

DETAILED GUIDELINES UNDER SECTION 194R

10% TDS on Benefits and Shares Given to Directors

Our Bureau

New Delhi: Allotment of shares to directors, providing cars to them, and a sponsored business trip or conference by a company will attract 10% tax deducted at source (TDS) from July 1.

The Central Board of Direct Taxes (CBDT) on Thursday issued a detailed guidelines on deduction of tax at source under Section 194R of the Income Tax Act. It requires deduction of TDS at the rate of 10% by any person providing any benefit or perquisite, exceeding ₹20,000 in a year to a resident.

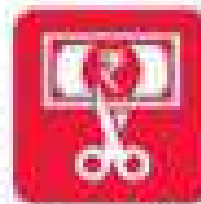
The provision was introduced in the last budget.

As per the guidelines, TDS is required to be deducted even where benefits or perquisites may be used by owner, director, employee of the recipient entity or their relatives who in their individual capacity may not be carrying on business or exercising a profession.

TDS will be applicable in case of capital assets including allotment of shares or cars to directors.

The provision will not be applicable on sales discount, cash discount or rebates offered to customers, but will apply on the seller providing incentives other than discount or rebate, which are in cash or kind. These could be, for instan-

TAXING QUESTION



Tax deducted at source will be applicable in case of capital assets including allotment of shares or providing cars to directors

ce, car, TV, computers, gold coin, mobile phone, sponsored trip, free ticket, or medicine samples to medical practitioners.

The guidelines exempt government hospitals.

Business conferences will be exempt from TDS, with a rider that they do not include leisure component and family members accompanying participants stay before or beyond conference day.

The calculation of value would be taken into account from April 1, the guidelines said.

"It is apparent that taxpayers would need to gear up their systems and tracking mechanisms for various routine transactions to identify and withhold tax on such benefits and perquisites," said Sudin Sabinia, partner at business consultant firm Nangia Andersen LLP.

Freebies to doctors, social media influencers liable for TDS

SHISHIR SINHA

New Delhi, June 10

Social media influencers will now be liable for Tax Deducted at Source (TDS) if they retain goods such as cars, mobile handsets, etc. Similarly, doctors will be charged tax for free samples of medicine or gifts received from pharmaceutical companies.

This is part of the guidelines for the implementation of the new Section (194R) in the Income Tax Act, which will come into effect on July 1. The Section prescribes TDS "by a person responsible for providing to a resident, any benefit or perquisite, whether convertible into money or not, arising from business or the exercise of a profession." TDS will be applicable if the value of perquisites or benefits exceeds ₹20,000 in a year.

According to a CBDT circular of Thursday, if a social media influencer returns a product such as a car, mobile, outfit, cosmet-

ics, etc., to the manufacturer after using it for the purpose of rendering service, then it will not be treated as a benefit/perquisite. However, "if the product is retained then it will be in the nature of benefit/perquisite and tax is required to be deducted accordingly under Section 194R," the circular said.

Clarification for doctors

The CBDT clarified that if doctors receive free samples of medicines while employed in a hospital, Section 194R would apply to the distribution of free samples to the hospital.

The hospital, as an employer, may treat such samples as taxable perquisites for employees and deduct tax. In such cases, the the threshold of ₹20,000 has to be seen with respect to the hospital.

Hospitals will claim exemption while doctors will pay tax as the perk value will be added to his/her salary.

The tax department provided a breather on sales discounts, cash discounts, and rebates allowed to customers by excluding them from the purview of the new Section as their inclusion would put sellers into difficulty.

However, incentives other than sales discounts, cash discounts, and rebates will be covered. Also, incentives which are in cash or kind, for example, cars, TVs, computers, gold coins, mobile phones, sponsored trips, free tickets, and medicine samples to medical practitioners will attract TDS. This list is not exhaustive but only illustrative.

Sudip Sanyal, Partner with Nangia Andersen LLP, said "Certain aspects, particularly the applicability of withholding tax on reimbursement of OPE (out of pocket expenses), benefits provided in cases of recipients not engaged in business or profession, etc., could open up a host of practical issues."

CBDT issues norms on applicability of new TDS provision

Even capital assets given as benefit or perquisite are covered within the scope of Section 194R

NEW DELHI: The income tax department on Thursday issued guidelines on the applicability of new TDS provision regarding benefits received in a business or profession and said that such perquisites can either be in cash or in kind or partly in both of these forms.

The Central Board of Direct Taxes (CBDT) also said that the payer/deductor need not check the taxability of the sum in the hands of the recipient, and the nature of asset given as benefit or perquisite is not relevant. Even capital assets given as benefit or perquisite are covered within the scope of Sec-

tion 194R.

Also Section 194R shall apply to seller giving incentives, other than discount or rebate, which are in cash or kind e.g., car, TV, computers, gold coin, mobile phone, sponsored trip, free ticket, medicine samples to medical practitioners.

The Budget 2022-23 brought in the provision of Tax Deducted at Source (TDS) on such income to check tax revenue leakage.

The Budget brought in a new section, 194R, in the I-T Act which requires deduction of tax at source at the rate of 10 per cent by any person, pro-

viding any benefit or perquisite exceeding Rs 20,000 in a year to a resident, arising from the business or profession of such resident.

The new provision comes into effect from July 1.

CBDT clarifies that in case of doctors receiving free samples of medicines while employed in a hospital, Section 194R would apply on distribution of free samples to the hospital.

The hospital as an employer may treat such samples as taxable perquisite for employees and deduct tax under Section 192. In such cases, the

threshold of Rs.20,000 has to be seen with respect to the hospital.

For doctors working as consultants with a hospital and receiving free samples, TDS would ideally apply on hospital first, which in turn would require to deduct tax under Section 194R with regard to consultant doctors. To remove this difficulty, CBDT clarifies that as an alternative, the original benefit or perquisite provider may directly deduct tax under Section 194R with regard to the consultant doctor as a recipient.

Section 194R shall not

apply if the benefit or perquisite is provided to a government entity, like government hospital, not carrying on business or profession.

The CBDT also provided a breather on sales discount, cash discount and rebates allowed to customer by excluding them from the purview of Section 194R as their inclusion would put the seller into difficulties.

Nangia Andersen LLP Partner Sudin Sabnis said it is though apparent that taxpayers would need to gear up their systems and tracking mechanisms for various routine transactions

to identify and withhold tax on such benefits and perquisites.

"Certain aspects, particularly applicability of benefits provided in cases of recipient not engaged in business or profession etc, could open up a host of practical issues which taxpayers should brace themselves with," he said.

AKM Global Head of Tax Markets Yeeshu Sehgal said the guidelines for section 194R could prove effective in preventing tax leakage as it has tried to take in its sweep wide and diversified nature of transactions which are difficult to envisage.

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