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Section 193 & 194A : An insight into some Issues

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There are some issues under these sections which need discussion; an effort has been made on my part to cover some of them in the form of this article. Firstly, whether discount portion of certificate of deposits /commercial papers etc is covered under these sections and whether TDS is required to be made on that component. We have circular No. 647 dated 22nd March 1993 which says that the difference between the issue price and the face value of the commercial paper and the certificate of deposits is to be treated as 'Discount Allowed' and not as interest paid. [Though it has been defined as transfer in case of bonds and same has been taxed as Capital Gains W.e.f. 01.04.2006]. Since discussion is specifically with reference to TDS. Though this circular lay principal in respect of CD and CP, The same principal shall in respect of Bonds as well. Whether TDS has to be made on all mode of interest if it is paid under any act as compliance. The answer is in Circular No. 526 dated 5th December 1988. Which says that interest payment under Land Acquisition act is covered by the provisions of Section 194A and hence Tax has to be deducted at source under this section from the interest payment made to the public under Land Acquisition Act. One more Circular is important in this respect which says that so far as educational institutions whose income is exempt under section 10(22) [Now Section 10(23C)] is concerned provisions of Section 194A will not apply and no Tax need to be deucted at source [Letter No. 12/113/68 dated 28th October 1968]. The Time for making the payment of The tax Deduction at source is governed by Section 200 read with rule 30 and would reckon from the date of credit of interest made constructively to the account of the payee which would ordinarily be with in one week from the last day on the month. Where however interest is credited by an assessee carrying on business or

profession, as on the date up to which the account thereof are made, the amount of TDS would be payable with in Two months of the expiry of the month in which accounts of the assessee are made [Circular No. 288, dated 22nd December 1980] We have on circular which discuss the applicability of TDS on cases where interest is being accumulated either quarterly/half yearly. This says that in respect of cumulative deposits/debentures/bonds, tax is required to be deducted at source at every time the interest is credited in the account booksof the payer and is not to be postponed till the maturity of the deposits/ debentures/bonds. The tax so deducted is also required to be deposited in the account of the central government with in the prescribed time. [Circular No. 643 22nd January 1993].

Where the government securities are registered in the name of a banking company tax will be deducted at source from the interest at the rate in forceapplicable to the banking company without regard to the status of the beneficial owners of the securities. [Circular No. 2P dated 16th May 1966]. One more circular is important this is related with relief from applicability of TDS provisions. In the case of Provident Funds whose income is exempt under section 10(25) (ii) [i.e. Recognized Provident Funds] the income by way of interest on securities Central and State Government may be paid to such P.F. without deduction of Income Tax at Source [Circular 741 dated 18.04.1996]

Bare Act is as follows :-

Interest on securities.

193. The person responsible for paying to a resident any income by way of interest on securities shall, at the time of credit of such income 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 income-tax at the rates in force on the amount of the interest payable :

Provided that no tax shall be deducted from —

(i) any interest payable on 4 per cent National Defence Bonds, 1972, where the bonds are held by an individual, not being a non-resident; or

(ia) any interest payable to an individual on 4 per cent National Defence Loan, 1968, or 4 per cent National Defence Loan, 1972; or

(ib) any interest payable on National Development Bonds; or

(ii) [***]

(iia) any interest payable on 7-Year National Savings Certificates (IV Issue); or

(iib) any interest payable on such debentures, issued by any institution or

authority, or any public sector company, or any co-operative society (including a co-operative land mortgage bank or a co-operative land development bank), as the Central Government may, by notification in the Official Gazette, specify in this behalf;

(iii) any interest payable on 6 per cent Gold Bonds, 1977, or 7 per cent Gold Bonds, 1980, where the Bonds are held by an individual not being a non-resident, and the holder thereof makes a declaration in writing before the person responsible for paying the interest that the total nominal value of the 6 per cent Gold Bonds, 1977, or, as the case may be, the 7 per cent Gold Bonds, 1980, held by him (including such bonds, if any, held on his behalf by any other person) did not in either case exceed ten thousand rupees at any time during the period to which the interest relates;

(iiia) [***]

(iv) any interest payable on any security of the Central Government or a State Government:

Provided that nothing contained in this clause shall apply to the interest exceeding rupees ten thousand payable on 8% Savings (Taxable) Bonds, 2003 or 7.75% Savings (Taxable) Bonds, 2018 during the financial year;

(v) any interest payable to an individual or a Hindu undivided family, who is resident in India, on any debenture issued by a company in which the public are substantially interested, if —

(a) the amount of interest or, as the case may be, the aggregate amount of such interest paid or likely to be paid on such debenture during the financial year by the company to such individual or Hindu undivided family does not exceed five thousand rupees; and

(b) such interest is paid by the company by an account payee cheque;

(vi) any interest payable to the Life Insurance Corporation of India established under the Life Insurance Corporation Act, 1956 (31 of 1956), in respect of any securities owned by it or in which it has full beneficial interest; or

(vii) any interest payable to the General Insurance Corporation of India (hereafter in this clause referred to as the Corporation) or to any of the four companies (hereafter in this clause referred to as such company), formed by virtue of the schemes framed under sub-section (1) of section 16 of the General Insurance Business (Nationalisation) Act, 1972 (57 of 1972), in respect of any securities owned by the Corporation or such company or in which the Corporation or such company has full beneficial interest; or

(viii) any interest payable to any other insurer in respect of any securities owned by it or in which it has full beneficial interest;

(ix) any interest payable on any security issued by a company, where such security is in dematerialised form and is listed on a recognised stock exchange in India in accordance with the Securities Contracts (Regulation) Act, 1956 (42 of 1956) and the rules made thereunder.

Explanation — For the purposes of this section, where any income by way of interest on securities is credited to any account, whether called "Interest payable account" or "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 this section shall apply accordingly.

Explanation 2. — [Omitted by the Finance Act, 1992, w.e.f. 1-6-1992.]

Interest other than "Interest on securities".

194A. (1) Any person, not being an individual or a Hindu undivided family, who is responsible for paying to a resident any income by way of interest other than income by way of interest on securities, shall, at the time of credit of such income 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 income-tax thereon at the rates in force :

Provided that an individual or a Hindu undivided family, whose total sales, gross receipts or turnover from the business or profession carried on by him exceed [one crore rupees in case of business or fifty lakh rupees in case of profession] during the financial year immediately preceding the financial year in which such interest is credited or paid, shall be liable to deduct income-tax under this section.

Explanation. — For the purposes of this section, where any income by way of interest as aforesaid is credited to any account, whether called "Interest payable account" or "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 this section shall apply accordingly.

(2) [Omitted by the Finance Act, 1992, w.e.f. 1-6-1992.]

(3) The provisions of sub-section (1) shall not apply —

(i) where the amount of such income or, as the case may be, the aggregate of the amounts of such income credited or paid or likely to be credited or paid during

the financial year by the person referred to in sub-section (1) to the account of, or to, the payee, does not exceed —

(a) [forty] thousand rupees, where the payer is a banking company to which the Banking Regulation Act, 1949 (10 of 1949) applies (including any bank or banking institution, referred to in section 51 of that Act);

(b) [forty] thousand rupees, where the payer is a co-operative society engaged in carrying on the business of banking;

(c) [forty] thousand rupees, on any deposit with post office under any scheme framed by the Central Government and notified by it in this behalf; and

(d) five thousand rupees in any other case:

Provided that in respect of the income credited or paid in respect of —

(a) time deposits with a banking company to which the Banking Regulation Act, 1949 (10 of 1949) applies (including any bank or banking institution referred to in section 51 of that Act); or

(b) time deposits with a co-operative society engaged in carrying on the business of banking;

(c) deposits with a public company which is formed and registered in India with the main object of carrying on the business of providing long-term finance for construction or purchase of houses in India for residential purposes and which is eligible for deduction under clause (viii) of sub-section (1) of section 36 ;

the aforesaid amount shall be computed with reference to the income credited or paid by a branch of the banking company or the co-operative society or the public company, as the case may be :

Provided further that the amount referred to in the first proviso shall be computed with reference to the income credited or paid by the banking company or the co-operative society or the public company, as the case may be, where such banking company or the co-operative society or the public company has adopted core banking solutions:

Provided also that in case of payee being a senior citizen, the provisions of sub-clause (a), sub-clause (b), and sub-clause (c) shall have effect as if for the words "[forty] thousand rupees", the words "fifty thousand rupees" had been substituted.

Explanation. — [***]

(ii) [***]

(iii) to such income credited or paid to —

(a) any banking company to which the Banking Regulation Act, 1949 (10 of 1949), applies, or any co-operative society engaged in carrying on the business of banking (including a co-operative land mortgage bank), or

(b) any financial corporation established by or under a Central, State or Provincial Act, or

(c) the Life Insurance Corporation of India established under the Life Insurance Corporation Act, 1956 (31 of 1956), or

(d) the Unit Trust of India established under the Unit Trust of India Act, 1963 (52 of 1963), or

(e) any company or co-operative society carrying on the business of insurance, or

(f) such other institution, association or body or class of institutions, associations or bodies which the Central Government may, for reasons to be recorded in writing, notify in this behalf in the Official Gazette:

[Provided that no notification under this sub-clause shall be issued on or after the 1st day of April, 2020;]

(iv) to such income credited or paid by a firm to a partner of the firm;

(v) to such income credited or paid by a co-operative society (other than a co-operative bank) to a member thereof or to such income credited or paid by a co-operative society to any other co-operative society;

Explanation. — For the purposes of this clause, "co-operative bank" shall have the same meaning as assigned to it in Part V of the Banking Regulation Act, 1949 (10 of 1949);

(vi) to such income credited or paid in respect of deposits under any scheme framed by the Central Government and notified by it in this behalf in the Official Gazette;

(vii) to such income credited or paid in respect of deposits (other than time deposits made on or after the 1st day of July, 1995) with a banking company to which the Banking Regulation Act, 1949 (10 of 1949) applies (including any bank or banking institution referred to in section 51 of that Act);

(viia) to such income credited or paid in respect of, —

(a) deposits with a primary agricultural credit society or a primary credit society or a co-operative land mortgage bank or a co-operative land development bank;

(b) deposits (other than time deposits made on or after the 1st day of July, 1995) with a co-operative society, other than a co-operative society or bank referred to in sub-clause (a), engaged in carrying on the business of banking;

(viii) to such income credited or paid by the Central Government under any provision of this Act or the Indian Income-tax Act, 1922 (11 of 1922), or the Estate Duty Act, 1953 (34 of 1953), or the Wealth-tax Act, 1957 (27 of 1957), or the Gift-tax Act, 1958 (18 of 1958), or the Super Profits Tax Act, 1963 (14 of 1963), or the Companies (Profits) Surtax Act, 1964 (7 of 1964), or the Interest-tax Act, 1974 (45 of 1974);

(ix) to such income credited by way of interest on the compensation amount awarded by the Motor Accidents Claims Tribunal;

(ixa) to such income paid by way of interest on the compensation amount awarded by the Motor Accidents Claims Tribunal where the amount of such income or, as the case may be, the aggregate of the amounts of such income paid during the financial year does not exceed fifty thousand rupees;

(x) to such income which is paid or payable by an infrastructure capital company or infrastructure capital fund or a public sector company or scheduled bank in relation to a zero coupon bond issued on or after the 1st day of June, 2005 by such company or fund or public sector company or scheduled bank;

(xi) to any income by way of interest referred to in clause (23FC) of section 10:

[Provided that a co-operative society referred to in clause (v) or clause (viia) shall be liable to deduct income-tax in accordance with the provisions of sub-section (1), if —

(a) the total sales, gross receipts or turnover of the co-operative society exceeds fifty crore rupees during the financial year immediately preceding the financial year in which the interest referred to in sub-section (1) is credited or paid; and

(b) the amount of interest, or the aggregate of the amounts of such interest, credited or paid, or is likely to be credited or paid, during the financial year is more than fifty thousand rupees in case of payee being a senior citizen and forty thousand rupees in any other case.]

Explanation 1. — For the purposes of clauses (i), (vii) and (viia), "time deposits" means deposits (including recurring deposits) repayable on the expiry of fixed periods.

[Explanation 2. — For the purposes of this sub-section, "senior citizen" means an individual resident in India who is of the age of sixty years or more at any time during the relevant previous year.]

(4)The person responsible for making the payment referred to in sub-section (1) may, at the time of making any deduction, increase or reduce the amount to be deducted under this section for the purpose of adjusting any excess or deficiency arising out of any previous deduction or failure to deduct during the financial year.]

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

Explanation. — [Omitted by the Finance Act, 1992, w.e.f. 1-6-1992.]

Activities - December, 2024

Seminar on AQMM and Networking Guidelines,
Speakers **: CA B. A. Shankar, Salem, CA Ravindran , Salem (12.12.2024)**

Seminar on Accounting Standards and a Discussion on Vivad se Viswas, *Speakers* : CA B. A. Shankar, Salem, CA Ravindran , Salem (16.12.2024)

Investor Awareness Programme - "Empowering CAs : The A-Z of Mutual Funds".
Speaker : CA. Rinshad P P (13.12.2024)

One Day Seminar on Valuation under Income Tax and GST,
Speaker : CA. Dr. Gopal Krishna Raju, Chennai, CA. R Subramanian, Chennai. (21.12.2024)

Logo Release - Sri. Mohammed Riyas, Minister for Public Works and Tourism, released logo of CA Students inter branch football Tournament "Superbia" (28.12.2024)

Holidays - January, 2025

Sun	Mon	Tue	Wed	Thu	Fri	Sat
			1	2	3	4
5	6	7	8	9	10	11
12	13	14	15	16	17	18
19	20	21	22	23	24	25
26	27	28	29	30	31	

★ 26th | Republic Day

Upcoming Events January, 2025

13th to 15th

Certificate course

Topic : AI
Venue : ICAI Bhawan, Kozhikode
Fee : ₹.5000

Important days in January, 2025

7
- TDS/TCS Payment for the month of December, 2024

11
- Filing of GSTR-1 for the month of December, 2024

13
- Filing of GSTR-1 - IFF (QRMP scheme) for the month of December, 2024

15
- Payment and Return Filing of ESI & PF for the month of December, 2024
- Filing of Form 27EQ(TCS Return) for October to December, 2024
- Belated and Revised Income Tax Filing for AY 24-25 for Resident Individuals (Due date extended vide Circular No.21/2024)

18
- Filing of CMP-08 for the period October to December, 2024

20
- Filing of GSTR-3B for the month of December, 2024

30
- TDS Payment in Form 26QB (Property), 26QC (Rent), 26QD (Contractor Payments), 26QE (Crypto Assets) for December, 2024

31
- Filing of Form 24Q, 26Q, 27Q (TDS Return) for October to December, 2024

Contributions to e-newsletter

Contributions in the form of articles, poems, jokes, travelogues etc. are invited from members for consideration in the monthly e-Newsletter. Interested members may email their contribution to icaikoznewsletter@gmail.com along with name, membership number and mobile number.