,000.

But as on 13/07/20XX the aggregate of payments is Rs. 81,000 (Rs.20,000+Rs. 25,000 +Rs. 26,000 +Rs.10,000) which is more than Rs. 75,000. "X" Should deduct tax at source on 13/07/20XX for total of payments, i.e., Rs 81,000/- (Since he didn't deduct any TDS for previous payments). Thus, option a) is correct.

Comment on incorrect answer:

No TDS is to be made where sum credited or paid or likely to be credited or paid does not exceed Rs.30,000/-. However, if aggregate of the amount of such sums credited or paid or likely to be credited or paid in the financial year exceeds Rs.75,000/-, TDS is required to be made. Thus, option b) is incorrect.

54. Whether collecting deposits would fall within the definition of works within the meaning of Sec. 194C?

- a) True b) False

Correct Answer: b)

Justification of correct answer:

There are qualitative differences between the subject referred to as "work" and the subject referred to as "service". The two words convey different ideas. In the former, i.e., "work", the activity is predominantly physical, it is tangible. In the activity referred to as "services", the dominant feature of the activity is intellectual, or at least mental. Thus, option b) is correct.

Comment on incorrect answer:

Collecting deposits would not fall under definition of works. Thus, option a) is incorrect.

55. Mr. X a C&F agent collected freight from ABC Ltd. An exporter intending to transport his goods for export and paid the same to airlines without deducting TDS. Whether this transaction would attract Sec. 194C ?

- a) True b) False

Correct Answer: b)

Justification of correct answer:

Mr. X is not liable to deduct TDS since the contract is between the ABC Ltd. and the Airlines and Mr. X is only an intermediary. Hence, Mr. X cannot be held to be 'person responsible' within the meaning of Sec.194C. Thus, option b) is correct.

Comment on incorrect answer:

Intermediary is not supposed to deduct TDS as he is working on behalf of principal. Thus option a) is incorrect.

56. Whether to fulfill the basic requirement of Sec.194C (2), sub-contractor has to carry out whole or any part of the work undertaken by the contractor?

- a) True b) False

Correct Answer: a)

Justification of correct answer:

There should be not only a contract between a contractor or sub-contractor, but the said contract has to be for carrying out whole or part of the work undertaken by the contractor. The requirement of Sec. 194C (2) is that the sub-contractor should carry out the whole or any part of the work undertaken by the contractor. Thus, option a) is correct.

Comment on incorrect answer:

The basic requirement of Sec. 194C (2) is that the sub-contractor has to carry out whole or any part of the work undertaken by the contractor. Thus, option b) is incorrect.

57. Mr. X a co-operative society was formed by the truck owners and it entered into contract with company for transportation. The company deducted TDS u/s. 194C(2). Whether the company was liable to deduct TDS on amount paid to truck-owners in terms of Sec. 194C(2) ?

- a) True b) False

Correct Answer: b)

Justification of correct answer:

Sec. 194C(2) dictates that the deduction is required only in case of a sub-contract. The relationship between company and its members was not that of a contractor and a sub-contractor. The society was nothing more than a conglomeration of truck operators themselves. There was no sub-contract. Thus, option b) is correct.

Comment on incorrect answer:

The basic requirement of Sec. 194C (2) is that the sub-contractor has to carry out whole or any part of the work undertaken by the contractor. Thus, option a) is incorrect.

58. Mr. X was engaged in transportation of goods for different companies. He was not the owner of any truck and used to hire the same at the time of dispatch. Whether transaction will fall under Sec. 194C?

- a) True b) False

Correct Answer: a)

Justification of correct answer:

Mr. X used to negotiate each trip at the time of dispatch and, hence, each transaction was a fresh contract. In each transaction the amount did not exceed Rs.30,000/-, Mr. X was not liable to deduct TDS. In case transaction amount exceeded Rs. 30,000 the same would come under the purview of Sec. 194C. If Mr. X proves that there was no material to show that all trips for transporting goods were under a single contract and payment for each trip being less than Rs.30,000/-, provisions of Sec. 194C were not applicable. Thus, option a) is correct.

Comment on incorrect answer:

No TDS is to be made where sum credited or paid or likely to be credited or paid does not exceed Rs.30,000/-. Thus, option b) is incorrect.

59. Mr. X manufactured the goods on the specifications given by the Mr. Y in his own premises. Raw material cost and expenses were incurred by him. Whether this transaction would fall under Sec. 194(C)?

- a) True b) False

Correct Answer: b)

Justification of correct answer:

The goods were manufactured by the Mr. X (i.e., manufacturer) in his own establishments in accordance with the specifications given by the Mr. Y. The raw material cost and other expenses were also incurred by Mr. X. The manufacturer also paid the excise duty when the goods were sold & the sales tax was also paid. When the goods were sold to Mr. Y the property in goods passed over to the Mr. Y. Therefore, the agreements of Mr. Y with the manufacturers (i.e., Mr. X) could not be termed as 'works contract' and no TDS u/s. 194C has to be made. Thus, option b) is correct.

Comment on incorrect answer:

Manufacturing or supplying a product according to the requirement or specification of a customer by using the material purchased from a person, other than such customer would not fall under the definition of works. Thus, option a) is incorrect.

60. Whether person responsible for paying any sum to any resident contractors for carrying out any work is liable to deduct TDS ?

- a) True b) False

Correct Answer: a)

Justification of correct answer:

Any person responsible for paying any sum to any resident contractors for carrying out any work including supply of labour for carrying out any work under a contract in pursuance of a contract between contractor and person specified, shall deduct income-tax at the time of such payment. Thus, option a) is correct.

Comment on incorrect answer:

A "Contractor" for the purpose of the provisions of Sec. 194C would be any person who enters into a contract with the Central or any State Government, any local authority, any corporation established by or under a Central, State or Provincial Act, any company or any co-operative society for carrying out any work including the supply of labour for carrying out any work shall be liable to deduct TDS. Thus, option b) is incorrect.

61. Whether TDS is required to be deducted on cash payment to contractor ?

- a) True b) False

Correct Answer: a)

Justification of correct answer:

Contractee liable to make payment to contractor shall deduct income-tax at the time of such payment thereof in cash or by issue of cheque or draft or any other mode. Thus, option a) is correct.

Comment on incorrect answer:

No TDS is to be made where sum credited or paid or likely to be credited or paid does not exceed Rs.30,000/-. Thus, option b) is incorrect.

62. Whether TDS is required to be deducted by the person responsible to give credits to contractor's account?

- a) True b) False

Correct Answer: a)

Justification of correct answer:

Contractee liable to make payment to contractor shall deduct income-tax at the time of such payment in cash or by issue of cheque or draft or any other mode or its credit to contractor's account or any other account, by whatever named called, whichever happens earlier. Thus, option a) is correct.

Comment on incorrect answer:

TDS is to be made at the time of credit to the account of contractor or at the time of payment in cash or by cheque or draft or by any other mode whichever is earlier. Thus, option b) is incorrect.

63. Whether TDS is required to be deducted at material component ?

- a) True b) False c) both

Correct Answer: c)

Justification of correct answer:

Where TDS is required to be made for the work of manufacturing or supplying of a product according to the requirement or specification of a customer by using material purchased from the customer, TDS shall be made on the invoice value excluding the value of material, if such value is mentioned separately in the invoice. Where value of the material is not mentioned separately in the invoice TDS shall be made on the whole of invoice value. Thus, option c) is correct.

Comment on incorrect answer:

Manufacturing or supplying of a product according to the requirement or specification of a customer by using the material purchased from a person, other than such customer would not fall under the definition of works. Thus, options a)& b) are incorrect.

64. Whether personal work performed by contractor to an individual will attract TDS provisions ?

- a) True b) False

Correct Answer: b)

Justification of correct answer:

No TDS is required to be made by an individual or a HUF where payment is required to be made to the contractor for the work carried out for the personal purpose of such individual/HUF. Thus, option b) is correct.

Comment on incorrect answer:

Any services provided by contractor to an individual would not attract tax deduction. Thus, option a) is incorrect.

65. Whether TDS is required to be deducted where sum credited or paid exceeds Rs. 30,000?

- a) True b) False

Correct Answer: a)

Justification of correct answer:

No TDS is to be made where sum credited or paid or likely to be credited or paid does not exceed Rs.30,000/-. Thus, option a) is correct.

Comment on incorrect answer:

No TDS is to be made where sum credited or paid or likely to be credited or paid does not exceed Rs.30,000/-. However, if aggregate of the amount of such sums credited or paid or likely to be credited or paid in the financial year exceed Rs.75,000/-, TDS is required to be made. Thus, option b) is incorrect.

66. Whether TDS is required to be deducted where aggregate of such sum credited or paid exceeds Rs. 75,000?

- a) True b) False

Correct Answer: a)

Justification of correct answer:

If aggregate of the amount of such sums credited or paid or likely to be credited or paid in the financial year exceeds Rs.75,000/-, TDS is required to be made. Thus, option a) is correct.

Comment on incorrect answer:

No TDS is to be made where sum credited or paid or likely to be credited or paid does not exceed Rs.30,000/-. However, if aggregate of the amount of such sums credited or paid or likely to be credited or paid in the financial year exceeds Rs.75,000/-, TDS is required to be made. Thus, option b) is incorrect.

67. Whether TDS required to be deducted where such sum is credited to the account of or paid to the contractor in the course of business of plying, hiring or leasing of goods carriages?

- a) True b) False c) both

Correct Answer: c)

Justification of correct answer:

No TDS is to be made where such sum is credited to the account of or paid to the contractor in the course of business of plying, hiring or leasing of goods carriages if the PAN is furnished by the contractor. Thus, option c) is correct.

Comment on incorrect answer:

If PAN is not produced by the contractor, contractee is supposed to deduct TDS. Thus, options a) & b) are incorrect.

68. Whether advertising falls under “works”?

- a) True b) False

Correct Answer: a)

Justification of correct answer:

The word “work” would include advertising. “Work” does not include manufacturing or supplying a product according to the requirement or specification of a customer by using the material purchased from a person other than such customer. Thus, option a) is correct.

Comment on incorrect answer:

Advertising falls under “works”. Thus, option b) is incorrect.

69. Whether broadcasting and telecasting including production of programmes for such broadcasting or telecasting fall under “works”?

- a) True b) False

Correct Answer: b)

Justification of correct answer:

The word “work” would include broadcasting and telecasting, including production of programmes for such broadcasting or telecasting. “Works” do not include manufacturing or supplying of a product according to the requirement or specification of a customer by using the material purchased from a person other than such customer. Thus, option a) is correct.

Comment on incorrect answer:

Broadcasting and telecasting including production of programmes for such broadcasting or telecasting fall under “Works” definition. Thus, option b) is incorrect.

70. Whether carriage of goods and passengers by any mode of transportation other than railways fall under “works”?

- a) True b) False

Correct Answer: a)

Justification of correct answer:

The word “work” would include carriage of goods and passengers by any mode of transportation other than railways. “Work” does not include manufacturing or supplying a product according to the requirement or specification of a customer by using the material purchased from a person, other than such customer. Thus, option a) is correct.

Comment on incorrect answer:

Carriage of goods and passengers by any mode of transportation other than railways would fall under “Works” definition. Thus, option b) is incorrect.

71. Whether catering falls under “works”?

- a) True b) False

Correct Answer: a)

Justification of correct answer:

The word “work” would include catering. “Work” does not include manufacturing or supplying a product according to the requirement or specification of a customer by using the material purchased from a person, other than such customer. Thus, option a) is correct.

Comment on incorrect answer:

Carriage of goods and passengers by any mode of transportation other than railways would fall under “Works” definition. Thus, option b) is incorrect.

72. Whether manufacturing or supplying of a product according to the requirement or specification of a customer by using the material purchased from such customer falls under “works”?

- a) True b) False

Correct Answer: a)

Justification of correct answer:

The word “work” would include manufacturing or supplying of a product according to the requirement or specification of a customer by using the material purchased from such customer. “Work” does not include manufacturing or supplying of a product according to the requirement or specification of a customer by using the material purchased from a person, other than such customer. Thus, option a) is correct.

Comment on incorrect answer:

Manufacturing or supplying of a product according to the requirement or specification of a customer by using the material purchased from such customer would fall under “Works” definition. Thus, option b) is incorrect.

73. Whether provision of Sec.194C are applicable to contract for sale or mere supply of goods ?

- a) True b) False

Correct Answer: b)

Justification of correct answer:

Provisions of Sec. 194C are applicable only in relation to ‘works contracts’ and ‘labour contracts’ but does not cover ‘contract for sale or mere supply of goods’. Thus, option b) is correct.

Comment on incorrect answer:

Contract for sale would not fall under Sec. 194C. Thus, option a) is incorrect.

74. Whether deduction of tax at source u/sec. 194C is required to be made only from payment of any sum to resident contractors?

- a) True b) False

Correct Answer: a)

Justification of correct answer:

Under Sec. 194C, deduction of tax at source is required to be made from payment of any sum to resident contractors or sub-contractors. Thus, option a) is correct.

Comment on incorrect answer:

Resident contractor and sub-contractor fall under the purview of Sec. 194C. Thus, option b) is incorrect.

75. Whether the Central Government or any State Government paying any sum to any resident contractor for carrying out any work in pursuance of a contract will be liable to deduct TDS?

- a) True b) False

Correct Answer: a)

Justification of correct answer:

The Central Government or any State Government responsible for paying any sum to any resident contractor for carrying out any work (including supply of labour for carrying out any work) in pursuance of a contract between the contractor will be liable to deduct TDS. Thus, option a) is correct.

Comment on incorrect answer:

As per *Sec. 194C*, TDS is to be made at the prescribed rate where payment is made for carrying out any work (including supply of labour for carrying out any work) by a contractor. Thus, option b) is incorrect.

76. Whether any society registered under the Societies Registration Act, 1860 paying any sum to any resident contractor for carrying out any work in pursuance of a contract will be liable to deduct TDS?

- a) True b) False

Correct Answer: a)

Justification of correct answer:

Any society registered under the Societies Registration Act, 1860 or under any such corresponding law to the Act in any part of India responsible for paying any sum to any resident contractor for carrying out any work (including supply of labour for carrying out any work) in pursuance of a contract will be liable to deduct TDS. Thus, option a) is correct.

Comment on incorrect answer:

As per *Sec. 194C*, TDS is to be made at the prescribed rate where payment is made for carrying out any work (including supply of labour for carrying out any work) by a contractor. Thus, option b) is incorrect.

77. Whether any co-operative society paying any sum to any resident contractor for carrying out any work in pursuance of a contract will be liable to deduct TDS?

- a) True b) False

Correct Answer: a)

Justification of correct answer:

Any co-operative society responsible for paying any sum to any resident contractor for carrying out any work (including supply of labour for carrying out any work) in pursuance of a contract will be liable to deduct TDS. Thus, option a) is correct.

Comment on incorrect answer:

As per **Sec. 194C**, TDS is to be made at the prescribed rate where payment is made for carrying out any work (including supply of labour for carrying out any work) by a contractor. Thus, option b) is incorrect.

78. Whether contractor must be resident in India for deduction of TDS?

- a) True b) False

Correct Answer: a)

Justification of correct answer:

The payee, i.e., contractor must be resident in India within meaning of Sec. 6 of the Income Tax Act. Thus, option a) is correct.

Comment on incorrect answer:

As per Sec. 6 contractor must be resident of India. Thus, option b) is incorrect.

79. Whether contractee is supposed to deduct TDS if payment exceeds Rs. 30,000?

- a) True b) False

Correct Answer: a)

Justification of correct answer:

Where advance payments are made, tax will have to be deducted if the total payment exceeds Rs. 30,000. Thus, option a) is correct.

Comment on incorrect answer:

No TDS is to be made where sum credited or paid or likely to be credited or paid does not exceed Rs.30,000/-. However, if aggregate of the amount of such sums credited or paid or likely to be credited or paid in the financial year exceeds Rs.75,000/-, TDS is required to be made. Thus, option b) is incorrect.

80. Whether contractee is supposed to deduct TDS if payment does not exceed Rs. 30,000?

- a) True b) False

Correct Answer: b)

Justification of correct answer:

No TDS is to be made where sum credited or paid or likely to be credited or paid does not exceed Rs.30,000/-. However, if aggregate of the amount of such sums credited or paid or likely to be credited or paid in the financial year exceeds Rs.75,000/-, TDS is required to be made. Thus, option b) is correct.

Comment on incorrect answer:

Where it was expected that the total consideration would not exceed Rs. 30,000 but later on it was found that consideration would exceed Rs. 30,000, tax will have to be deducted in respect of earlier payments also. Thus, option a) is incorrect.

81. Whether contractee is supposed to deduct TDS where the sum has been credited or paid before 1st June, 1972?

- a) True b) False

Correct Answer: b)

Justification of correct answer:

No tax was required to be deducted at source under Sec. 194C(1) where the sum was credited or paid before 1st June, 1972. Thus, option b) is correct.

Comment on incorrect answer:

Before 1st June, 1972 contractee was not supposed to deduct TDS. Thus, option a) is incorrect.

82. Whether the contractee is supposed to deduct TDS where the sum is credited or paid before 1st June, 1973 in pursuance of a contract between the contractor and the co-operative society?

- a) True b) False

Correct Answer: b)

Justification of correct answer:

No tax is required to be deducted at source where the sum is credited or paid before 1st day of June, 1973 in pursuance of a contract between the contractor and the co-operative society or in pursuance of a contract between such contractor and the sub-contractor in relation to any work (including supply of labour for carrying out any work) undertaken by the contractor for the co-operative society. Thus, option b) is correct.

Comment on incorrect answer:

Before 1st June, 1973 contractee which was a co-operative society was not supposed to deduct TDS. Thus, option a) is incorrect.

83. Whether TDS required to be deducted where an individual makes payment to contractor exclusively for personal purpose?

- a) True b) False

Correct Answer: b)

Justification of correct answer:

No individual or Hindu Undivided Family shall be liable to deduct income-tax on the sum credited or paid to the account of the contractor where such sum is credited or paid exclusively for personal purpose of such an individual or any member of Hindu Undivided Family. Thus, option b) is correct.

Comment on incorrect answer:

As per Sec. 194 C(4) No TDS is required to be made by an individual or a HUF where payment is required to be made to the contractor for the work carried out for the personal purpose of such an individual/HUF. Thus, option a) is incorrect.

84. Whether contractor can request contractee for non-deduction of tax ?

- a) True b) False

Correct Answer: a)

Justification of correct answer:

Any person who does not want to get tax deducted on amount payable to him may make an application in Form No. 13 to the Assessing Officer and obtain such certificate from him, as may be appropriate, person may refer the same to the payer for non-deduction of tax. Thus, option a) is correct.

Comment on incorrect answer:

According to Sec. 194C(4) where the Assessing Officer is satisfied that the total income of contractor or sub-contractor justifies the deduction of income-tax at any lower rate or non deduction of income-tax, as the case may be, the Assessing Officer shall, on application made by the contractor or sub-contractor in this behalf give to him such certificate as may be appropriate. Thus, option b) is incorrect.

85. Whether contractor can request contractee to deduct tax at a lower rate?

- a) True b) False

Correct Answer: a)

Justification of correct answer:

Any person to who does not want to get deducted tax on amount payable to him may make an application in Form No. 13 to the Assessing Officer and obtain such certificate from him, as may be appropriate authorizing the payer to deduct tax at a lower rate. Thus, option a) is correct.

Comment on incorrect answer:

According to Sec. 194C(4) where the Assessing Officer is satisfied that the total income of contractor or sub-contractor justifies the deduction of income-tax at any lower rate or non-deduction of income-tax, as the case may be, the Assessing Officer shall, on application made by the contractor or sub-contractor in this behalf give to him such certificate as may be appropriate. Thus, option b) is incorrect.

86. Whether contractor can request department for non-deduction of tax or deduct tax at a lower rate without filling his/her PAN number?

- a) True b) False

Correct Answer: b)

Justification of correct answer:

As per Sec. 206AA(4), no certificate under Sec. 197 for deduction of tax at *Nil* rate or lower rate shall be granted, unless the application made under that section contains the Permanent Account Number of the applicant. Thus, option b) is correct.

Comment on incorrect answer:

PAN number is must on application when contractor is referring any letter to tax authorities. Thus, option a) is incorrect.

87. Whether any person can deduct TDS?

- a) True b) False c) Partially True

Correct Answer: b)

Justification of correct answer:

The payer should be the person responsible for deduction at source. The meaning of person responsible for paying has been defined under Sec. 204(iii). Thus, option c) is correct.

Comment on incorrect answer:

All individuals cannot deduct TDS in individual capacity. Thus, option a) & b) is incorrect.

88. Whether amount credited to suspense account would fall under sec. 194C?

- a) True b) False

Correct Answer: a)

Justification of correct answer:

According to the *Explanation II* to Sec. 194C, where any sum referred to in section 194C(1) or 194C(2) is credited to any account, whether called 'Suspense account' or by any other name, in the books of account of the person liable to pay such income, such crediting shall be deemed to be credit of such income to the account of the payee and the provisions of sec. 194C shall apply accordingly. Thus, option a) is correct.

Comment on incorrect answer:

If amount belongs to TDS and is parked in suspense account, same will fall under Sec. 194C. Thus, option b) is incorrect.

89. Whether payment made to resident contractor would attract 1% TDS rate?

- a) True b) False

Correct Answer: b)

Justification of correct answer:

Payment to a resident contractor other than a company would attract TDS @2% & payment to a resident sub-contractor other than a company would attract TDS @ 1%. The rate of TDS will be 20% if PAN is not quoted by the deductee on or after 1.4.2010. Thus, option b) is correct.

Comment on incorrect answer:

As mentioned above TDS rate will be applicable accordingly. Thus, option a) is incorrect.

90. Whether TDS will be required to deduct where PAN number is not quoted?

- a) True b) False

Correct Answer: a)

Justification of correct answer:

The rate of TDS will be 20% in all the cases if PAN is not quoted by the deductee on or after 1.4.2010. Thus, option a) is correct.

Comment on incorrect answer:

Payment to a resident contractor other than a company would attract TDS @2% & payment to a resident sub-contractor other than a company would attract TDS @ 1%. The rate of TDS will be 20% if PAN is not quoted by the deductee on or after 1.4.2010. Thus, option b) is incorrect.

91. Whether payer is responsible to deduct the TDS where contractor has undertaken to construct building or a dam which includes supply?

- a) True b) False

Correct Answer: a)

Justification of correct answer:

Where the contractor has undertaken to construct a building or a dam, and the government or other specified person has undertaken to supply all or any of the materials necessary for the work at the stipulated prices, the deduction will be related to the gross payment without excluding any adjustments on account of cost of materials. Thus, option a) is correct.

Comment on incorrect answer:

Where TDS is required to be made for the work of manufacturing or supplying a product according to the requirement or specification of a customer by using material purchased from the customer, TDS shall be made on the invoice value excluding the value of material, if such value is mentioned separately in the invoice. Where value of the material is not mentioned separately in the invoice TDS shall be made on the whole of invoice value. Thus, option b) is incorrect.

92. Whether payer is responsible to deduct the TDS where contractor has undertaken to construct building or a dam which only includes labour job?

- a) True b) False

Correct Answer: a)

Justification of correct answer:

Where the contractor has undertaken only to provide the labour for the work, the ownership of the materials supplied remaining at all times with the government or other specified person, the sum payable to the contractor in respect of the contract will only be the amount paid for such labour or services and thus not include the price of the materials supplied by the government or other specified persons. Thus, option a) is correct.

Comment on incorrect answer:

As per **Sec. 194C**, TDS is to be made at the prescribed rate where payment is made for carrying out any work (including supply of labour for carrying out any work) by a contractor. Thus, option b) is incorrect.

93. Whether tax deducted by payer will be deposited with any bank?

- a) True b) False

Correct Answer: b)

Justification of correct answer:

Tax deducted at source is to be deposited by remitting the same to any of the following banks:

- Any branch of the Reserve Bank of India;
- Any branch of the State Bank of India;
- Any branch of selected public sector banks where income-tax offices are situated.

Thus, option b) is correct.

Comment on incorrect answer:

Bank can be any out of above mentioned banks. Thus, option a) is incorrect.

94. Whether payment deducted by government can be deposited on the same day?

- a) True b) False

Correct Answer: a)

Justification of correct answer:

Where the payment is made by or on behalf of the Government the same can be deposited on the same day (without using any challan form). Thus, option a) is correct.

Comment on incorrect answer:

Payment deducted by government can be deposited on the very same day. Thus, option b) is incorrect.

95. In case payment is deducted by any person/company whether he is suppose to deposit the same on the same day?

- a) True b) False

Correct Answer: b)

Justification of correct answer:

Where the payment is made by any person/company the same can deposited within one week from the last day of the month in which the deduction is made. Thus, option b) is correct.

Comment on incorrect answer:

Amount deducted by company can be deposited within one week from the last day of the month in which the deduction is made. Thus, option a) is incorrect.

96. In case payment is deducted by any person/company on last day of accounting year whether he is suppose to deposit the same on the same day ?

- a) True b) False

Correct Answer: b)

Justification of correct answer:

If the amount is credited by person/company in the month of March the same can be deposited on or before the 30th April. Thus option b) is correct.

Comment on incorrect answer:

Last day of accounting year deducted amount can be deposited furnish. Thus option a) is incorrect.

97. Whether payer is required to furnish any certificate to payee with respect to deduction of tax?

- a) True b) False

Correct Answer: a)

Justification of correct answer:

The payer is required to issue a TDS certificate for tax deducted at source to payee in Form No. 16A. Thus, option a) is correct.

Comment on incorrect answer:

TDS certificate is required to be issue by payer, that payee can take claim for same from authority if the same was deducted in excess. Thus option b) is incorrect.

98. Whether any time limit specified for issuance of certificate to payee?

- a) True b) False

Correct Answer: a)

Justification of correct answer:

As per rule 31(3), the certificate for TDS is required to be issued within a period of one month from the end of the quarter (e.g. 30th July/30th September/31st December) during which the credit has been given or the sums have been paid, as the case may be except that for certificate for deduction during quarter ended March 31 to be issued on or before 30th May. Thus, option a) is correct.

Comment on incorrect answer:

The certificate must be issued within a period of one month from the end of the quarter (e.g. 30th July/30th September/31st December) during which credit given or sums have been paid. Thus option b) is incorrect.

99. Where the tax deduction took place on last day of the accounting year whether there would be any time limit specified for issuance of certificate to payee?

- a) True b) False

Correct Answer: a)

Justification of correct answer:

Where the sum is credited by a person to the account of the payee as on the last day of the accounting year the certificate for deduction of tax at source shall be issued within a week after the expiry of two months from the month in which the income is so credited. Thus option a) is correct.

Comment on incorrect answer:

The same can be deposited within a week after expiry of two months. Thus option b) is incorrect.

100. Whether there is a provision of issuance of consolidated certificate?

- a) True b) False

Correct Answer: a)

Justification of correct answer:

Where more than one certificate is required to be furnished to a payee for deduction of income-tax made during a financial year, the person deducting the tax may on request from such payee, issue within one month from the close of such financial year, a consolidated certificate in Form No. 16A for tax deducted during the whole of such financial year. Thus, option a) is correct.

Comment on incorrect answer:

There is a provision in the Act for issuance of consolidate certificate. Thus, option b) is incorrect.

101. Whether deductor is supposed to file any annual return with the authorities?

- a) True b) False

Correct Answer: a)

Justification of correct answer:

Annual return of deduction of tax at source under Sec. 194C from payment made to contractors and sub-contractors is required to be submitted in Form No. 26C. Thus, option a) is correct.

Comment on incorrect answer:

Annual return filing is must for the contractee to submit with authorities. Thus option b) is incorrect.

102. Whether there is a time limit of filing the annual return with the authorities?

- a) True b) False

Correct Answer: a)

Justification of correct answer:

Annual return of deduction of tax at source under Sec. 194C from payment made to contractors and sub-contractors is required to be submitted before the last day of the month 'June', immediately following the previous year in which the deduction was made. Thus option a) is correct.

Comment on incorrect answer:

Annual return filing time-limit is last day of June. Thus, option b) is incorrect.