

Dhanbad Branch of CIRC of The Institute of Chartered Accountants of India Setup by an Act of Parliament

**HAPPY
REPUBLIC
DAY**

January 26 Republic Day

Get together, be the strength of the nation and help it reach
greatest heights! Best wishes on this Republic Day

Newsletter
JAN-2023

“
*The power of knowledge is in all of us.
May goddess Saraswati illuminate the glow
and strive for more knowledge in us forever*
”

Happy
**Basant
Panchami**

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Disclaimer:

The opinions and views expressed in the e-newsletter are sole responsibility of authors/writers and Dhanbad branch committee has no responsibility on emergence of any dispute and difference in opinion and facts of the laws referred therein.



Past Committee Members of Dhanbad Branch of CIRC of ICAI

<i>TERM</i>	<i>CHAIRMAN</i>	<i>VICE-CHAIRMAN</i>	<i>SECRETARY</i>	<i>TREASURER</i>
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<i>1992-93</i>	 <i>S.P.AGARWAL</i>	 <i>D.N.SINHA</i>	 <i>P.S.KESHRI</i>	 <i>R.K.PATNIA</i>
<i>1993-95</i>	 <i>S.P.AGARWAL</i>	 <i>R.K.P.SHAH</i>	 <i>P.S.KESHRI</i>	 <i>R.K.PATNIA</i>
<i>1995-98</i>	 <i>D.N.SINHA</i>	 <i>S.K.GUPTA</i>	 <i>K.K.HARODIA</i>	 <i>P.K.GUTGUTIA</i>
<i>1998-00</i>	 <i>P.S.KESHRI</i>	 <i>I.M.MEHTA</i>	 <i>R.J.MATALIA</i>	 <i>S.K.PASARI</i>
<i>2000-01</i>	 <i>I.M.MEHTA</i>	 <i>S.K.GUPTA</i>	 <i>R.J.MATALIA</i>	 <i>S.K.PASARI</i>
<i>2001-02</i>	 <i>R.K.PATNIA</i>	 <i>S.P.KESHRI</i>	 <i>A.K.MOOKIM</i>	 <i>N.K.SINGH</i>
<i>2002-03</i>	 <i>P.K.GUTGUTIA</i>	 <i>S.P.KESHRI</i>	 <i>N.K.SINGH</i>	 <i>M.K.BALUKA</i>



Past Committee Members of Dhanbad Branch of CIRC of ICAI

<i>TERM</i>	<i>CHAIRMAN</i>	<i>VICE-CHAIRMAN</i>	<i>SECRETARY</i>	<i>TREASURER</i>
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<i>2004-05</i>	 <i>R.J.MATALIA</i>	 <i>S.K.PASARI</i>	 <i>SHYAM PASARI</i>	 <i>R.K.AGARWAL</i>
<i>2005-06</i>	 <i>S.K.PASARI</i>	 <i>N.K.SINGH</i>	 <i>SHYAM PASARI</i>	 <i>R.K.AGARWAL</i>
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Past Committee Members of Dhanbad Branch of CIRC of ICAI

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2019-20	 RAHUL.KR SINGHANIA	 CHARANJEET. S. CHAWLA	 SHIWAM AGARWAL	 RAHUL KR. AGARWAL
2020-21	 CHARANJEET. S. CHAWLA	 PRATIK GANERIWAL	 SHIWAMAGARWAL	 RAHUL.KR SINGHANIA
2021-22	 PRATIK GANERIWAL	 SHIWAM AGARWAL	 RAHUL KR AGARWAL	 CHARANJEET S. CHAWLA



Managing Committee 2022-23

Dhanbad Branch of CIRC of ICAI



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TDS on Rentals : Section 194 I, Section 194 IB and Section 194 IC

Section 194 I : Any person excluding Individual and HUF (However if they have 1 Cr. Turnover in case of Business and 50 Lacs in case of Profession, provision also applies to them) on payment of Rental Income of more than Rs. 2,40,000 to resident is required to deduct Tax at Source.

Definition of Rent: "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;

Rate of Tax : (a) two per cent for the use of any machinery or plant or equipment; and
(b) ten per cent for the use of any land or building (including factory building) or land appurtenant to a building (including factory building) or furniture or fittings:

To widen the coverage and bring in those individual or HUF who pay big amount of rent but are still not liable to audit, Section 194 IB was introduced in Budget 2017.

Section 194 IB: Any Individual or HUF not liable for TDS under Section 194 I on payment of rental income to a resident more than Rs. 50,000 per month is required to deduct tax at source on that payment.

Rate of Tax : Tax to be deducted at the rate of 5%

Difference between Section 194 I and Section 194 IB

Particulars	Section 194I	Section 194 IB
Person responsible for TDS	Any person (Including Individual and HUF whose turnover exceeds Rs. 1 Cr. In business and 50 lacs in profession)	Individual and HUF except on whom Section 194 I applies
Monetary Limit	Rs. 2,40,000 per annum	Rs. 50,000 per month
Applicable on which assets	Land, Building, Plant and Machinery, Equipments, Furniture or Fitting etc.	Land and Building
Tax rate	10% on Land, Building, Furniture and Fitting 2% on Plant and Machinery	5% on Land and Building
Time Limit of TDS	At the time of credit or payment whichever is earlier	At the time of credit for the rent of last month / last month of tenancy or

		at the time of payment whichever is earlier
Time Limit for payment of TDS	Within 7 days from end of the month in which deducted	30 days from end of the month in which tax deducted
TAN Required	Yes	No
Form to be filled	26Q	26QC

Section 194 IC : Notwithstanding anything contained in section 194-IA, any person responsible for paying to a resident any sum by way of consideration, not being consideration in kind, under the specific agreement, shall at the time of credit of such sum to the account of the payee or at the time of payment thereof in cash or by issue of a cheque or draft or by any other mode, whichever is earlier, deduct an amount equal to ten per cent of such sum as income-tax thereon.

"specified agreement" means a registered agreement in which a person owning land or building or both, agrees to allow another person to develop a real estate project on such land or building or both, in consideration of a share, being land or building or both in such project, whether with or without payment of part of the consideration in cash;

Some Issues :

1. Section 194I provides that a person who is responsible for paying to any person any income by way of rent shall deduct income tax thereon at the rate prescribed therein. Explanation (i) to section 194 I defines rent to mean 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 together with furniture or fixtures. In case assessee has acquired a right to display advertisement on hoarding than that is different from rent for Land Building etc., There has to be a link between rent income and use of any Land, Building etc. It was pleaded in the case that circulars are not in any way binding on the appellate authorities and assessee, circulars are binding on Income tax Authorities. [ITO Vs Roshan Publicity Pvt. Ltd. (2005) 4 SOT 105 (Mum)]
The contract for putting up a hoarding is in the nature of advertising contract and provisions of section 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 section 194-I and not under section 194C of the Act. [Circular No. 715, dated 08.08.1995]
2. Payments made by persons, other individuals and HUFs for hotel accommodation taken on regular basis will be in the nature of rent subject to TDS under section 194-I. [Circular 715 dated 08.08.1995]. However a difference has been established between rate agreement and accommodation on regular basis. To constitute accommodation on regular basis there has to be an obligation on the part of hotel provided a room from specified set of during the period of agreement [Circular 5/2002 dated 30.07.2002]
3. The tax is to be deducted from actual payment and there is no need of computing notional income in respect of a deposit given to the landlord. If the deposit is adjustable against future rent, the deposit is in the nature of advance rent subject to TDS.[Circular 715 dated 08.08.1995].
4. The tax is to be deducted from rent paid, by whatever name called, 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 as mentioned in clause (i) of *Explanation* to section 194-I.[Circular 715 dated 08.08.1995]

5. Clarification regarding deduction of tax at source from payment of rent (Circular 718 dated 22.08.1995)

Query No. 2 Whether tax is required to be deducted at source where a non-refundable deposit has been made by the tenant?

Answer In cases 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 or the building, etc., and, therefore, partakes of the nature of rent as defined in section 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 section 194A of the Income-tax Act.

Query No. 3 Whether the tax is to be deducted at source from warehousing charges?

Answer The term 'rent' as defined in *Explanation (i)* below section 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 any building or land. Therefore, the warehousing charges will be subject to deduction of tax under section 194-I.

Query No. 4 On what amount the tax is to be deducted at source if the rentals include municipal tax, ground rent, etc. ?

Answer The basis of tax deduction at source under section 194-I is "income by way of rent". Rent has been defined, in the *Explanation (i)* of section 194-I, to mean any payment under any lease, tenancy, agreement, etc., for the 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.

Query No. 5 Whether section 194-I is applicable to rent paid for the use of only a part or a portion of any land or building ?

Answer Yes, the definition of the term "any land" or "any building" would include a part or a portion of such land or building.

6. If the composite arrangement is in essence the agreement for taking premises on rent, the tax will be deducted under section 194-I from payments thereof. [Circular 715 dated 08.08.1995]
7. Representations have been received from the various quarters regarding applicability of the provisions of section 194-I of the Income-tax Act to the sharing of the proceedings of film between film distributor and a film exhibitor owning a cinema theatre. The matter has been examined by the Board and the Board are of the view that the provisions of section 194-I are not attracted to such payment because :

(i) The exhibitor does not let out the cinema hall to the distributor;

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

(iii) The distributor does not take cinema building on lease or sub-lease or tenancy or under any agreement of similar nature.

[Circular 736 dated 13.02.1996]

8. Assessee was paying rent to the holding company as reimbursement for last many years. This position had been accepted by the department all through and it has been never disputed even after insertion of section 194-I and amendment in section 40(a)(ia). There was no material change in the facts and law during the year under consideration. The holding company had

also not debited the whole of rent to its books of account. It had only debited the rent which pertained to the part of the premises occupied by it. Therefore, there was no lessor and lessee relationship between the holding company and assessee where the provisions of section 194-I were attracted. Therefore, the addition made under section 40(a)(ia) was to be deleted.

[ACIT Vs Result Services (P) Ltd.]

9. Landing and Parking Charges paid by the assessee to airlines Airport Authority of India were rent within the meaning of Section 194 I Singapore Airlines Ltd Vs ITO (2006) 7SOT 84 (Chennai)
10. Storage tanks in question did not qualify either as land or as building within the meaning of Section 194I, what is attached to the land belongs to the land is a principle not applicable to India. Therefore, structure though erected on land, could not be regarded as part of the land. [Gulf Oil India Ltd Vs ITO (2000) 75 ITD 172 (mum)]
11. Rent paid to Co Owners separately will not partake the character of rent paid to AOP [CIT Vs Lally Motors (2009) 311 ITR 29 (P&H)]
12. A perusal of the above terms of the agreement clearly reveals that the agent not only stores the goods but also renders certain other professional services like inventory management on behalf of the appellant, packing the goods in required quantity according to the requirement of the stockist/dealers, follow up collection, maintain bank accounts of the sale proceeds. It cannot be said that the dominant purpose of the agreement is only warehousing. The agreement, terms of which we have set out above, cannot be said to be a composite arrangement which is in essence an agreement for taking premises on rent. The appellant does not have any interest whatsoever over the various places where his goods are stored. The agreement between the appellant and the agents cannot also be said to be a warehousing agreement. Section 194 I not Applies.

[Eli Lilly & Co. (India) Ltd. Vs. DCIT (2006) TTJ 461 (Del.)]



Contributed by:

Name-CA Rahul Sharma

Mem. No. 402506

Section 206(1G) : TCS on Outward Remittance under Liberalized Remittance Scheme (LRS)

Government always try to combat the situation of tax avoidance and evasion, all TDS and TCS provisions are made part of our Direct Tax Regime with this object. With changed economic Scenario it seems inevitable to introduce new entries and modification in existing provisions. In this series Finance Act 2020 introduced new section (1G) in section 206C of Income Tax Act 1961 w.e.f. 01.10.2020.

The purpose of this clause is to collect tax on (a). Remittances made under Liberalized Remittance Scheme (LRS) of Reserve Bank of India and (b). Remittance made towards Overseas Tour Program Package.

Liberalized Remittance Scheme (LRS) : - Under LRS Scheme, an Individual person who is resident in India as per FEMA is permitted to remit outside India fund up to US\$ 2,50,000 per financial year (April to March) without any approval of RBI for any permitted current account or capital account transactions or both such as opening foreign currency account abroad, purchase of property or making investments abroad, private visit, gift/donation, business trip, medical treatment, studies abroad, going abroad on employment, etc. This scheme is available only to Individuals (including minors) and not to corporates, Partnership firms, LLP, HUF, etc.

Overseas Tour Program Package means any tour package which offers visit to a country or countries or territory or territories outside India and includes expenses for travel or hotel stay or boarding or lodging or any other expenditure of similar nature or in relation thereto.

Who Has to Collect Tax : (a). An Authorized Dealer who remit amount out of India and (b). Seller of Overseas Tour Program Package.

Rate of Tax to be Collected:

S.No.	Particulars	If PAN is Available	If PAN is not Available
1.	Overseas Tour Program (Payment for Purchase of Tocket, Booking Hotel, etc.) including payment under LRS	Flat 5% of Remittance Amount	@10% instead of 5%
2.	LRS (Except) than Overseas Tour Program	5% of Remittance Amount in Excess of Rs. 7.00 Lacs during FY	@10% instead of 5%
3.	Remittance for Travel and Expenditure related to Studies abroad, Where source of Fund is Educational Loan	0.5 % of the remittance amount in excess of 7.00 Lacs during FY	@5% instead of 0.5%

No Tax is Collectible:

(a). The Authorized Dealer shall not collect the sum if the amount or aggregate of the amounts being remitted by a buyer is less than seven lakh rupees in a financial year (Except payment is for Purchase of Overseas Tour Program Package).

(b).Sum to be collected by an authorized dealer from the buyer shall be equal to five per cent of the amount or aggregate of the amounts in excess of seven lakh rupees remitted by the buyer in a financial year, if amount remitted is more than Seven Lacs.

(Except payment is for Purchase of Overseas Tour Program Package).

(c). The Authorized Dealer shall not collect the sum on an amount in respect of which the sum has been collected by the seller.

(d).Person responsible for Tax Collection is liable to deduct tax at source under any other provision of this Act and has deducted such amount.

(e). Payment is collected from the Central Government, a State Government, an embassy, a High Commission, a legation, a commission, a consulate, the trade representation of a foreign State, a local authority as defined in the Explanation to clause (20) of section 10. And

(f). Any other person as the Central Government may, by **notification in the Official Gazette**, specify for this purpose, subject to such conditions as may be specified therein.

Notification for Exemption Issued are as follows:

MINISTRY OF FINANCE
(Department of Revenue)
(CENTRAL BOARD OF DIRECT TAXES)

NOTIFICATION

New Delhi, the 17th August, 2022

INCOME-TAX

S.O. 3878(E).—In exercise of the powers conferred by clause (ii) to fifth proviso to sub-section (1G) of section 206C of the Income-tax Act, 1961 (43 of 1961) (hereinafter referred to as "Act") and in suppression of the notification of the Government of India, Central Board of Direct Taxes published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (ii) vide number S.O. 1494(E), dated the 30th March 2022, except as respects things done or omitted to be done before such suppression, the Central Government hereby notifies that the provisions of sub-section (1G) of section 206C of the Act shall not apply to a person (being a buyer) who is a non-resident in terms of section 6 of the Act and who does not have a permanent establishment in India.

2. This notification shall come into force with effect from the date of publication of this notification in the Official Gazette.

[Notification No. 99/2022/F. No. 370142/9/2022-TPL Part (2)]
MRINALINI KAUR SAPRA, Director

MINISTRY OF FINANCE
(Department of Revenue)
(CENTRAL BOARD OF DIRECT TAXES)

NOTIFICATION

New Delhi, the 30th March, 2022

INCOME-TAX

S.O. 1494(E).—In exercise of the powers conferred by clause (ii) to fifth proviso to sub-section (1G) of section 206C of the Income-tax Act, 1961 (43 of 1961)(hereinafter referred to as 'Act'), the Central Government hereby notifies that the provisions of sub-section (1G) of section 206C shall not apply to an individual who is not a resident in India in terms of clause (1) and clause (1A) of section 6 of the Act, and who is visiting India.

2. This notification shall come into force with effect from the date of publication of this notification in the Official Gazette.

[Notification No. 20/2022/F. No.370142/9/2022-TPL]

ANKIT JAIN, Under Secy.

Government of India
Ministry of Finance
Department of Revenue
Central Board of Direct Taxes

New Delhi, 31st March, 2022

PRESS RELEASE

Central Government relaxes provisions of TCS under section 206C(1G) of the Income-tax Act, 1961 in respect of non-resident individuals visiting India

Section 206C (1G) of the Income-tax Act, 1961 ("the Act") provides for collection of tax by a seller of an overseas tour program package from a buyer, being a person purchasing such package, at the rate of 5% of the amount of the package.

Representations were received from domestic tour operators who were facing difficulties in collection of tax from non-resident individuals visiting India who were booking overseas tour package from such domestic tour operators. Since such persons may not have a PAN, tax is required to be collected at higher rates. Further, such non-residents may find it difficult to furnish their ITR and claim refunds.

In order to remove such difficulties, the Central Government, in exercise of powers conferred under section 206C(1G) of the Act, has specified that the provisions of the said section shall not apply to a buyer being an individual who is not a resident in India in terms of clause (1) and clause (1A) of section 6 of the Act and who is visiting India. Hence, a domestic tour operator is not required to collect tax on sale of overseas tour package to non-resident individuals visiting India. Notification No. 20 of 2022 dated 30.03.2022 has also been issued and is available on www.incometaxindia.gov.in under the Notification Section.

(Surabhi Ahluwalia)
Commissioner of Income Tax
(Media & Technical Policy)
Official Spokesperson, CBDT

Illustrations: Customer : Mr. X

Transaction Date	Amount Remitted	Cumulative Remitted Amount	Purpose of Remittance	Applicable TCS
03.07.2022	800000	800000	Medical	2500 (5% of remitted amount -700000)
05.10.2022	650000	1450000	Gift	32500(5% of Remitted Amount)
22.10.2022	120000	1570000	Travel	6000 (5% of Remitted amount)
10.11.2020	525000	2095000	Education (Out of Education Loan)	2650 (0.5% of remitted amount)
12.01.2023	400000	2495000	Family Maintenance	20000 (5% of remitted amount)
25.01.2023	700000	3195000	Education (Out of Personal Savings and not out of Loan)	35000 (5% of remitted amount)



Contributed by:

Name-CA Rahul Sharma

Mem. No. 402506

PHOTO GALLERY

CAREER COUNSELLING PROGRAMME at Carmel School Dhanbad 27/01/2023



Saraswati Puja at ICAI Dhanbad Branch 26/01/2023



Request for Members Participation

Dhanbad branch of CIRC of ICAI requests the members to come forward & share the articles (Professional & Other) to be published in the upcoming e newsletter. The resource materials may be sent to dhanbad@icai.org with the subject line "Article Newsletter" along with a passport size photo.

