Note: This topic should be done by the students themselves. The weightage of this topic is negligible in CA Final Exams.

<table>
<thead>
<tr>
<th>Section</th>
<th>Description</th>
<th>Details</th>
</tr>
</thead>
<tbody>
<tr>
<td>60</td>
<td>Transfer of Income with or without transfer of assets</td>
<td>Income shall be clubbed in the hands of transferor.</td>
</tr>
<tr>
<td>61</td>
<td>Revocable transfer of assets</td>
<td>Income arising from the assets shall be clubbed in the hands of the transferor.</td>
</tr>
<tr>
<td>62</td>
<td>Irrevocable transfer of assets</td>
<td>Asset transferred to any person not revocable during the lifetime of the beneficiary or transferee, Income arising from the assets shall be taxable in the hands of the transferee. Provided transferor derives no benefit from such income or assets. Exception: Income shall be clubbed in the income of the transferor, as and when the power to revoke the transfer arises. Actual revocation is not relevant.</td>
</tr>
<tr>
<td>63</td>
<td>&quot;Revocable Transfer&quot; Defined</td>
<td>Transfer shall be deemed to be revocable if- it contains provision of re-transfer, or it gives the transferor a right to re-assume power, during the lifetime of the beneficiary/transferee.</td>
</tr>
<tr>
<td>64(1)(ii)</td>
<td>Income of individual to include income of Spouse from a concern in which Individual has substantial interest</td>
<td>In the income of Individual there shall be included, income of spouse by way of salary, commission, fees or any form of remuneration, in cash or in kind, from a concern in which the individual has substantial interest (20% voting power/share in profit at any time during the previous year), Exception: No clubbing if spouse possesses technical or professional qualification, and income is attributable to his or her technical or professional knowledge and experience.</td>
</tr>
</tbody>
</table>
### Note:
- In case both have substantial interest, remuneration will be clubbed in the hands of the individual whose income excluding such remuneration is greater.
- Once included in hand of either person cannot be changed in subsequent year, unless A.O. is satisfied.

<table>
<thead>
<tr>
<th>64(1)(iv)</th>
<th>Income of individual to include income of Spouse</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Note:</strong></td>
<td>Assets transferred by one spouse to another spouse without adequate consideration. (Except where transfer is in connection with an agreement to live apart)</td>
</tr>
<tr>
<td></td>
<td>Income from such asset shall be clubbed in the hands of transferor.</td>
</tr>
<tr>
<td></td>
<td>The relationship must exist both at the time of transfer of asset and at the time when income accrues.</td>
</tr>
<tr>
<td></td>
<td><strong>Section 64(1)(iv) applies to all assets except House Property.</strong></td>
</tr>
<tr>
<td></td>
<td>If House property is transferred to spouse otherwise than for adequate consideration, then section 64(1)(iv) shall not apply but section 27 shall apply.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>64(1)(vi)</th>
<th>Income of individual to include income of son's wife</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Note:</strong></td>
<td>Assets transferred by an individual to son's wife without adequate consideration.</td>
</tr>
<tr>
<td></td>
<td>Income from such asset shall be clubbed in the hands of transferor.</td>
</tr>
<tr>
<td></td>
<td>The relationship must exist both at the time of transfer of asset and at the time when income accrues.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>64(1)(vii)</th>
<th>Income of individual to include income of AOP to which assets are transferred for the benefit of spouse</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Note:</strong></td>
<td>Asset transferred to a person or an AOP (TRUST) without adequate consideration for the immediate or deferred benefit of his/her spouse.</td>
</tr>
<tr>
<td></td>
<td>Income from such asset shall be clubbed in the hands of the transferor.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>64(1)(viii)</th>
<th>Income of individual to include income of AOP to which assets are transferred for the benefit of son's wife</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Note:</strong></td>
<td>Asset transferred to a person or an AOP (TRUST) without adequate consideration for the immediate or deferred benefit of his son's wife.</td>
</tr>
<tr>
<td>64(1A)</td>
<td><strong>Income of Minor Child</strong></td>
</tr>
<tr>
<td>--------</td>
<td>--------------------------</td>
</tr>
<tr>
<td></td>
<td>- Income from such asset shall be clubbed in the hands of the transferor.</td>
</tr>
<tr>
<td></td>
<td>- Income of minor child including minor married daughter.</td>
</tr>
<tr>
<td></td>
<td>- Shall be clubbed with the income of parent.</td>
</tr>
<tr>
<td></td>
<td><strong>Exceptions:</strong></td>
</tr>
<tr>
<td></td>
<td>- Income earned by minor child, on account of manual work or activity involving application of his skill, talent, specialized knowledge and experience.</td>
</tr>
<tr>
<td></td>
<td><strong>Notes:</strong></td>
</tr>
<tr>
<td></td>
<td>1. The income of the minor child shall be included,</td>
</tr>
<tr>
<td></td>
<td>- where the marriage of his parents subsists, in the income of that parent whose total income (excluding the income includible under this sub-section) is greater, or</td>
</tr>
<tr>
<td></td>
<td>- where the marriage of his parents does not subsist, in the income of that parent who maintains the minor child in the previous year.</td>
</tr>
<tr>
<td></td>
<td>2. Once included in hand of either parent, cannot be changed in subsequent year, unless A.O. is satisfied.</td>
</tr>
<tr>
<td></td>
<td>3. If none of the parent is alive, minor shall file the return through legal guardian. There shall be no clubbing.</td>
</tr>
<tr>
<td></td>
<td>4. If the income by way of manual work or activity involving application of skill, etc. which was not clubbed, is invested, and income is earned thereon, such investment income shall be clubbed.</td>
</tr>
<tr>
<td></td>
<td>5. If the minor child becomes major during the previous year, then the incomes which have accrued to him till the date he attains majority shall be clubbed.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>64(2)</th>
<th><strong>Conversion into HUF Property</strong></th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>- Where separate property of the individual is converted by the individual into property belonging to the family</td>
</tr>
<tr>
<td></td>
<td>- otherwise than for adequate consideration</td>
</tr>
<tr>
<td></td>
<td>- income derived from the converted property shall be deemed to be the income of the individual till the time partition takes place.</td>
</tr>
<tr>
<td></td>
<td>- And where the converted property has been the</td>
</tr>
</tbody>
</table>
Clubbing of Income

If assets transferred by an individual to his spouse/son's wife are invested by the transferee in any business, then the following income shall be clubbed with the income of the transferor individual:

\[
\text{Investment in the business as on the first day of the previous year out of the transferred funds made by the spouse or son's wife} \times \text{Income from such business of spouse, or son's wife}
\]

\[
\text{Total Investment in the business as on the first day of the previous year made by spouse, or son's wife}
\]

**Note:**

In case the spouse/son's wife invests the assets in partnership firm as their capital contribution then the interest received from partnership firm shall be clubbed in above ratio. The share of profit from firm is exempt under section 10(2A). Salary cannot be attributed to capital contribution and therefore salary shall not be clubbed.

### GENERAL LAW APPLICABLE TO CLUBBING OF INCOME

1. The clubbing shall continue to apply even if the transferee has converted the transferred assets to some other form.

2. Income shall include loss also. Therefore, losses are also to be clubbed.

3. If the transferee sells the transferred assets, then capital gains shall also be clubbed with the income of the transferor.

4. Income arising out of income earned on transferred assets has not to be clubbed.

5. The Supreme Court in the case of J.H. Gotla held that the clubbed income shall be retained under the same head in which it is earned. Therefore, business income of a minor child shall be clubbed in the hands of the parent under the head "Profits and gains of a Business or Profession". The business losses of the parent can be set off against such income.

6. While clubbing the income, the deductions available under the five heads of income shall be allowed and the income after such deductions shall be clubbed.

7. Clubbing will take place even if the assets are indirectly transferred or transferred through cross transfers.
8. If interest free loan is given by husband to wife/individual to son's wife/individual to his HUF, and the person to whom the loan is given purchases an asset out of the loan, then income from such asset shall not be clubbed in the hands of the person who has given the loan. This is because giving a loan is not a transfer of assets. Clubbing applies when assets are transferred for inadequate consideration.

9. The HUF is a partner in firm ABC through its karta Mr. X and has 25% share in the profits of the firm. Wife of Mr. X is employed by firm ABC. In this case, clubbing shall not apply because Mr. X is partner in representative capacity and not in his individual capacity. Clubbing applies where an individual is a partner in his individual capacity and has substantial interest in firm and his spouse get remuneration from the firm.

10. If a trust is created for the benefit of a minor child, then the income of the trust shall be clubbed with the income of parent under section 64(1A). This shall apply even if the trust deed provides that the income shall be accumulated by trust and shall be given to minor child when he attains majority. Clubbing provisions under section 64(1A) shall apply since the income accrues for the benefit of minor child although it may be given on attaining majority.

SECTION 65: LIABILITY OF THE TRANSFEREE IN RESPECT OF CLUBBED INCOME

Where, by reason of the provisions contained in section 60 to 64 or section 27, the income from any asset is to be clubbed with the income of the transferor, then the transferee shall on the service of a notice of demand by the Assessing Officer, shall be liable to pay that portion of the tax levied on the transferor which is attributable to the income so clubbed.

SECTION 27: "OWNER OF HOUSE PROPERTY" DEFINED

Section 27 defines the "owner of house property" for the purposes of section 22 to 26 as under:

(a) an individual who transfer any house property to his/her spouse otherwise than for adequate consideration or to a minor child not being a minor married daughter otherwise than for adequate consideration, shall be deemed to be the owner of the house property so transferred. (This shall not apply where house is transferred in connection with an agreement to live apart).

(b) the holder of impartible estate shall be deemed to be the owner of the properties comprised in the estate.

(c) a member of the cooperative society, company or other AOP to whom building is allotted or leased under the house building scheme of the society, company or AOP shall be deemed to be the owner of such building.
(d) any person who is allowed to take possession of any building in part performance of a contract of the nature referred to in section 53A of the Transfer of Property Act, shall be deemed to be the owner of such building.

**Note:** As per section 10(32) any income includible in the total income of the assessee under section 64(1A) shall be exempt from tax to the extent that such income does not exceed Rs. 1,500 in respect of each minor child whose income is so includible.

### DIVERSION OF INCOME BY OVERRIDING TITLE

Concept: If an assessee voluntarily diverts his income to some other person, then the income so diverted shall be included in the income of the person who diverted the income and shall not be taxable in the hands of the recipient.

Some is not the case where income is diverted by overriding title. Diversion of income by overriding title means that the income is diverted because of a legal obligation, then the income shall not be included in the income of the person who has diverted the income but shall be taxable in the hands of recipient.

For example, in case of a lottery, as per the lottery agreement certain percentage of the first prize is to be paid to the state government and the lottery agent. In this case, the lottery income is subject to a legal obligation and therefore the amount paid to the State government and the lottery agent is on account of a legal obligation. Therefore, the said amount is not taxable in the hands of winner.
CHAPTER 25. TAXATION OF INVESTMENT FUND

TAXATION OF INVESTMENT FUND & THEIR INVESTORS

Investment funds pool resources from the investors and invest in new companies, social ventures, infrastructure and other areas which Government consider as socially or economically desirable. The Finance Act, 2015 has omitted the concept of Venture Capital Fund and Venture Capital Company and replaced the concept with that of "Investment Funds".

Salient Features of New Taxation Rules are as under:

1. Income from "Profits and Gains of Business or Profession" of Investment Fund shall be taxable in hands of Investment Fund. The proportional income under the head "Profits and Gains of Business or Profession" of investment fund accruing or arising to unit holder shall be exempt in hands of unit holder under section 10(23FBB).

2. Any income of Investment Fund other than under the head "Profits and Gains of Business or Profession" shall be exempt in hands of Investment Fund under section 10(23FBA). The proportional income other than "Profits and Gains of Business or Profession" of investment fund accruing or arising to unit holders shall be taxable in hands of unit holder.

3. Any income of investment fund which is exempt under section 10 shall continue to remain exempt in the hands of Investment Fund and its unit holders.

4. The loss of Investment Fund shall not be allocated to the unit holders and shall be set-off, carried forward and set-off by Investment Fund.

5. If Investment Fund is a company, then no Dividend Distribution Tax shall be levied under section 115-O on income distributed by it (i.e., Dividend) to its unit holders.

6. The total income of Investment Fund shall be taxable at normal rates applicable to a firm/ company, in case Investment fund is a firm / company.

7. If Investment Fund is not a firm/ company, then its income shall be taxable at Maximum Marginal Rate i.e. 42.744%.

8. Investment Fund is required to deduct TDS @ 10% on distribution made by it to its unit holder if such distribution is taxable in the hands of unit holder.

9. Investment Fund derives following income:
   Income from other sources - Interest  200 Lakhs
   Capital Gains 300 Lakhs

   The above incomes are exempt in the hands of Investment Fund. If Investment Fund distributes Rs. 500 Lakhs to unit holders, then Rs. 500 Lakhs is taxable in hands of unit holders. Investment Fund has to deduct TDS @ 10% on such distribution.

   Suppose, there are 2 unitholders, then, Rs. 250 Lakhs is taxable in hands of each unit holder.

10. Suppose in above case, the Investment Fund distributes only Rs. 400 Lakhs, then, it shall be deemed that Rs. 500 Lakh has been distributed. Rs. 250 Lakhs is taxable in hands of each unit holder. Investment Trust shall deduct TDS @10% on Rs. 500 Lakhs. When Rs. 100 Lakhs is distributed in next previous year, then 100 lakhs shall not be taxable in the hands of unit holder in the next previous year and no TDS shall be
deducted on such Rs. 100 lakhs. [Section 115UB(6) and Explanation 2 to Section 115UB]

**AMENDMENT MADE BY FINANCE ACT (NO.2) 2019**

**Provide for pass through of losses in cases of Category I and Category II Alternative Investment Fund (AIF)**

Section 115UB of the Act, inter alia, provides for pass through of income earned by the Category I and II AIF, except for business income which is taxed at AIF level. Pass through of profits (other than profit & gains from business) has been allowed to individual investors so as to give them benefit of lower rate of tax, if applicable. Pass through of losses are not provided under the existing regime and are retained at AIF level to be carried forward and set off in accordance with Chapter VI.

In order to remove the genuine difficulty faced by Category I and II AIFs, it is proposed to amend section 115UB to provide that

(i) the business loss of the investment fund, if any, shall be allowed to be carried forward and it shall be set-off by it in accordance with the provisions of Chapter VI and it shall not be passed onto the unit holder;

(ii) the loss other than business loss, if any, shall also be ignored for the purposes of pass through to its unit holders, if such loss has arisen in respect of a unit which has not been held by the unit holder for a period of atleast twelve months;

(iii) the loss other than business loss, if any, accumulated at the level of investment fund as on 31st March, 2019, shall be deemed to be the loss of a unit holder who held the unit on 31st March, 2019 in respect of the investments made by him in the investment fund and allowed to be carried forward by him for the remaining period calculated from the year in which the loss had occurred for the first time taking that year as the first year and it shall be set-off by him in accordance with the provisions of Chapter VI;

(iv) the loss so deemed in the hands of unit holders shall not be available to the investment fund for the purposes of chapter VI.

These amendments will take effect from the 1st April, 2020 and will, accordingly, apply in relation to the assessment year 2020-21 and subsequent assessment years.

**Illustration:**

The broad features of the above regime can be explained through the following Examples. For simplicity, it is assumed that the investment fund has ten unit holders each having one unit and the income from investment in the investment fund is the only income of the unit holder.

**Example 1:** If in a previous year, the income stream of the investment fund consists of:

<table>
<thead>
<tr>
<th>Income by way of capital gains</th>
<th>Rs. 800</th>
</tr>
</thead>
<tbody>
<tr>
<td>Income from other sources</td>
<td>Rs. 200</td>
</tr>
</tbody>
</table>

Then:

| Total Income of the investment fund | NIL |
| Total income of the unit holders   | Rs. 1,000 |
| Total income of a unit holder      | Rs. 100 |

Break up:
Chargeable under the head "Capital gain" Rs. 80
Chargeable under the head "Income from other sources" Rs. 20
Investment fund shall deduct TDS @ 10% on Rs. 1000 lakhs.

**Example 2:** If in Example 1, the income stream of investment fund consists of:

- Business income Rs. 100
- Income by way of capital gains Rs. 700
- Income from other sources Rs. 200

Then:

- Total Income of the investment fund Rs. 100

(Tax shall be charged at applicable rate if investment fund is a company or a firm, else at maximum marginal rate)

- Income arising to a unit holder which is exempt in hands of unitholders Rs. 100
- Income of unit holder which is exempt Rs. 10
- Total income chargeable in the hands of unit holders Rs. 900
- Total income of each unit holder (chargeable to tax) Rs. 90

Break up:

- Chargeable under the head "Capital gain" Rs. 70
- Chargeable under the head "Income from other sources" Rs. 20

***************************************************************************
CHAPTER 26. TAXATION OF SECURITISATION TRUST

TAXATION OF SECURITISATION TRUST & ITS INVESTORS

What is securitization? – It is a process through which the loans and future income or receivables (the money that is to become due in future) of a bank/financial institution, are sold to a special purpose vehicle which is a Trust. This will allow the financial institution/bank to get funds upfront, which can be put to more productive use in the business.

PROCESS OF SECURITIZATION

- Original lender (bank or FI) selects and then sells various types of loans to another institution called Special Purpose Vehicle, which is a Trust;
- The special purpose vehicle – SPV makes the payment to the original lender for the loans purchased under the arrangement;
- SPV issues debentures/ bonds to Individuals or institutional investors, who are willing to make investments in SPV;
- The original lender will keep on getting recoveries from the original borrowers;
- Original lender passes on these recoveries to the SPV.
- The SPV in turn passes on the income in form of interest on debentures and bonds to the individual / institutional investors as per the arrangement made. The money is also used to redeem debentures / bonds as per arrangement.

What is Securitization Trust? – The Securitization Trust is a Special Purpose Vehicle (SPV) formed as a trust and is set up by:

- A Mutual Funds
- Reconstruction companies*
- Securitization companies*

* These companies are established for the purpose of Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 and are regulated by RBI.

Funding of Securitization Trust: Money is provided to Securitization Trust by:

- Mutual Funds
- Reconstruction company
- Securitization company

and also by

- Institutional investor
- Non-Resident and Foreign Companies

The Securitization Trust issued debt instruments and security receipts to the investor.
Illustration 1:
Suppose a Securitization Trust raises money from:

<table>
<thead>
<tr>
<th>Mutual Funds</th>
<th>Rs. 100 crores</th>
</tr>
</thead>
<tbody>
<tr>
<td>Institutional Investors</td>
<td>Rs. 200 crores</td>
</tr>
<tr>
<td>Reconstruction companies</td>
<td>Rs. 300 crores</td>
</tr>
<tr>
<td>Non-Resident Investors</td>
<td>Rs. 400 crores</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>Rs. 1000 crores</strong></td>
</tr>
</tbody>
</table>

- The Securitization Trust issues debt instruments and/or security receipts to investor for equivalent amount.

Illustration 2:
- Securitization Trust purchases loans of Rs. 1500 crores of Bank of India i.e. Loan given by Bank of India and shown as asset in Balance sheet of Bank of India. The said Loans are purchased for Rs. 1000 crores.
- Bank of India get interest of Rs. 150 crores on the said Loans and said interest is passed on to securitization Trust by Bank of India.
- Now, income of Rs. 150 crores is exempt in hands of Securitization Trust under section 10(23DA).

Illustration 3:
- Securitization Trust distributes income to investors as under:

<table>
<thead>
<tr>
<th>Mutual Funds</th>
<th>Rs. 10 crores</th>
</tr>
</thead>
<tbody>
<tr>
<td>Institutional Investors</td>
<td>Rs. 20 crores</td>
</tr>
<tr>
<td>Reconstruction companies</td>
<td>Rs. 30 crores</td>
</tr>
<tr>
<td>Non-Resident</td>
<td>Rs. 40 crores</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>Rs. 100 crores</strong></td>
</tr>
</tbody>
</table>

- Now as per section 115TCA(3), the income of Rs. 50 crores not paid or credited by securitization Trust to Investor shall be deemed to be credited to the account of investors on the last day of the Previous year in proportionate manner. Therefore, following income shall be deemed to be credited to the investors on 31.03.2021.

<table>
<thead>
<tr>
<th>Mutual Funds</th>
<th>5 crores</th>
</tr>
</thead>
<tbody>
<tr>
<td>Institutional Investors</td>
<td>10 crores</td>
</tr>
<tr>
<td>Reconstruction companies</td>
<td>15 crores</td>
</tr>
<tr>
<td>Non-Resident</td>
<td>20 crores</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td>50 crores</td>
</tr>
</tbody>
</table>

- In the hands of Investors, the income received / deemed to be credited shall be in the nature of interest received on Loans given.
- The income of Rs. 50 crores when actually paid in Previous year 31.03.2022 shall not be included in total income of investors in previous year 31.03.2022.
• Now as per section 194LBC, the Securitization Trust shall deduct TDS as under:

<table>
<thead>
<tr>
<th>Investor</th>
<th>Amount on which TDS to be deducted</th>
<th>Rate of TDS</th>
</tr>
</thead>
<tbody>
<tr>
<td>Mutual Fund</td>
<td>NIL</td>
<td>NIL</td>
</tr>
<tr>
<td></td>
<td>No TDs since as per section 196 there is no TDS on any payment made to Mutual Funds {To be done later in TDS}</td>
<td></td>
</tr>
<tr>
<td>Resident Institutional Investor</td>
<td>20 crores + 10 crores = 30 crores</td>
<td>25% if they individual /HUF 30% in often case.</td>
</tr>
<tr>
<td>Reconstruction Company</td>
<td>30 crores + 15 crores = 45 crores</td>
<td>30%</td>
</tr>
<tr>
<td>Non-Resident</td>
<td>40 crores + 20 crores = 60 crores</td>
<td>20% as per section 115A {To be done later in International Taxation}</td>
</tr>
</tbody>
</table>

The Investor can apply under section 197 to the Assessing Officer for deducting of tax at a lower rate or NIL rate.
CHAPTER 28. ADVANCE TAX

1. Advance tax in respect of an assessment year is payable in the financial year immediately
preceding the assessment year. Therefore, for the assessment year 2021-22, advance tax is
payable in the financial year ending on 31.3.2021.

2. Advance tax shall be calculated by estimating the current year income and then applying the tax
rates in force. TDS/TCS and MAT credit shall be deducted to arrive at advance tax liability.

3. An assessee is required to pay advance tax if his liability for advance tax is Rs. 10,000 or
more.

4. Advance tax is not payable by:
   - An individual
   - resident in India
   - who does not have any income chargeable under the head "Profits & Gains from
     Business or Profession"
   - and is of the age of 60 years or more at any time during the Previous Year.

5. Advance tax is payable in the following instalments:

   IN CASE OF ASSESSEES OTHER THAN COMPANIES

<table>
<thead>
<tr>
<th>Due date of Instalment</th>
<th>Amount Payable</th>
</tr>
</thead>
<tbody>
<tr>
<td>On or before 15th June</td>
<td>Not less than 15% of the advance tax liability.</td>
</tr>
<tr>
<td>On or before 15th September</td>
<td>Not less than 45% of the advance tax liability as reduced by the amount, if any, paid in earlier instalment.</td>
</tr>
<tr>
<td>On or before 15th December</td>
<td>Not less than 75% of the advance tax liability as reduced by the amount, if any, paid in earlier instalment.</td>
</tr>
<tr>
<td>On or before 15th March</td>
<td>The whole amount of the advance tax liability as reduced by the amount, if any, paid in the earlier instalments.</td>
</tr>
</tbody>
</table>

   IN CASE OF ELIGIBLE ASSESSEE IN RESPECT OF AN ELIGIBLE BUSINESS/PROFESSION REFERRED TO IN SECTION 44AD/44ADA

<table>
<thead>
<tr>
<th>Due date of Instalment</th>
<th>Amount Payable</th>
</tr>
</thead>
<tbody>
<tr>
<td>On or before 15th March</td>
<td>The whole amount of the advance tax liability.</td>
</tr>
</tbody>
</table>

   Note: It may be noted that an eligible assessee who is governed by section 44AD/ADA is
required to pay advance tax by 15th March of the Previous Year irrespective of the fact
that he has substantial incomes apart from the income deemed under section 44AD/ADA.

6. Any amount paid by way of advance tax on or before 31st March shall also be treated as
advance tax paid during the financial year for all purposes of the Act.

***************************************************************************
### SECTION 234A(1)
**INTEREST FOR DEFAULT IN FURNISHING OF ROI**

1. **CHARGEABILITY:** Interest is payable if:
   - **(a)** ROI is filed after the due date specified u/s 139(1)
   - Or
   - **(b)** ROI is not filed.

### SECTION 234B(1)
**INTEREST FOR DEFAULT IN PAYMENT OF ADVANCE TAX**

1. **CHARGEABILITY:** Interest is payable if:
   - **(a)** Advance tax paid 90% of the by assessee during "Assessed Tax" the previous year < or
   - **(b)** No Advance tax is paid by the assessee.

   **Note:** "Assessed Tax" means
   Tax determined u/s 143(1) or on Assessment u/s 143 (3) / 144 / 147 / 153 A xx
   - Less: Relief of tax u/s 89 / 90/ 90A (-) xx
   - Less: Relief of tax u/s 91 (-) xx
   - Less: MAT Credit u/s 115JAA (-) xx
   - Less: AMT credit under section 115JD (-) xx
   - Less: TDS/TCS (-) xx
   - Assessed Tax xx

### SECTION 234C
**INTEREST FOR DEFERMENT IN INSTALMENTS OF ADVANCE TAX**

1. **CHARGEABILITY:**
   **In case of an assessee to whom provision of section 44AD do not apply**
   Interest is payable if:
   - **(a)** Advance tax paid on or before 15<sup>th</sup> June < "Tax due on Returned income" and/or
   - **(b)** Advance tax paid on or before 15<sup>th</sup> Sep. < 36% of "Tax due on Returned income" and/or
   - **(c)** Advance tax paid on or before 15<sup>th</sup> Dec. < 75% of “Tax due on Returned income” and/or
   - **(d)** No advance tax paid on or before 15<sup>th</sup> March < “Tax due on Returned income”

   **In case of an assessee to whom Provisions of section 44AD apply**
   Interest is payable if:
   - Advance tax paid on or before 15<sup>th</sup> March < “Tax due on Returned income”
### 2. COMPUTATION:

**Note:** “Tax due on Returned income” means Tax on total income declared in ROI

<table>
<thead>
<tr>
<th>Less:</th>
<th>xx</th>
</tr>
</thead>
<tbody>
<tr>
<td>Relief of tax u/s 89/90/90A</td>
<td>(-)</td>
</tr>
<tr>
<td>Relief of tax u/s 91</td>
<td>(-)</td>
</tr>
<tr>
<td>AMT credit u/s 115JD</td>
<td>(-)</td>
</tr>
<tr>
<td>TDS/TCS</td>
<td>(-)</td>
</tr>
</tbody>
</table>

#### 2. COMPUTATION:

<table>
<thead>
<tr>
<th>(a) Rate: 1% per month simple interest.</th>
<th>(b) Period: Commences from the date next following the due date specified u/s 139(1) and ends on:</th>
<th>(c) Amount: Tax determined under section 143(1) or on assessment under section 143(3)/144/147/153A</th>
</tr>
</thead>
<tbody>
<tr>
<td>(ii) in case where ROI is not filed, the date of completion of assessment u/s 144/147/153A</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Note: Part of the month shall be considered as full month</td>
<td>(i) in case where ROI is filed, the date of filing of ROI,</td>
<td></td>
</tr>
<tr>
<td>(e) Amount: Tax determined u/s 143(1) or on assessment u/s 143(3)/144/147/153A</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Less: Relief of tax u/s 89/90/90A</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Less: Relief of tax u/s 91</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Less: MAT Credit u/s 115JAA</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Less: AMT Credit u/s 115JD</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Less: TDS/TCS</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**Note:** Part of the month shall be considered as full month

<table>
<thead>
<tr>
<th>(a) Rate: 1% per month simple interest.</th>
<th>(b) Period: Commences from 1st April of the assessment year and ends on:</th>
<th>(c) Amount: Tax determined under section 115JD</th>
</tr>
</thead>
<tbody>
<tr>
<td>(ii) where the assessment is made u/s 143(3)/144/147/153A, the date of completion of such assessment.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**Note:** Part of the month shall be considered as full month

<table>
<thead>
<tr>
<th>(a) Rate: 1% per month simple interest.</th>
<th>(b) Period: 1 month</th>
</tr>
</thead>
<tbody>
<tr>
<td>Amount: “Tax due on Returned income”</td>
<td></td>
</tr>
<tr>
<td>Less: Advance Tax paid on or before 15th December.</td>
<td></td>
</tr>
</tbody>
</table>
Less: Advance Tax  
Less: Self Assessment tax paid on or before the due date  
Note: Self Assessment tax paid u/s 140A shall be deducted if it is paid on or before the due date. (In view of Supreme Court decision in case of Dr. Prannoy Roy) The CBDT has recently issued a circular affirming this Supreme Court judgement.  

(B) WHERE TAX HAS BEEN PAID AFTER 31st MARCH OF THE PREVIOUS YEAR U/S 140A OR OTHERWISE  
Interest shall be aggregate of  

<table>
<thead>
<tr>
<th>Rate: 1% per month Simple Interest</th>
<th>Rate: 1% per month Simple Interest</th>
</tr>
</thead>
<tbody>
<tr>
<td>Period: Commences from 1st April of the assessment year and ends on the date of payment of tax under section 140A or otherwise</td>
<td></td>
</tr>
<tr>
<td>Amount: Tax determined u/s 143(1) or on assessment u/s 143(3)/144/147/153A Less: Relief of tax u/s 89/90/90A</td>
<td>Amount: Tax determined u/s 143(1) or on assessment u/s 143(3)/144/147/153A Less: Relief of tax u/s 89/90/90A</td>
</tr>
</tbody>
</table>

In case of assessee to whom provisions of section 44AD apply  
Rate: 1% per month simple interest.  
Period: 1 month  
Amount: “Tax due on Returned income”  
Less: Advance tax paid on or before 15th March.
3. COMPUTATION OF INTEREST FOR PAYMENT UNDER SECTION 140A

**3. COMPUTATION OF INTEREST FOR PAYMENT UNDER SECTION 140A**

<table>
<thead>
<tr>
<th>Less: Relief of tax u/s 91</th>
<th>Less: Relief of tax u/s 91</th>
</tr>
</thead>
<tbody>
<tr>
<td>Less: Mat credit u/s 115JAA</td>
<td>Less: Mat credit u/s 115JAA</td>
</tr>
<tr>
<td>Less: AMT Credit u/s 115JD</td>
<td>Less: AMT Credit u/s 115JD</td>
</tr>
<tr>
<td>Less: TDS/TCS</td>
<td>Less: TDS/TCS</td>
</tr>
<tr>
<td>Less: Advance Tax</td>
<td>Less: Advance Tax</td>
</tr>
<tr>
<td>Less: Tax paid u/s 140A or otherwise</td>
<td>Less: Tax paid u/s 140A or otherwise</td>
</tr>
</tbody>
</table>

4. Interest payable under this section shall be reduced by the interest, if any, paid u/s 140A or otherwise.

5. "Assessment u/s 147" referred above means the assessment made for the first-time u/s 147, i.e. Assessment u/s 147 is made without being subjected to sec 143(1) or 143(3) or 144 or 147 or 153A.

5A. "Assessment u/s 153A" referred above means the assessment made for the first-time u/s 153A, i.e.

5A. "Assessment u/s 153A" referred above means the assessment made for the first-time u/s 153A, i.e.

5. "Assessment u/s 147" referred above means the assessment made for the first-time u/s 147, i.e. Assessment u/s 147 is made without being subjected to sec 143(1) or 143(3) or 144 or 147 or 153A.

5A. "Assessment u/s 153A" referred above means the assessment made for the first-time u/s 153A, i.e.

5A. "Assessment u/s 153A" referred above means the assessment made for the first-time u/s 153A, i.e.

5. "Not applicable" Note: If a return is filed u/s 148, then interest u/s 234C shall be computed with reference to tax on total income declared in ROI filed u/s 148.

5A. "Not applicable" Note: If a return is filed u/s 153A, then interest under section 234C shall be
the first-time u/s 153A, i.e, Assessment u/s 153A is made without being subjected to section 143(1) or 143(3) or 144 or 147 or 153A.

6. In case where an assessee has failed to furnish ROI, then interest u/s 234A shall be applicable.

6. In case where an assessee has failed to furnish ROI, then interest u/s 234B shall be applicable.

6. In case where an assessee has failed to furnish ROI, then interest u/s 234C shall not be applicable, since the interest u/s 234C based on tax due on ROI.

7. For computing interest, "Tax" means "Income Tax including surcharge & Health & Education Cess".

7. For computing interest, "Tax" means "Income Tax including surcharge & Health & Education Cess".

7. For computing interest, "Tax" means "Income Tax including surcharge & Health & Education Cess".

8. Whereas a result of an order made u/s 154/ 250/ 254/ 260A/ 262/ 263/ 264, the amount of Income Tax on which interest was payable under this section is reduced or increased, then the interest under this section shall also be reduced or increased correspondingly.

8. Whereas a result of an order made u/s 154/ 250/ 254/ 260A/ 262/ 263/ 264, the amount of Income Tax on which interest was payable under this section is reduced or increased, then the interest under this section shall also be reduced or increased correspondingly.

8. Not applicable

9. For computing interest u/s 234A/B/C and any other interest, INCOME TAX shall be rounded off to nearest hundred and any fraction of a hundred shall be ignored

<table>
<thead>
<tr>
<th>Income-Tax</th>
<th>Round-Off</th>
</tr>
</thead>
<tbody>
<tr>
<td>21,199</td>
<td>21,100</td>
</tr>
<tr>
<td>21,101</td>
<td>21,100</td>
</tr>
<tr>
<td>21,150</td>
<td>21,100</td>
</tr>
</tbody>
</table>

Note: If an assessment is cancelled and referred back to Assessing Officer for fresh assessment, then interest under section 234B shall be levied up to the date of completion of fresh assessment.
Illustration:
Q1. AY. 2021 - 2022
1) Due date of filing of return - 31st July 2021
2) Date of filing of return - 1st Nov 2021
3) Tax as per ROI - Rs. 300,000
4) Advance tax paid on 21/03/2021 - Rs. 200,000
5) TDS - Rs. 40,000
6) Relief of tax u/s 90 - Rs. 10,000
Compute payment required to be made u/s 140A (SA Tax) assuming payment is made on 01/11/2021.

Sol: Computation of Net Tax Liability

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Tax as per ROI</td>
<td>300,000</td>
</tr>
<tr>
<td>(-) Relief u/s 90</td>
<td>(10,000)</td>
</tr>
<tr>
<td>(-) TDS</td>
<td>(40,000)</td>
</tr>
<tr>
<td>(-) Advance Tax</td>
<td>(200,000)</td>
</tr>
<tr>
<td><strong>Tax Payable</strong></td>
<td><strong>50,000</strong></td>
</tr>
<tr>
<td><strong>Add: Interest u/s 234A</strong></td>
<td></td>
</tr>
<tr>
<td>50,000 × 1% × 4 months</td>
<td>2000</td>
</tr>
<tr>
<td><strong>Add: Interest u/s 234B</strong></td>
<td></td>
</tr>
<tr>
<td>50,000 × 1% × 8 months</td>
<td>4000</td>
</tr>
<tr>
<td><strong>Add: Interest u/s 234C</strong></td>
<td></td>
</tr>
<tr>
<td>(1) 250,000 × 15% × 1% × 3 months</td>
<td>= 1125</td>
</tr>
<tr>
<td>(2) 250,000 × 45% × 1% × 3 months</td>
<td>= 3375</td>
</tr>
<tr>
<td>(3) 250,000 × 75% × 1% × 3 months</td>
<td>= 5625</td>
</tr>
<tr>
<td>(4) 250,000 × 1% × 1 months</td>
<td>= 2500</td>
</tr>
<tr>
<td><strong>Add: Penalty u/s 234F</strong></td>
<td>5000</td>
</tr>
<tr>
<td><strong>Tax to be paid u/s 140A</strong></td>
<td>= 73,625</td>
</tr>
</tbody>
</table>
Q2. **AY 2021 - 2022**

1) Due date of filing of return - 31/07/2021
2) Date of filing return - 17/12/2021
3) Tax as per ROI - 400,000
4) TDS - Rs. 45,000
5) Relief u/s 91 - Rs. 5000
6) Advance tax paid on 15/09/2020 - Rs. 50,000
7) Advance tax paid on 15/12/2020 - Rs. 50,000
8) Advance tax paid on 15/03/2021 - Rs. 200,000

The Department processes the return u/s 143(1) on 20/02/2022. Assessment u/s 143(3) is completed on 30/06/2022 and tax is determined at Rs. 500,000.

Compute interest u/s 234A, 234B, 234C to be levied by AO u/s 143(3), assuming the assessee has paid tax, interest and fee u/s 234F correctly on 17/12/2021.

---

**Sol:**

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Tax as per ROI</td>
<td>400,000</td>
</tr>
<tr>
<td>(-) TDS</td>
<td>(45,000)</td>
</tr>
<tr>
<td>(-) Relief u/s 91</td>
<td>(5000)</td>
</tr>
<tr>
<td>(-) Advance Tax</td>
<td>(300,000)</td>
</tr>
<tr>
<td><strong>Tax Payable</strong></td>
<td>50,000</td>
</tr>
</tbody>
</table>

**Add: Interest u/s 234A**

- Tax payable = 50,000 

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>50,000 × 1% × 5 months</td>
<td>2500</td>
</tr>
</tbody>
</table>

**Add: Interest u/s 234B**

- Tax payable = 4500 

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>50,000 × 1% × 9 months</td>
<td>4500</td>
</tr>
</tbody>
</table>

**Add: Interest u/s 234C**

- Tax payable = 10175 

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>(1) 350,000 × 15% × 1% × 3 months</td>
<td>1575</td>
</tr>
<tr>
<td>(2) 350,000 × 45% - 50,000 × 1% × 3 months</td>
<td>3225</td>
</tr>
<tr>
<td>(3) 350,000 × 75% - 100,000 × 1% × 3 months</td>
<td>4875</td>
</tr>
<tr>
<td>(4) 350,000 - 300,000 × 1% × 1 months</td>
<td>500</td>
</tr>
</tbody>
</table>

**Add: Penalty u/s 234F**

- Tax payable = 5000 

**Tax to be paid u/s 140A**

- Tax payable = 72175 

---

**Intimation u/s 143(1)**

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Income Tax</td>
<td>400,000</td>
</tr>
<tr>
<td>(-) TDS</td>
<td>(45,000)</td>
</tr>
<tr>
<td>(-) Relief u/s 91</td>
<td>(5000)</td>
</tr>
<tr>
<td>(-) Advance Tax</td>
<td>(300,000)</td>
</tr>
<tr>
<td>(-) Self Assessment Tax</td>
<td>(50,000)</td>
</tr>
<tr>
<td><strong>Tax Payable</strong></td>
<td>NIL</td>
</tr>
</tbody>
</table>
### Computation of Demand u/s 143(3)

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Income Tax</td>
<td>500,000</td>
</tr>
<tr>
<td>(-) TDS</td>
<td>-45,000</td>
</tr>
<tr>
<td>(-) Relief u/s 91</td>
<td>-5,000</td>
</tr>
<tr>
<td>(-) Advance Tax</td>
<td>-300,000</td>
</tr>
<tr>
<td><strong>Add: Interest u/s 234A:</strong></td>
<td></td>
</tr>
<tr>
<td>150,000 × 1% × 5 months</td>
<td>7500</td>
</tr>
<tr>
<td>(-) Int u/s 234A paid</td>
<td>-2500</td>
</tr>
<tr>
<td>u/s 140A</td>
<td>5000</td>
</tr>
<tr>
<td><strong>Add: Interest u/s 234B</strong></td>
<td></td>
</tr>
<tr>
<td>150,000 × 1% × 9 months</td>
<td>13500</td>
</tr>
<tr>
<td>(01/04/21 to 31/12/2021)</td>
<td></td>
</tr>
<tr>
<td>100,000 × 1% × 6 months</td>
<td>6000</td>
</tr>
<tr>
<td>(01/01/22 to 30/06/2022)</td>
<td></td>
</tr>
<tr>
<td></td>
<td>1950</td>
</tr>
<tr>
<td>(-) Int paid u/s 140A</td>
<td>-4500</td>
</tr>
<tr>
<td></td>
<td>15000</td>
</tr>
<tr>
<td><strong>Add: Interest u/s 234C</strong></td>
<td></td>
</tr>
<tr>
<td>Interest calculated u/s 140A</td>
<td>10175</td>
</tr>
<tr>
<td>(-) Int paid u/s 140A</td>
<td>-10175</td>
</tr>
<tr>
<td><strong>Tax Payable</strong></td>
<td>1,00,000</td>
</tr>
<tr>
<td><strong>Total Demand Payable</strong></td>
<td>120,000</td>
</tr>
</tbody>
</table>
Q.3 Solve Illustration (2) above on the assumption that the assessee has paid Rs. 55,000 u/s 140A on 17/12/2021 and has not paid the demand u/s 143(1)

Sol

Payment required to be made u/s 140A  72,175
(-) Payment made u/s 140A on 17/12/2021  (55,000)

As per Section 140A, the payment of Rs. 55,000 shall be apportioned as under:

(i) Rs. 22,175 towards interest and fees u/s 234A/B/C/F
(ii) Rs. 32,825 towards Income Tax.
∴ Rs. 17,175 is not paid on 17/12/2021

<table>
<thead>
<tr>
<th>Intimation u/s 143(1)</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Tax payable as per ROI</td>
<td>400,000</td>
</tr>
<tr>
<td>(-) Relief</td>
<td>(5000)</td>
</tr>
<tr>
<td>(-) TDS</td>
<td>(45000)</td>
</tr>
<tr>
<td>(-) Advance Tax</td>
<td>(300,000)</td>
</tr>
<tr>
<td>(-) SA Tax</td>
<td>(32825)</td>
</tr>
</tbody>
</table>

Income Tax payable  17,175

Add: Interest u/s 234A

| 50,000 × 1% × 5 months | 2500  |
| (-) Interest u/s 234A paid u/s 140A | (2500) | Nil |

Add: Interest u/s 234B

| 01/04/2021 to 17/12/2021 | 4500  |
| 01/01/2022 to 20/02/2022 | 342   |
| 17,100 ← 17,175 × 1% × 2m | 4842  |
| i.e. 17,520 ← 17,517 | 342   |

i.e. 17,520 ← 17,517 29.9
It is given in the question that Rs. 17,520 has not been paid by the assessee

<table>
<thead>
<tr>
<th>Computation of Demand u/s 143(3)</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Income Tax</td>
<td>5,00,000</td>
</tr>
<tr>
<td>(-) TDS</td>
<td>(45,000)</td>
</tr>
<tr>
<td>(-) Relief</td>
<td>(5,000)</td>
</tr>
<tr>
<td>(-) Advance Tax</td>
<td>(3,00,000)</td>
</tr>
<tr>
<td>(-) SA Tax</td>
<td>(32,825)</td>
</tr>
<tr>
<td><strong>Income Tax Payable</strong></td>
<td><strong>1,17,175</strong></td>
</tr>
</tbody>
</table>

**Add: Interest u/s 234A**

- 150,000 × 1% × 5 months = 7500
- (-) Int paid u/s 140A for Sec 234A = (2,500)

**Add: Interest u/s 234B**

- 01/04/2020 to 31/12/2020
  - 150,000 × 1% × 9 months = 13,500
- 01/01/2021 to 30/06/2021
- 117,100 ← 117,175 × 1% × 6 months = 7,026
- Total interest u/s 234B = 20,526
- (-) Interest paid u/s 140A = (4,500)

**Total interest u/s 234B** = 16,026

**Total** = 1,38,201
FIRST PROVISO TO SECTION 234C
(APPLICABLE TO CORPORATE & NON-CORPORATE ASSESSSEES)

The provisions of section 234C shall not apply to any shortfall in the payment of the tax due on the returned income where such shortfall is on account of under-estimate or failure to estimate

(a) the amount of capital gains or
(b) income by way of winnings from lotteries, crossword puzzles, races, card games, gambling etc.
(c) income under the head “Profits and gains of business or profession” in cases where the income accrues or arises under the said head for the first time.
(d) income referred in sec 115BBDA.

and the assessee has paid the whole of the amount of tax payable in respect of the incomes referred in (a) to (d) above as part of the remaining instalments of advance tax which are due, or where no such instalment is due, by 31st March of the financial year.

CHIEF COMMISSIONERS AND DIRECTORS-GENERAL (INVESTIGATION)
EMPOWERED TO REDUCE OR WAIVE PENAL INTEREST FOR LATE FURNISHING OF RETURN OF INCOME, NON-PAYMENT OR INADEQUATE PAYMENT OF ADVANCE TAX, ETC.

Interest under section 234A/B/C can be waived by Chief Commissioner of Income-tax/ Director General (Investigation) in the following cases. However, no reduction or waiver of such interest shall be ordered unless the assessee has filed the return of income for the relevant assessment year and paid the entire income-tax (principal component of demand) due on the income as assessed.

1. Where during the course of proceedings for search and seizure under section 132 of the Income-tax Act, the books of account and other documents have been seized, and the assessee has been unable to furnish the return of income for the previous year. In this case, interest under section 234A shall be waived.

2. Any income chargeable to income-tax under any head of income, other than "Capital Gains" is received or accrued after due date of payment of the first or subsequent instalments of advance tax which was neither anticipated nor was in the contemplation of the assessee, and the advance tax on such income is paid in the remaining instalment or installments. In this case, interest under section 234C shall be waived.

3. In consequence of any retrospective amendment of law or the decision of the Supreme Court of India or a decision of a larger Bench of the jurisdictional High Court (which was not challenged before the Supreme Court and has become final), some expense is disallowed or certain receipts which were not taxable become taxable. In this case, interest under section 234B and 234C shall be waived.

4. Where a return of income could not be filed by the assessee due to unavoidable circumstances and such return of income is filed voluntarily by the assessee or his legal heirs without detection by the Assessing Officer. In this case, interest under section 234A shall be waived.

Note: As per the Supreme Court Judgement of Anjum M.H. Ghaswala the above power is also there with Settlement Commission.
SECTION 234D: INTEREST ON EXCESS REFUND

Section 234D provides:
- Where any refund is granted to the assessee under section 143(1), and
- On regular assessment made:
  - The assessee is not entitled to any refund; or
  - The amount refunded exceeds the amount refundable on regular assessment.
- Regular assessment means assessment under section 143(3) or 144 or assessment made under section 147/153A.
- Then, the assessee shall be liable to pay simple interest:
  - @ ½ % on the whole or excess amount so refunded;
  - for every month or part of the month comprised in the period from the date of grant of refund to the date of such regular assessment.
- An assessee may also have been paid interest on refund. Such interest shall also be recovered from the assessee. In such a case, the interest under section 234D is payable on refund as well as on the interest required to be recovered from the assessee.

SECTION 244A(1): INTEREST ON REFUNDS

Where the refund of any amount becomes due to the assessee under this Act, he shall, subject to the provisions of this section, be entitled to receive, in addition to the said amount, simple interest thereon calculated in the following manner, namely:-

(a) where the refund is out of any TDS/TCS/Advance tax paid during the financial year immediately preceding the assessment year, such interest shall be calculated at the rate of ½ % for every month or part of a month comprised in the period, –
  i) from the 1st day of April of the assessment year to the date on which the refund is granted, if the return of income has been furnished on or before the due date specified under section 139(1) or
  ii) from the date of furnishing of return of income to the date on which the refund is granted, in a case not covered under sub-clause (i);

(aa) Where the refund is out of any tax paid under section 140A, such interest shall be calculated at the rate of ½ % for every month or part of a month comprised in the period, from the date of furnishing of return of income or payment of tax, whichever is late, to the date on which the refund is granted.

Provided that no interest under clause (a) or clause (aa) shall be payable, if the amount of refund is less than 10% of the tax as determined under section 143(1) or on regular assessment.
SOME ADVANCED CONCEPTS

PROVISIONS OF SECTION 234A & 234B ON REASSESSMENT UNDER SECTION 147/153A OR ASSESSMENT UNDER SECTION 147/153A AFTER COMPUTATION UNDER SECTION 143(1)

SECTION 234A(3)
Where after the determination of income under section 143(1) or after completion of assessment under section 143(3)/144/147, a notice is issued to the assessee under section 148/153A to file the return of income and such return of income is furnished after the expiry of time specified in the notice under section 148/153A or the return is not furnished, then the assessee shall be liable to pay interest as under:

(a) **Rate:** 1% per month (Part of the month will be considered as full month.)
(b) **Period:** Commences from the expiry of the time allowed in the notice under section 148/153A and ends on:
   (i) Where return is furnished after the expiry of time specified in notice issued under section 148/153A, the date of furnishing of return of income and
   (ii) Where no return has been furnished, the date of completion of reassessment/assessment under section 147/153A.
(c) **Amount:**
   Tax on the income reassessed (or assessed) under section 147/153A.
   Less: Tax on income determined earlier under section 143(1) or 143(3)/144/147.

SECTION 234B(3)
Where a reassessment takes place under section 147/153A [or assessment takes place under section 147/153A after computation u/s. 143(1)], then the assessee shall be liable to pay interest under section 234B which shall be computed as under:

Rate: 1% per month (Part of the month will be considered as full month.)
Period: Commences from the first April of the Assessment Year and ends on date of completion of reassessment (or assessment) under section 147/153A.

Amount: Tax on the total income determined on reassessment (or assessment) under section 147/153A.
Less: Tax on total income determined under section 143(1) or on assessment under section 143(3)/144/147.
CHAPTER 30. DIVIDEND/BONUS STRIPPING

SECTION 94(7): DIVIDEND STRIPPING

Where-

(a) any person buys or acquires any securities or unit within a period of 3 months prior to the record date;

(b) such person sells or transfers—

(i) such securities within a period of 3 months after such date; or

(ii) such unit within a period of 9 months after such date;

(c) the dividend or income on such securities or unit received or receivable by such person is exempt,

then, the loss, if any, arising to him on account of such purchase and sale of securities or unit, to the extent such loss does not exceed the amount of dividend or income received or receivable on such securities or unit, shall be ignored for the purposes of computing his income chargeable to tax."

The following three conditions have to be cumulatively satisfied in order to attract section 94(7) in case of securities:

➤ buying or acquiring any securities within a period of 3 months prior to the record date;

➤ selling or transferring such securities within a period of 3 months after the record date; and

➤ the dividend or income on such securities received or receivable by such person during the intervening period is exempt.

The following three conditions have to be cumulatively satisfied in order to attract section 94(7) in case of units:

➤ buying or acquiring any units within a period of 3 months prior to the record date

➤ selling or transferring such units within a period of 9 months after the record date and

➤ the dividend or income on such units received or receivable by such person during the intervening period is exempt.
Under section 94(7), the loss on purchase and sale of securities / units shall not be allowed to be set-off or carried forward to the extent of exempt income received.

In the following situations section 94(7) will not apply:

**SITUATION 1**
- Buy or acquire any securities or unit before a period of three months prior to the record date;
- Earn tax free dividend or income on such securities or unit during the intervening periods; and
- Sell or transfer such securities within a period of three months after the record date/sell or transfer such units within a period of nine months after the record date.

**SITUATION 2**
- Buy or acquire any securities or unit within a period of three months prior to the record date;
- Earn tax free dividend or income on such securities or unit during the intervening period; and
- Sell or transfer such securities after a period of 3 months from the record date/sell or transfer such units after a period of nine months from the record date.

**SITUATION 3**
- Buy or acquire any securities or unit within a period of 3 months prior to the record date;
- No tax free dividend or income on such securities or unit is earned during the intervening period; and
- Sell or transfer such securities within a period of 3 months after the record date/sell or transfer such units within a period of 9 months after the record date.

Section 94 covers holding of securities/units both as capital assets and as stock-in-trade and hence section 94(7) would be applicable to both an investor and a trader of securities/units.

**SECTION 94(8): MEASURES TO CURB BONUS STRIPPING**

The loss, if any, arising to a person on account of purchase and sale of original units shall be ignored for the purposes of computing his income chargeable to tax if the following conditions are satisfied:-

(a) The person has bought or acquired the units within a period of 3 months prior to the record date (original units).

(b) He is allotted additional units without any payment on the basis of holding of such units on such record date (bonus units).

(c) He has sold or transferred all or any of the original units with in a period of 9 months after the record date.

(d) On the date of sale or transfer referred to in (c) above, he held at least one of the additional bonus units allotted to him.
However, the loss will be considered to be the cost of acquisition of the bonus units held on the date of sale.

The provision:
- applies to all units whether bought or 'acquired'
- covers both open ended and close ended equity funds
- is applicable even in case where units are held as stock in trade
- is applicable only in respect of units and not shares
- does not apply if all additional units are transferred before the original units are sold

As mentioned above, all the conditions have to be cumulatively satisfied in order to attract section 94(8). Hence, in the following situations, section 94(8) will not apply.

**SITUATION 1**
- Units bought or acquired before a period of three months prior to the record date;
- Bonus units on such units obtained during the intervening period; and
- Original units sold or transferred within a period of nine months after the record date.

**SITUATION 2**
- Units bought or acquired within a period of three months prior to the record date;
- Bonus units on such units obtained during the intervening period; and
- Original units sold or transferred after a period of nine months from the record date.

**SITUATION 3**
- Units bought or acquired within a period of three months prior to the record date;
- No bonus units are allotted during the intervening period; and
- Original units are sold or transferred within a period of nine months after the record date.

*Indexed cost of acquisition* - Since the loss is considered to be the cost of acquisition of the bonus units held on the date of sale, the benefit of indexation should be available on such deemed cost of acquisition.
Sec 70: Inter Source Adjustment

General Rule: The loss in respect of any source of income under any head of income shall be set off against the income from any other source under the same head.

Exceptions:

1. Losses from speculation business.
2. Losses from the activity of owning and maintaining racehorses.
3. Long Term Capital Loss cannot be set off against short term capital gains.
4. Loss of specified business referred to in Sec 35AD cannot be set-off except against profits and gains of any other specified business referred to in Sec 35AD.

Sec 71: Inter head Adjustment

GENERAL RULE: Where in respect of any assessment year, there is a loss under any head of income, it can be set-off against income under any head of income for that assessment year.

Exceptions:

1. Losses from speculation business.
2. Losses from the activity of owning and maintaining racehorses.
3. Losses under the head capital gains.
4. Losses of P/G/B/P cannot be set-off against salary.
5. Loss computed in respect of any specified business referred to in Sec 35AD cannot be set-off against any other income.

Note: Loss of tax-exempt activity shall not be set-off under Sec 70 or 71 and shall not be carried forward.

Restriction on set-off of loss from House Property

Sec 71 of the Act relates to set-off of loss from one head against income from another. In line with the international best practices it is proposed to insert sub-Sec (3A) in the said Sec to provide that set-off of loss under the head “Income
from house property" against any other head of income shall be restricted to two lakh rupees for any assessment year. However, the unabsorbed loss shall be allowed to be carried forward for set-off in subsequent years in accordance with the existing provisions of the Act.

**Sec 71B: Carry forward and Set-off of Loss from House Property**

Loss under the head house property:

(i) Can be set-off in current year against any income

(ii) Balance to be carried forward for 8 Assessment Years and set-off only against "Income from House Property."

⇒ **Key Notes:**

Loss under the head House Property can be carried forward even if ROI is filed after the due date of filing ROI under Sec 139(1).

**Sec 72: Carry forward & Set-off of Business Losses**

Loss under the head P/G/B/P:

(i) Can be set-off in current year against any income except salary.

(ii) Balance to be carried forward for 8 Assessment Years and set-off only against "P/G/B/P."

⇒ **Note:** Loss can be carried forward even if business has been discontinued.

**Exceptions to the rule that the assessee must be the same**

1. On inheritance on death of an individual, the legal heir shall carry forward the losses of deceased for the balance number of years (Sec 78(2)).

**Madhukant M. Mehta (Supreme Court)**

Where sole proprietary business was carried on by legal heirs by forming partnership firm, firm could claim carry forward of loss of sole proprietor, as it was found by Tribunal that there was succession to business of deceased.

**Pramod Mittal (Delhi)**

If a partnership firm was dissolved and the takeover of the running business of the firm by the erstwhile partner as a sole proprietor was not a case of
succession by inheritance. Hence, the carry forward of losses of the firm by the sole proprietor was not allowed in this case.

### Exceptions to the rule that losses can be C/F for eight assessment years

1. **Sec 35AD**: Loss of business which is specified under Sec 35AD can be carried forward **without any time limit**.

2. As per **sec 41(5)** if business was **discontinued** and there is **income chargeable** under Sec 41(l)/(3)/(4)/(4A) in respect of such discontinued business, then business loss of the previous year in which business was discontinued **can be set-off against such incomes**.

   **Example:**

   In case a business is discontinued & there is a loss in that business, then it can be carried forward and set off against deemed income u/s 41(1),(3),(4) & (4A), irrespective of the time limit. However, all unabsorbed losses of discontinued business cannot be set off. Only loss pertaining to year of discontinuance can be set off against 41(1) etc. Eg: Mr X has incurred the following losses: PY 92 - 93 = 5lacs; PY 93 - 94 = 8lacs; PY 94 - 95 = 10lacs. The business is discontinued PY 94 - 95. Later on, in the year PY 2017 - 18, Mr X recovers a bad debt chargeable u/s 41(4). Now, if 41(5) were not there, 13 lacs would be fully taxable. However, as per 41(5), the assessee can set off the loss only of year of discontinuance against 41(4) income. Therefore, taxable income is 3lacs. Loss pertaining to 92 - 93 & 93 - 94 are lapsed.

3. Where business is **discontinued** in circumstances given in Sec 33B and is **re-established within the period** given in Sec 33B, then the losses of such business including bought forward losses shall be:

   (i) **Carried forward** to Assessment Year in which business is re-established and set-off against P/G/B/P;

   (ii) **Balance carried forward** to **next 7 Assessment Years**.

   **Example:**

   Till PY 1984 - 85, there was a rehabilitation allowance u/s 33B which was available to the assessee if the business is discontinued due to some circumstances like floods, earthquake, cyclone, war, etc and if it is reestablished...
within 3 years from the end of the 'PY in' which business was discontinued. However, the allowance is not available with effect from 1.4.85, but the implication of this Sec is there in this chapter. \(\text{Also Refer Sec 115BAB}\)

If a business is discontinued due to flood, etc. and is re-established within 3 yrs from the end of the PY in which the business was discontinued, then b/f losses and loss of the year of discontinuance can be set off for another 8 yrs from the year of re-establishment. Suppose the business is discontinued in PY 16 - 17 due to earthquake and there was a loss in that year of Rs. 10lacs. There was also a b/f loss of 2010-2011 of Rs. 8l. Now, if this business is established in PY 2019-20, then losses of 2016 - 17 and 2010-2011 can be carried forward for another 8 years from 2019 - 20.

### Sec 73: Losses in Speculation Business

Losses of speculation business can be set-off against profits of speculation business. Such losses can be carried forward for 4 Assessment Years and set-off against speculation income only.

### Sec 73A: C/F & Set off of losses by Specified Business referred in Sec 35AD

Loss of specified business of Sec 35AD can be set-off in current year and future years only against the profits of any specified business referred to in Sec 35AD. Loss of specified business referred in 35AD carried forward indefinitely.

### Sec 74: Losses under the head Capital Gains

<table>
<thead>
<tr>
<th>(i)</th>
<th>Brought forward Long-Term Capital Loss</th>
<th>→</th>
<th>Can be set off against current year Long Term Capital Gain.</th>
</tr>
</thead>
<tbody>
<tr>
<td>(ii)</td>
<td>Brought forward Long-Term Capital Loss</td>
<td>→</td>
<td>Cannot be set off against current year Short Term Capital Gains</td>
</tr>
<tr>
<td>(iii)</td>
<td>Brought forward Short-Term Capital Loss</td>
<td>→</td>
<td>Can be set off against current year Short Term Capital Gains</td>
</tr>
<tr>
<td>(iv)</td>
<td>Brought forward Short-Term Capital Loss</td>
<td>→</td>
<td>Can be set off against current year Long Term Capital Gains</td>
</tr>
</tbody>
</table>
**Sec 74A: Loss from the activity of Owning and Maintaining Racehorses**

1. Loss from the activity of owning and maintaining racehorses shall be set-off **against** the income from the activity of owning and maintaining racehorses.

2. The loss to the extent not set-off shall be carried forward to the next assessment year and set-off against the income from the activity of owning and maintaining racehorses.

3. Carry forward is permissible for **four years**.

4. The loss from the activity of owning and maintaining other animals (eg- Camel Race) are not covered here. However, it can be allowed to be carried forward as per sec 72 as it amounts to business.

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**Sec 79: C/F and Set-off of Losses in the case of closely held Companies**

1. This Sec applies notwithstanding anything contained in Chapter VI.

2. The Sec applies to a **closely held company**.

3. Where a **change in shareholding** has taken place in the case of a company in a previous year, then no loss incurred in any year prior to such previous year shall be carried forward and set off against the income of the previous year unless on the last day of the previous year and on the last day of the year in which loss was incurred, the shares of the company carrying not less than **51% of the voting power** were beneficially held by the same persons. ([Sec 79(a)](#))

4. The following changes in shareholdings shall **not be considered as a change** in shareholding for the purpose of Sec 79:

   (i) where the change takes place consequent upon the **death** of the shareholder.

   (ii) where the change takes place by way of **gift** of shares to any **relative** of the shareholder making the gift.

   (iii) **Any change in shareholding of an Indian company** which is a subsidiary of a foreign company as a result of **amalgamation** or **demerger** of the foreign company subject to the condition that **51% of the shareholders** of the amalgamating or demerged foreign company continue to be the shareholders of the amalgamated or the resulting foreign company.
Key Note:
Sec 79 is not applicable for UAD.

**Carry forward and set off of loss in case of Eligible Startup Companies.**
An Eligible Startup Company as mentioned in Sec 80-IAC can take the advantage of either of the following Provisions:

**Provision No-1: Sec 79(a)**
Where a change in shareholding has taken place in the case of a company in a previous year, then no loss incurred in any year prior to such previous year shall be carried forward and set off against the income of the previous year unless on the last day of the previous year and on the last day of the year in which loss was incurred, the shares of the company carrying not less than 51% of the voting power were beneficially held by the same persons. (This applicable for every Closely held Company including Eligible Startups)

**Provision No-2: Sec 79(b)**
Where a change in shareholding has taken place in a previous year in the case of a Closely held company and being an eligible start-up as referred to in Sec 80-IAC, loss shall be carried forward and set off against the income of the
previous year, if all the shareholders of such company which held shares carrying voting power on the last day of the year or years in which the loss was incurred, being the loss incurred during the period of seven years beginning from the year in which such company is incorporated, continue to hold those shares on the last day of such previous year. (This is applicable only for Eligible Startups along with clause (a))

Example on Clause (b) of Sec 79

<table>
<thead>
<tr>
<th>SH</th>
<th>2017-18</th>
<th>2018 - 19</th>
</tr>
</thead>
<tbody>
<tr>
<td>A</td>
<td>30% (3l)</td>
<td></td>
</tr>
<tr>
<td>B</td>
<td>30% (3l)</td>
<td>A (3l)</td>
</tr>
<tr>
<td>C</td>
<td>20% (2l)</td>
<td>B (3l)</td>
</tr>
<tr>
<td>D</td>
<td>20% (2l)</td>
<td>C (2l)</td>
</tr>
<tr>
<td></td>
<td>100%</td>
<td>D (2l)</td>
</tr>
<tr>
<td>E</td>
<td>50l</td>
<td></td>
</tr>
<tr>
<td>F</td>
<td>50l</td>
<td></td>
</tr>
<tr>
<td>G</td>
<td>50l</td>
<td></td>
</tr>
<tr>
<td>H</td>
<td>50l</td>
<td></td>
</tr>
</tbody>
</table>

If all shareholders in year of loss had all shares in the year of set-off, then it is allowed to be set off irrespective of % of shareholding.

Non-Applicability of Sec 79 for 2 types of Companies:

Company No-1:
Sec 79 shall not apply to a company where a change in the shareholding takes place in a previous year pursuant to approved resolution plan under the Insolvency and Bankruptcy Code, 2016.

Company No-2:
The provision of Sec 79 shall not apply to those companies, and their subsidiary and the subsidiary of such subsidiary, where-
(i) the National Company Law Tribunal (NCLT) on a petition moved by the Central Government under Sec 241 of the Companies Act, 2013 has suspended the Board of Directors of such company and has appointed new
directors, who are nominated by the Central Government, under Sec 242 of the Companies Act, 2013: and

(ii) a change in shareholding of such company, and its subsidiaries and the subsidiary of such subsidiary, has taken place in a previous year pursuant to a resolution plan approved by NCLT under Sec 242 of the Companies Act, 2013, after affording a reasonable opportunity of being heard to the jurisdictional Principal Commissioner or Commissioner.

Further, it is also proposed that under Sec 115JB of the Act for calculating book profit, the aggregate amount of unabsorbed depreciation and loss (excluding depreciation) brought forward shall also be allowed to be reduced in cases of the above-mentioned companies. {Refer Sec 115JB}

General Notes

1. Losses cannot be set-off against the incomes referred to in Sec 115BB i.e. lottery income, crossword puzzles, incomes in TV shows, etc.

2. Losses must be set-off in the immediate succeeding year and the loss not so set-off shall lapse.

**ISSUES ON SEC 79:**

<table>
<thead>
<tr>
<th>SH</th>
<th>Year of loss</th>
<th>Year of set off</th>
</tr>
</thead>
<tbody>
<tr>
<td>A</td>
<td>15%</td>
<td>H 15% on death.</td>
</tr>
<tr>
<td>B</td>
<td>15%</td>
<td>I 15% on sale by B</td>
</tr>
<tr>
<td>C</td>
<td>15%</td>
<td>J 15% on Gift by Friend C</td>
</tr>
<tr>
<td>D</td>
<td>15%</td>
<td>D 15%</td>
</tr>
<tr>
<td>E</td>
<td>15%</td>
<td>K 15% [Sold]</td>
</tr>
<tr>
<td>F</td>
<td>15%</td>
<td>F 15%</td>
</tr>
<tr>
<td>G</td>
<td>10%</td>
<td>Z 10% [Sold]</td>
</tr>
</tbody>
</table>
Would sale of fertilizer bonds (issued in lieu of government subsidy) at loss be treated as a business loss or a loss under the head “Capital gains”?

PCIT v. Gujarat State Fertilizers and Chemicals Limited [2018] (Guj)

**Facts of the Case:** The assessee is engaged in manufacturing of fertilizers. The sale price of fertilizers is fixed by the Government of India and many a times, such price is even lower than the cost of production. Therefore, to compensate the manufacturer for the difference between the retention price of individual unit and sale price, fertilizer subsidy is given by the Government. Due to cash crunch, sometimes the Government of India discharges its dues of paying the subsidy by issue of fertilizer bonds. These bonds are saleable in the open market and the prices of such bonds are varying.

In this case, when such bonds were sold in the open market, the assessee incurred a loss of Rs. 91,45,000 which it treated as a business loss. The Assessing Officer disallowed the same treating it as a loss under the head “Capital Gains”. The Tribunal, however, allowed the same

**High Court’s Observations:**
1. The High Court observed that there is no dispute that fertilizer subsidy given to an assessee to compensate the loss on sale of fertilisers should be treated as business income of the assessee.
2. Due to cash crunch, the Government of India had discharged its dues of paying the subsidy by issue of fertilizer bonds. These bonds are saleable in the open market and the prices of such bonds are varying.
3. In this case also, the assessee received fertilizer bonds (in lieu of subsidy) which were sold at a loss in the open market.
4. The High Court, accordingly, held that since the subsidy would have been treated as business income, loss on sale of fertilizer bonds issued is to be allowed as business loss.
CHAPTER 28
TAXATION OF INVESTMENT FUNDS (AIF-I & II)

ALL THE BEST
ALL THE BEST
CHAPTER 30
DIVIDEND/BONUS STRIPPING

Make chart on Sec 94(7): Dividend Stripping

Make chart on Sec 94(8): Bonus Stripping

ALL THE BEST
Clarification regarding TDS on GST:

It is clarified that wherever in terms of the agreement between the payer and the payee, the GST component comprised in the amount payable to a resident is indicated separately, tax shall be deducted at source under Chapter XVII-B of the Act on the amount paid/payable without including such GST component. This applies to all payments e.g., rent, professional fee, royalty, etc.

Sec 206AA: Requirement to furnish PAN- Tax deduction at higher rate for failure to furnish PAN:

(1) The deductee, shall furnish his PAN to the deductor, failing which tax shall be deducted at the higher of the following rates, namely:—

(i) at the rate specified in the relevant provision of this Act; or

(ii) at the rate or rates in force; or

(iii) at the rate of 20%.

Provided that where the tax is required to be deducted u/s 194-O, the provision of clause (iii) shall be read as 5% instead of 20%. (FA 2020)

Relaxation from deduction of tax under Sec 206AA

Relaxation 1:

In the case of a NR or a foreign company (hereafter referred to as ‘the deductee’) and not having PAN, the provisions of Sec 206AA shall not apply in respect of payments in the nature of interest, royalty, fees for technical services and payments or transfer of any capital asset, if the deductee furnishes the following details to the deductor.

(i) name, e-mail id, contact number;

(ii) address in the country of which the deductee is a resident;

(iii) a certificate of his being resident in any country from the Government of that country if the law of that country provides for issuance of such certificate;

(iv) Tax Identification Number of the deductee in the country of his residence and in case no such number is available, then a unique number on the basis of which
the deductee is identified by the Government of that country of which he claims to be a resident.

Relaxation 2:

Sec 206AA shall not apply to NR or FC i.r.o Payment of Interest on Long Term Bonds as referred to in sec 194LC. (Refer International Tax - Non-Resident)

When surcharge and cess should be included for TDS?

Sec 192: TDS on Salaries

Deductor - Any Person.
Deductee - Resident or Non-resident
Time of Deduction - At the time of payment.
Rate of TDS - Slab rate applicable to the estimated income of the employee.
(Take Average Rate)

Notes:
- Income from previous employer may be considered.
- Relief u/s 89(1) shall also be considered while deducting TDS (It’s a relief for arrears of Salary received during the PY which can be obtained by furnishing to the employer a prescribed form (Form 10E))
- Income from all sources may be considered. And any TDS there on shall also be considered.
- Only loss under the head house property shall be taken into account for the purpose of TDS and not any other loss.
- The employer may deposit from his own pocket tax on the non-monetary perquisites to employees. Such tax is exempt income in hands of employee and is disallowable expenditure to employer. (Refer Sec 40(a)(v) & 10(10CC))
Finance Act, 2015: The employer will allow the deduction/ exemption / set-off of loss only if proofs are furnished by the employee.

**ITC Ltd. v. CIT (Supreme Court)**

Tips collected by Hotel from customers and paid to employees did not amount to salary from employer and hence employer was not liable to deduct tax at source on such payment's u/s 192.

Note: There is no reduction in TDS under this sec as a measure of COVID-19 relief.

**Sec 192A: TDS on Payment of Accumulated Balance due to an Employee if same is taxable in hands of employee**

Deductor - Trustees of EPF Scheme
Deductee - Resident or Non-resident
Time of Deduction - At the time of payment.
Rate of tax: 10%
Notes: -
- No TDS where payment in a FY is less than Rs. 50,000.
- If PAN is not given then tax shall be deducted at MMR,
  {For MMR Refer AOP/BOI} i.e. 42.744%.

Note: There is no reduction in TDS under this sec as a measure of COVID-19 relief.

**Sec 193: TDS on Interest on Securities:**

Deductor - Any Person.
Deductee - Resident.
Time of Deduction - At the time of credit or payment whichever is earlier.
Rate of tax- 10% (7.5% from 14/05/2020 to 31/03/2021)
Notes:
TDS shall not be deducted in following 3 cases:
(i) Interest payable on Central Govt, or State Govt. Securities.
However, in Case of GOI Savings (Taxable) Bonds, 2018 tax is to be deducted if the payment or credit in a FY exceeds Rs.10,000/-. 

(ii) Interest paid to LIC, GIC or any other insurer, in respect of securities owned by it or held by it as beneficiary.

(iii) Interest paid on any listed security issued by a company held in dematerialized form. (If security is not listed or is not in dematerialized form, then TDS shall be deducted. However, in such a case no TDS shall be deducted if the interest paid to an individual/ HUF does not exceed Rs. 5,000 during the FY).

Sec 194A: TDS on interest other than "Interest on Securities"

Deductor - Any Person (Refer FA 2020 Amendment)

Deductee - Resident

Time of Deduction - At the time of credit or payment, whichever is earlier.

Rate of tax - 10% (7.5% from 14/05/2020 to 31/03/2021)

NO TDS IN FOLLOWING 10 CASES:

(i) Where the amount of such income or, as the case may be, the aggregate of the amounts of such income credited or paid during the financial year to the payee, does not exceed:

(a) Rs. 40,000* where payer is Banking Company.
(b) Rs. 40,000* where payer is a Co-operative Society engaged in Banking.
(c) Rs. 40,000* on deposit with post office.
(d) Rs. 5,000 in any other case.

This threshold limit of Rs. 40,000 has been increased to Rs. 50,000 if the recipient of interest is a senior citizen (i.e., a Resident who is of age of 60 years or more at any time during the previous year).

Only Time Deposits are covered:

Time deposit = Fixed Deposits + Recurring Deposits.

CBS System:

Where core Banking solution software has been adopted, TDS shall be deducted on aggregate of interest paid by all the branches of the bank i.e. where
aggregate interest paid by all the branches of the bank exceed Rs. 40,000/Rs.50,000/-

(ii) Where such income is credited or paid to -

- any banking company to which Banking Regulation Act, 1949 applies (including Indian Branch of a Foreign Bank), or
- any co-operative society engaged in the carrying on the business of banking i.e., cooperative bank (including a co-operative land mortgage bank), or
- any financial corporation established by or under a Central, State or Provincial Act, \{Refer Case Law after 10 Points\} or
- LIC of India, or
- UTI, or
- any company or cooperative society carrying on the business of Insurance.
- 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. (Added by Finance Act 2020)

(iii) Where Interest is credited or paid by a firm to a partner. However, if it is paid to a Non-Resident Partner, then Tax has to be deducted u/s 195.

(iv) Interest credited or paid in respect of deposits with a primary agricultural credit society or a primary credit society or co-operative land mortgage bank or a cooperative land development bank. \(\text{See FA 2020}\)

(v) Where such income is credited or paid by a cooperative society (other than a cooperative bank) to a member thereof or to such income credited or paid by a cooperative society to any other cooperative society. \(\text{See FA 2020}\)

NOTE: Interest paid by cooperative bank to its members is liable to TDS.
Amendment made by Finance Act 2020

Amendment for Point (iv) & (v)

In order to extend the scope of this Sec to interest paid by large co-operative society, it is proposed to amend Sec and insert proviso to provide that a co-operative society referred above in point (iv) & (v) shall be liable to deduct income-tax in accordance with the provisions of sub-Sec (1), if-

(i) 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-Sec (1) is credited or paid;

AND

(ii) the amount of interest, or the aggregate of the amount 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.

Make Summary for Cooperative Society/Banks:

(vi) Interest on savings accounts.

(vii) Where interest is credited or paid by the Central Government under the Income-tax Act. (However, TDS shall be deducted under Sec 195 where such interest is paid to a non-resident)

(viii) Such income credited by way of interest on the compensation amount awarded by the Motor Accidents Claims Tribunal;
Deduction of tax under Sec 194A from interest payment on the compensation amount awarded by the Motor Accident Claim Tribunal compensation shall be made only at the time of payment, if the amount of such payment or aggregate amount of such payments during a financial year exceeds Rs. 50,000. (See Note Below)

Note for Point (viii):
Deduction of Tax u/s 194A from Interest payment on the compensation amt awarded by Motor Accident Claim Tribunal compensation shall be made only at the time of PAYMENT (Not Credit), if the amount of such payment or aggregate payment exceed Rs.50,000/- in a FY. No deduction shall be made if interest is announced and not paid.

(ix) Interest Paid or payable on Zero Coupon Bonds.
(x) Interest i.r.o deposits under certain schemes of Post Office, Post Office (Recurring Deposits), Post Office Monthly Income Account, KVP, IVP and NSC.

Board's Circular:
It is clarified that since no constructive credit to the depositor's/payee's account takes place while calculating interest on time deposits on daily or monthly basis in the CBS software used by banks, tax need not be deducted at source on such provisioning of interest by banks. In such cases, tax shall be deducted at source on accrual of interest at the end of financial year or at periodic intervals as per practice of the bank.

Can payment of interest by Canara Bank to NOIDA be exempted from the requirement of tax deduction at source under sec 194A on the ground that the same is a corporation established by or under the Uttar Pradesh Industrial Area Development Act, 1976?

CIT v/s Canara Bank (2018) (SC)
The Supreme Court observed that the Preamble to the UP Industrial Area Development Act 1976 itself provides for constitution of an authority. NOIDA has, thus, been established by the 1976 Act and is clearly covered under the
Notification dated October 22, 1970. Hence, it is eligible for exemption from tax deduction at source provided under sec 194A.

Amendment made by Finance Act 2020
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.

Sec 194B: TDS on winning from lottery or crossword puzzle or card game and other game of any sort

Deductor - Any Person.
Deductee - Any person
Time of Deduction - At the time of payment.
Rate of TDS - 30%

Notes:
- No TDS where amount does not exceed Rs. 10,000 during a Financial Year.
- In a case where:
  (i) the winnings are wholly in kind; or
  (ii) partly in cash and partly in kind but the part in cash is not sufficient to meet the liability of deduction of tax in respect of whole of the winnings,

the person responsible for paying shall, before releasing the winnings, ensure that tax has been paid in respect of the winnings.

Note: There is no reduction in TDS under this sec as a measure of COVID-19 relief.

Sec 194BB: TDS on Winning from Horse Race

Deductor - Any Person being the holder of license for the HR.
Deductee - Any person
Time of Deduction - At the time of payment.
Rate of TDS-30%

Note:
- No TDS where amount does not exceed Rs. 10,000 during a Financial Year.

Note: There is no reduction in TDS under this sec as a measure of COVID-19 relief.

**Sec 194C: TDS on payment to contractors /Sub Contractors**

Deductor - Any Person *(Refer FA 2020 Amendment)*

Deductee - Any resident

Time of Deduction - At the time of credit or payment, whichever is earlier.

Rate of TDS -

(i) 1% in case *payee is Individual or HUF*. (0.75% from 14/05/2020 to 31/03/2021)

(ii) 2% in case of *any other Payee*. (1.5% from 14/05/2020 to 31/03/2021)

Notes:

- **No TDS** where amount payable does not exceed:
  
  (i) Rs. 30,000 in case of a single contract.
  
  (ii) Rs. 1,00,000 in case of aggregate of contracts during a Financial Year.

- **No TDS** is required to be deducted by individual or HUF under this sec under a contract for *personal purpose*, even if T/O exceeds Rs. 1cr or 50 Lacs in the preceding FY. *(Finance Act (No.2) 2019 Refer Sec 194M)*

- **The definition of "work" shall include:**
  
  (i) advertising;
  
  (ii) broadcasting or telecasting including production of programs for such broadcasting or telecasting;
  
  (iii) carriage of goods or passengers by any mode of transport other than by railways;
  
  (iv) Catering;
  
  (v) **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."
Amendment made by Finance Act 2020

It is to provide that in a contract manufacturing, the raw material provided by the assessee or its associate shall fall within the purview of the 'work' under Sec 194C. The term associated shall mean as contained in clause (b) of sub-Sec (2) of Sec 40A of the Act.

TDS shall be deducted:

(i) On the **invoice value excluding** the value of material, if such value is mentioned **separately** in the invoice; or

(ii) On the **whole of the invoice value**, if the value of material is **not mentioned separately** in the invoice.

**Relaxation for Goods Carriage Business Payee:**

- 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, where such contractor owns 10 or less goods carriages at any time during the Previous Year and furnishes a declaration to that effect along with his Permanent Account Number, to the person paying or crediting such sum. (Sec 194C(6))

**Recent CBDT Circular:**

1. This **exemption** from TDS is **applicable** only in respect of transport charges received for plying, hiring or leasing of goods carriage(s) **owned** by the transporter. Therefore, if a person receives payment in respect of plying, hiring or leasing of goods carriage(s) which are **not owned by him**, he shall not be **entitled** to claim exemption from TDS in respect of these payments.

2. The condition of **not owning more than ten** goods carriages by the transporter is required to be fulfilled on the **date** on which the amount is credited or paid, whichever is earlier. In case a transporter does not own ten goods carriages on the date on which the amount is credited or paid but becomes owner of ten goods carriages later in the previous year, the payer shall not be required to deduct tax from the payment made to the transporter during the period of the
previous year when he was not owning more than ten goods carriages. However, the tax shall be required to be deducted from the payment made during that part of the previous year during which the transporter owned more than ten goods carriages.

3. Further, for determining the aggregate amounts of sum credited or paid for the purposes of computing limit of Rs. 1,00,000, all the payment made during the financial year shall be taken into account including the amount credited or paid during the period of the financial year during which the transporter was not owning more than ten goods carriages.

EXAMPLE

Mr A owns five goods carriage from 1st April 2020 to 31st October 2020. On 1st Nov 2020, he purchased 6 more goods carriages. On 1st January 2021, he sold 8 goods carriages. Mr B makes the following payment of Transport Charges to Mr A during the FY 2020-21:

<table>
<thead>
<tr>
<th>Date of Payment</th>
<th>Amount</th>
<th>Remarks</th>
</tr>
</thead>
<tbody>
<tr>
<td>15/04/2020</td>
<td>35,000</td>
<td>No, TDS as the payee does not own more than 10 Goods Carriage.</td>
</tr>
<tr>
<td>15/07/2020</td>
<td>40,000</td>
<td>No, TDS as the payee does not own more than 10 Goods Carriage.</td>
</tr>
<tr>
<td>15/11/2020</td>
<td>20,000</td>
<td>No, TDS as the single payment does not exceed Rs.30,000 and aggregate payment does not exceed Rs. 1,00,000.</td>
</tr>
<tr>
<td>15/12/2020</td>
<td>20,000</td>
<td>Yes, TDS shall be deducted @1% on Rs 1,15,000.</td>
</tr>
<tr>
<td>15/02/2021</td>
<td>50,000</td>
<td>Yes, TDS shall be deducted as the payee owned more than 10 goods carriage at anytime during the PY.</td>
</tr>
</tbody>
</table>
It is clarified that in case the Owner/Seller of the gas sells as well as transports the gas to the purchaser till the point of delivery, where the ownership of gas to the purchaser is simultaneously transferred, the manner of raising the sale bill (whether the transportation charges are embedded in the cost of gas or shown separately) does not alter the basic nature of such contract which remains essentially a ‘contract for sale and not a ‘works contract as envisaged in Sec 194C of the Act. Hence in such circumstances, provisions of Sec 194C are not applicable on the component of Gas Transportation Charges paid by the purchaser to the Owner/Seller of the gas. The use of different modes of transportation of gas by Owner/Seller will not alter the position.

It is needless to mention that transportation charges paid to a third party transporter of gas, either by the Owner/Seller of the gas or purchaser of the gas or any other person, shall continue to be governed by the appropriate provisions of the Act and TDS shall be deductible on such payment to the third party at the applicable rates.

### Sec 194D: TDS on Insurance Commission (Excluding Re Insurance)

**Deduction - Any Person**

**Deductee - Any resident**

**Time of Deduction** - At the time of credit or payment, whichever is earlier.

**Rate of TDS** - 5% (3.75% from 14/05/2020 to 31/03/2021)

**Note:**

No TDS where amount does not exceed Rs. 15,000 during a Financial Year.

### Sec 194DA: TDS on payment in respect of Life insurance policy

**Deductor - Any Person**

**Deductee - Any resident**

**Time of Deduction** - At the time of payment.

**Rate of TDS** - 5% of Net Income. (3.75% from 14/05/2020 to 31/03/2021)

**Notes:**

- No TDS on amount exempt under Sec 10(10D).
- No TDS where amount does not exceed Rs. 1,00,000 during a Financial Year.
Sec 194G: TDS on Commission, etc. on the sale of lottery tickets

Deductor - Any Person
Deductee - Any person

Time of Deduction - At the time of credit or payment, whichever is earlier.
Rate of TDS - 5%. (3.75% from 14/05/2020 to 31/03/2021)

Note:
No TDS where amount does not exceed Rs. 15,000 during a Financial Year.

Sec 194H: TDS on Commission (other than insurance commission) or Brokerage

Deductor - Any Person (Refer FA 2020 Amendment)
Deductee - Any resident

Time of Deduction - At the time of credit or payment, whichever is earlier.
Rate of TDS - 5%. (3.75% from 14/05/2020 to 31/03/2021)

Notes:
- No TDS where amount does not exceed Rs. 15,000 during a Financial Year.
- No TDS is required to be deducted by BSNL or MTNL on commission or brokerage paid to their PCO franchisees.
- Commission to employees and employee directors will form part of salary income and is liable to TDS under Sec 192 of the Act and not under this Sec.
- No TDS on brokerage and commission on securities.
- TDS will be deducted on brokerage and commission paid for commodities transactions.
- Tax should be deducted at source under Sec 194H on amount available to travel agents being difference between airfare fixed by Airlines and price at which agents are enabled to sell tickets.
- Vodafone Essar Cellular Ltd. (Kerala)

Discount given on supply of SIM cards and recharge coupons by a telecom company to its distributors under a prepaid scheme will be treated as commission to attract the TDS provisions under Sec 194H.

The distributor only acts as a middleman on behalf of the assessee for procuring and retaining customers and therefore, the discount given to him
was within the meaning of commission under Sec 194H on which tax was deductible.

- The retention of commission by the consignee/agent amounts to constructive payment of the same to him by the consignor/principal, deduction of tax at source is required to be made from the amount of commission [CBDT Circular No.619 dated 4/12/1991]

Are the provisions of TDS under Sec 194H attracted in respect of amount retained by accredited advertising agencies out of remittance of sale proceeds of “airtime” purchased from Doordarshan and sold to customers?

DIRECTOR, PRASAR BHARATI V. CIT [2018] (SC)

Supreme Court’s Observations:

1. The Supreme Court observed that the definition of “commission or brokerage” under sec 194H is inclusive and covers any payment received or receivable directly or indirectly by a person acting on behalf of another person for the services rendered.

2. The agreement itself uses the expression “commission” in all relevant clauses. The terms of the agreement indicate that both parties intended that the amount to be paid/retained is in the nature of commission.

3. It is for this reason that the parties used the expression “commission” in the agreement. The relationship in question was a pure agency arrangement because the agency acted on behalf of the assessee and the actions of the agency were binding on the assessee. Moreover, the agreement itself contained a clause for deduction of tax at source on trade discount.

Supreme Court’s Decision:

4. The Supreme Court, thus, held that the amount retained by the accredited advertising agencies is commission and consequently, the provisions of tax deduction at source under Sec 194H are attracted. Consequently, for failure to deduct tax at source under sec 194H, the assessee would be treated as an assessee-in-default.
# Sec 194-I: TDS on Rent

**Deductor - Any Person, ***(Refer FA 2020 Amendment)***

**Deductee - Any resident**

**Time of Deduction - At the time of credit or payment, whichever is earlier.**

**Rate of TDS - (i) For use of Plant & Machinery - 2%**

(1.5% from 14/05/2020 to 31/03/2021)

**(ii) For use of Land, building, Furniture or fitting -10%**

(7.5% from 14/05/2020 to 31/03/2021)

**NOTE:**

- The landlord can give a declaration under **Sec 197A** for non-deduction of TDS on rent to be received by him. (Form 15G & H)
- **No TDS** when rent is paid or credited to REIT. *(See with the Chapter of Business Trust)*
- **No TDS** where amount does not exceed Rs.2,40,000 during a Financial Year.
  
  This limit of Rs. 2,40,000 is to be computed on an aggregate basis by including Rent of Land & Building P&M and Furniture as well paid or credited to a payee. *(In Sec 194J the limit is to be seen separately)*

- TDS should also be deducted on advance rent, warehousing charges and non-refundable deposits.

- Where the share of **each co-owner** in the property is definite and ascertainable, the limit of Rs. 2,40,000 will be applicable to each co-owner separately.

- **CBDT CIRCULAR:**
  
  The main function of the cold storage is to preserve perishable goods by means of a mechanical process, and storage of such goods is only incidental in nature. The customer is also not given any right to use any demarcated space/place or the machinery of the cold store and thus does not become a tenant. Therefore, the provision of 194-I is not applicable to the cooling charges paid by the customers of the cold storage.

  However, since the arrangement between the customers and cold storage owners are basically contractual in nature, the provision of **Sec 194C** will be applicable to the amounts paid as cooling charges by the customers of the cold storage.
Japan Airlines Co. Ltd. V. CIT (SC)

Landing and parking charges payable by Airlines in respect of aircrafts are not for the 'use of land' per se but the charges are in respect of number of facilities provided by the Airport Authority of India. Thus, landing and parking charges payable by Airlines would attract TDS under Sec 194C and not under Sec 194-I.

Is the assessee-company engaged in refining, distribution and sale of petroleum products, liable to deduct tax under sec 194C or under sec 194-I, in respect of payment made to the carrier engaged for road transport of bulk petroleum products?

CIT V. INDIAN OIL CORPORATION [2019] (UTTARAKHAND)

High Court's Observations:

1. Upon perusing the terms of the contract, the High Court observed that the parties understood the agreement as one where the carrier would be paid transport charges, and that too, for the shortest route travelled by it in the course of transporting the goods of the assessee.

2. The contract did not require payment of idle charges and it was clear that there was no entitlement to any payment other than the actual transportation of the goods. Hence, the carrier was not being hired for full time.

3. The carrier under the contract was undoubtedly obliged to maintain the requisite number of trucks of a particular type subject to various restrictions and conditions. However, the carrier was under the obligation to operate the trucks for the specific purpose of transporting the goods belonging to the assessee.

High Court’s Decision:

The High Court held that, even after amendment to the Explanation under sec 194-I to include within its scope, payment for use of plant, the case could not fall within its ambit. The contract is one for transportation of goods and, therefore, is a contract of work within the meaning of sec 194C and not sec 194-I.
Sec 194-IA: TDS on payment on transfer of certain immovable property

Deducer - Any purchaser (other than person referred to in Sec 194LA)
Deductee - Any seller being resident

Time of Deduction - At the time of credit or payment, whichever is earlier.

Rate of TDS - 1% of the total consideration for transfer of immovable property
(0.75% from 14/05/2020 to 31/03/2021)

NOTES:
- Every person is liable to deduct tax at source @ 1% on payment made for purchase of immovable property to a person resident in India, except for:
  (i) rural agricultural land (which is not coming in definition of capital asset), and
  (ii) where the sale consideration for the property is less than Rs. 50 lakhs.

Therefore, if the immovable property is purchased from a non-resident person for any value, no TDS is required to be deducted under this Sec. However, TDS shall be deducted under Sec 195.

- It is not necessary that the land or building should be situated in India. If any person is purchasing property outside India from a person resident in India, he is liable to deduct tax at source on sale consideration @ 1%.

- In case Sec 194-IA is attracted then the purchaser isn't required to obtain TAN, i.e., Tax Deduction Account Number i.e., Sec 203A is not applicable.

- Every person who is purchasing property of Rs. 50 lakhs or more would have to deduct TDS @ 1% of the payments made to the seller.

- In case the seller does not have PAN, then instead of 1%, TDS will be applicable @ 20% because of Sec 206AA of the Income-tax Act, 1961.

- In the case of property whose sale price is Rs. 50 lakhs or more and in the event part payment is being made for the purchase, then such TDS would be required to be deducted on every part payment of consideration and not at the time of final tranche of payment.

- If sellers jointly own a property and sells for a total consideration of Rs. 50 lakh or more, then Sec 194-IA is attracted even if each co-owner's consideration is less than Rs. 50 lakhs.

- TDS is required to be deducted irrespective of the fact that immovable property is held as capital asset or stock-in trade by the buyer and seller.
- In case immovable property (other than agricultural land which is not capital asset) is acquired under any law in force, the provisions of Sec 194LA shall apply and provisions of Sec 194-IA is not applicable.
- Stamp Duty Value has no importance in this Sec.

Amendment made by Finance Act (No.2) 2019
The term “consideration for immovable property” shall include all charges of the nature of club membership fee, car parking fee, electricity and water facility fees, maintenance fee, advance fee or any other charges of similar nature, which are incidental to transfer of the immovable property.

Sec 194J: TDS on fees for professional services etc.
Deductor - Any Person (Refer FA 2020 Amendment)
Deductee - Any resident
Time of Deduction - At the time of credit or payment, whichever is earlier.
Rate of TDS - 10%
- 2 % (If paid to Person engaged in Call Center Business)
- 2% (If paid for Technical Services) or
- 2% (If paid for Royalty in the nature of consideration for sale distribution or exhibition of cinematographic films)
(Amended by Finance Act 2020)
The above rates will be reduced by 25% from 14/05/2020 to 31/03/2021.

NOTE:
- TDS shall be deducted on:
  (a) fees for professional services, or
  (b) fees for technical services, or
  (c) royalty, or
  (d) any sum referred to in Sec 28(va), or
  (e) any remuneration or fees or commission by whatever name called, other than those on which tax is deductible under Sec 192, to a director of a company.
- No TDS where amount does not exceed Rs. 30,000 during a Financial Year for each type of payment referred to in (a) to (d). (In Sec 194-I the limit is applicable on aggregate basis)

- If any fees are paid through regular banking channels to any chartered accountant, lawyer, advocate or solicitor who is resident in India by the non-residents who do not have any agent or business connection in India, then no TDS is required to be deducted on such fees.

- No TDS is required to be deducted by Individual or HUF under this sec for professional fees paid for personal purpose, even if T/O exceeds Rs. 1cr or 50 Lacs in the preceding FY. {Finance Act (No.2) 2019 Refer Sec 194M}

Central Board of Direct Taxes, hereby notifies the services rendered by following persons in relation to the sports activities as "Professional Services" for the purpose of the Sec 194J, namely:

♦ Sports Persons,
♦ Umpires and Referees,
♦ Coaches and Trainers,
♦ Team Physicians and Physiotherapists,
♦ Event Managers (See Note Below),
♦ Commentators,
♦ Anchors, and
♦ Sports Columnists.

Note: Services for Event Management of other activities will not be covered here. But it will be covered u/s 194C.

- The services rendered by hospitals to various patients are primarily medical services and, therefore, provisions of Sec 194J are applicable on payments made by TPAs to hospitals on behalf of insurance companies for settling medical/ insurance claims etc. with the hospitals.

Sec 194LA: Payment of compensation on compulsory acquisition of any immovable property (Other than rural agricultural land):

Deductor - Any Person.
Deductee - Any resident.
Time of Deduction - At the time of payment.
Rate of TDS - 10%. (7.5 % from 14/05/2020 to 31/03/2021)

Note:

No TDS where amount does not exceed Rs. 2,50,000 during a Financial Year.

Note: Where any income 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. (Applicable for all secs of TDS)

NOTE ON SEC 194A/194C/194H/194-I/194J & 206C:

[Sec 194-IB]- TDS from payment of Rent by certain Individual's/HUF's

Who is responsible for tax deduction - Any individual/HUF [whose books of account are not required to be audited under Sec 44AB(a)/(b) in the immediately preceding financial year] responsible for paying to a resident rent of land or building, is liable to deduct tax under Sec 194-IB. Tax is deductible under this Sec if the quantum of rent is more than Rs. 50,000 per month (or part of month).

Time of deduction - Tax shall be deducted only at the time of credit of rent (for the last month of the previous year or last month of tenancy if the property is vacated during the year) to the account of payee or at the time of payment thereof in cash or by cheque/draft, whichever is earlier.
Rate of tax deduction - Tax is deductible at the rate of 5 per cent (3.75% from 14/05/2020 to 31/03/2021) of rent paid/credited during the financial year. However, no tax is deductible where rent is Rs. 50,000 per month (or less). If PAN of recipient is not available, tax is deductible at the rate of 20 per cent (however, in such a case amount of TDS cannot exceed rent payable for the last month of the previous year or last month of tenancy).

Provisions of TAN not applicable - Provisions of Sec 203A (pertaining to TAN) shall not apply in respect of tax deducted under Sec 194-IB. {Form 26QC}

Amendment made by Finance Act (No.2) 2019
TDS on payment by Individual/HUF to contractors and professionals- Sec 194M

At present there is no liability on an individual or Hindu undivided family (HUF) to deduct tax at source on any payment made to a resident contractor or professional when it is for personal use. Further, if the individual or HUF is carrying on business or profession which is not subjected to audit, there is no obligation to deduct tax at source on such payment to a resident, even if the payment is for the purpose of business or profession. Due to this exemption, substantial amount by way of payments made by individuals or HUFs in respect of contractual work or for professional service is escaping the levy of TDS, leaving a loophole for possible tax evasion. To plug this loophole, it is proposed to insert a new Sec 194M in the Act to provide for levy of TDS at the rate of five per cent (3.75% from 14/05/2020 to 31/03/2021) on the sum, or the aggregate of sums, paid or credited in a year on account of contractual work or professional fees or commission by an individual or a Hindu undivided family, not required to deduct tax at source under Sec 194C, 194J and 194H of the Act, if such sum, or aggregate of such sums, exceeds fifty lakh rupees in a year. However, in order to reduce the compliance burden, it is proposed that such individuals or HUFs shall be able to deposit the tax deducted using their Permanent Account Number (PAN) and shall not be required to obtain Tax deduction Account Number (TAN).
Amendment made by Finance Act 2020

Sec 194N:

Every person, being,—
(i) a banking company; or
(ii) a co-operative society engaged in carrying on the business of banking; or
(iii) a post office,
who is responsible for paying any sum, being the amount or the aggregate of amounts, as the case may be, in cash exceeding one crore rupees during the previous year, to any person (herein referred to as the recipient) from one or more accounts maintained by the recipient with it shall, at the time of payment of such sum, deduct an amount equal to two per cent. of such sum, as income-tax:

Provided that in case of a recipient who has not filed the returns of income for all of the three assessment years relevant to the three previous years, for which the time limit of file return of income under sec 139(1) has expired, immediately preceding the previous year in which the payment of the sum is made to him, the provision of this section shall apply with the modification that—
(i) the sum shall be the amount or the aggregate of amounts, as the case may be, in cash exceeding twenty lakh rupees during the previous year; and
(ii) the deduction shall be—
(a) an amount equal to two per cent. of the sum where the amount or aggregate of amounts, as the case may be, being paid in cash exceeds twenty
lakh rupees during the previous year but does not exceed one crore rupees; or
(b) an amount equal to five per cent. of the sum where the amount or aggregate of amounts, as the case may be, being paid in cash exceeds one crore rupees during the previous year:

Provided further that the Central Government may specify in consultation with the Reserve Bank of India, by notification in the Official Gazette, the recipient in whose case the first proviso shall not apply or apply at reduced rate, if such recipient satisfies the conditions specified in such notification:

Provided also that nothing contained in this section shall apply to any payment made to—
(i) the Government
(ii) any banking company or co-operative society engaged in carrying on the business of banking or a post office;
(iii) any business correspondent of a banking company or co-operative society engaged in carrying on the business of banking, in accordance with the guidelines issued in this regard by the Reserve Bank of India under the Reserve Bank of India Act, 1934;
(iv) any white label automated teller machine operator of a banking company or co-operative society engaged in carrying on the business of banking, in accordance with the authorisation issued by the Reserve Bank of India under the Payment and Settlement Systems Act, 2007:

Provided also that the Central Government may specify in consultation with the Reserve Bank of India, by notification in the Official Gazette, the recipient in whose case the provision of this section shall not apply or apply at reduced rate, if such recipient satisfies the conditions specified in such notification.

Note: There is no reduction in TDS under this sec as a measure of COVID-19 relief.

Make Chart Here:
Amendment made by Finance Act 2020

**Widening the scope of TDS on E-commerce transactions through insertion of a new Sec.**

In order to widen and deepen the tax net by bringing participants of e-commerce within tax net, it is proposed to insert a new **Sec 194-O** in the Act so as to provide for a new levy of TDS at the rate of one per cent (0.75% from 14/05/2020 to 31/03/2021) with the following key points:

The TDS is to be paid by e-commerce operator for sale of goods or provision of service facilitated by it through its digital or electronic facility or platform;

E-commerce operator is required to deduct tax at the time of credit of amount of sale or service or both to the account of e-commerce participant or at the time of payment thereof to such participant by any mode, whichever is earlier.

The tax at one per cent (0.75% from 14/05/2020 to 31/03/2021) is required to be deducted on the gross amount of such sales or service or both.

Any payment made by a purchaser of goods or recipient of services directly to an e-commerce participant shall be deemed to be amount credited or paid by the e-commerce operator to the e-commerce participant and shall be included in the gross amount of such sales or services for the purpose of deduction of income-tax.

The sum credited or paid to an e-commerce participant (being an individual or HUF) by the e-commerce operator shall not be subjected to provision of this Sec, if the gross amount of sales or services or both of such individual or HUF, through e-commerce operator, during the previous year does not exceed five lakh rupees and such e-commerce participant has furnished his Permanent Account Number (PAN) or Aadhaar number to the e-commerce operator.

A transaction in respect of which tax has been deducted by the e-commerce operator under this Sec or which is not liable to deduction under the exemption discussed in the previous points, there shall not be further
liability on that transaction for TDS under any other provision of Chapter XVII-B of the Act. This is to provide clarity so that same transaction is not subjected to TDS more than once. However, it has been clarified that this exemption will not apply to any amount received or receivable by an e-commerce operator for hosting advertisements or providing any other services which are not in connection with the sale of goods or services referred to in sub-Sec (1) of the proposed Sec.

“e-commerce operator” is defined to mean any person who owns, operates or manages digital or electronic facility or platform for electronic commerce and is a person responsible for paying to e-commerce participant.

“e-commerce participant” is defined to mean a person resident in India selling goods or providing services or both, including digital products, through digital or electronic facility or platform for electronic commerce.

“electronic commerce” is defined to mean the supply of goods or services or both, including digital products, over digital or electronic network.

“services” is defined to include fees for technical services and fees for professional services, as defined in Sec 194J.

This sec is applicable w.e.f 1/10/2020

Make Chart Here:
Sec 196: Interest or Dividend or other sums payable to Government, Reserve Bank or Certain Corporations

No TDS shall be deducted from any sum payable to:

(i) Government
(ii) RBI
(iii) Mutual Funds (Refer Taxation of Securitisation Trust)
(iv) Corporation established under any Central Act whose income is exempt from tax.
Sec 197: Certificate for No/ Lower deduction of TDS

Where the total income of the recipient of income is not liable to tax or is taxable at lower rates, then such recipient of income can make an application to Assessing Officer to issue a certificate for no deduction/ lower deduction of TDS from his income.

In such a case, the payer shall deduct income tax as per the rates specified in the certificate till such time the certificate is cancelled by Assessing Officer.

Certificate for the lower deduction under Sec 197 shall not be issued if the application does not contain the PAN of the applicant.

Sec 197A: Self declaration for Non-deduction of TDS

No TDS shall be deducted if the recipient of:

- Interest from securities and / or
- Interest other than interest on securities
- Amount of accumulated balance due to an employee from Recognised Provident Fund (Finance Act, 2015)
- Amount received in respect of Life Insurance Policy. (Finance Act, 2015)
- Rent (Finance Act, 2016)
- Recipient of Insurance Commission u/s 194D (Finance Act, 2017)

gives a declaration in prescribed form to the Payer that the tax on his current year income shall be NIL.

Any declaration under Sec 197A by the payee shall be valid only if it contains the PAN of the payee.

Key Notes:

1. This declaration cannot be given by a Company or Firm.
2. This declaration cannot be given by a person OTHER THAN A SENIOR CITIZEN if the aggregate of the incomes referred above exceeds the taxable limit even though the tax on his total income is NIL.

Amendment made by Finance Act 2020

Notwithstanding anything contained in this Chapter, no deduction of tax shall be made, or deduction of tax shall be made at such lower rate, from such payment to such person or class of persons, including institution, association or body or class of institutions, associations or bodies, as may be notified by the Central Government in the Official Gazette, in this behalf.
Time limits for furnishing quarterly returns of TDS/TCS

The Quarterly returns of TDS and TCS have to be filed by following due date:

<table>
<thead>
<tr>
<th>S. No.</th>
<th>Date of ending of the quarter of the financial year</th>
<th>Due date for TDS</th>
<th>Due date for TCS</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>30th June</td>
<td>31st July of the financial year</td>
<td>15th July of the financial year</td>
</tr>
<tr>
<td>2.</td>
<td>30th September</td>
<td>31st October of the financial year</td>
<td>15th October of the financial year</td>
</tr>
<tr>
<td>3.</td>
<td>31st December</td>
<td>31st January of the financial year</td>
<td>15th January of the financial year</td>
</tr>
<tr>
<td>4.</td>
<td>31st March</td>
<td>31st May of the financial year immediately following the financial year in which deduction is made</td>
<td>15th May of the financial year immediately following the financial year in which deduction is made</td>
</tr>
</tbody>
</table>

Consequences of TDS Default:
The High Court in the case of Sun Outsourcing Solutions (P) Ltd held that since the company had failed to deduct tax on the payments made to its employees, being Indian residents deputed to work in the U.K., sec 201(1A) is automatically attracted; even if such non-deduction was due to the bona fide belief that tax is not deductible in such case, the company is, nevertheless, liable to pay interest under sec 201(1A).

Penalty in respect of quarterly return of TDS / TCS

Sec 206C: Tax Collection at Source

Sec 206C(1): Profit and Gains from business of trading in alcoholic liquor, forest produce, scrap, etc.

- Every person, being a seller shall,
- at the time of debiting of the amount payable by the buyer to the account of the buyer, or
- at the time of receipt of such amount from the said buyer,
- whichever is earlier,
- collect from the buyer,
- a sum equal to the following percentage of the purchase price, as income-tax:
<table>
<thead>
<tr>
<th>Nature of goods</th>
<th>Existing Rate</th>
<th>Reduced rate from 14/05/2020 to 31/03/2021</th>
</tr>
</thead>
<tbody>
<tr>
<td>(i) Alcoholic liquor for human consumption</td>
<td>1%</td>
<td>1%</td>
</tr>
<tr>
<td>(ii) Tendu leaves</td>
<td>5%</td>
<td>3.75%</td>
</tr>
<tr>
<td>(iii) Timber obtained under a forest lease</td>
<td>2.5%</td>
<td>1.875%</td>
</tr>
<tr>
<td>(iv) Timber obtained by any mode other than under a forest lease</td>
<td>2.5%</td>
<td>1.875%</td>
</tr>
<tr>
<td>(v) Any other forest produce not being timber or tendu leaves</td>
<td>2.5%</td>
<td>1.875%</td>
</tr>
<tr>
<td>(vi) Scrap</td>
<td>1%</td>
<td>0.75%</td>
</tr>
<tr>
<td>(vii) Minerals being coal or Lignite or iron ore</td>
<td>1%</td>
<td>0.75%</td>
</tr>
</tbody>
</table>

Note:
Buyer does not include:
(i) public sector company.
(ii) Central Govt, State Govt.
(iii) Club.
(iv) embassy, High Commission, Consulate or trade representative of a foreign state
(v) A buyer who buys the above goods for his personal consumption.

“Seller” w.r.t Secs 206C(1) & 206C(1F) means the Central Government, a State Government or any local authority or corporation or authority established by or under a Central, State or Provincial, Act, or any company or firm or co-operative society and also includes an individual or a HUF whose Turnover/Gross Receipts during the financial year immediately preceding the financial year exceeds Rs 1cr or Rs. 50 lacs as the case may be, in which the goods of the nature specified in the Table above are sold.
**SEC 206C(1A)**

This Sec shall **not apply** where the buyer, who is a **resident** in India, furnishes to the person responsible for collecting tax, a **declaration** in writing in duplicate in the prescribed form and verified in the prescribed manner to the effect that the goods referred to above are to be utilized for the purposes of **manufacturing**, **processing** or producing articles or things or for the purposes of generation of power and not for trading purposes.

**SEC 206C(1B)**

The person responsible for collecting tax under this Sec **shall deliver** or cause to be delivered to the Chief Commissioner or Commissioner one copy of the declaration, referred to above, on or before the 7th day of the month next following the month in which the declaration is furnished to him.

**SEC 206C(1C)**

Every person, who grants a lease or a licence or enters into a contract or otherwise transfers

- any right or interest in any **parking lot or toll plaza or mine or quarry**
- to another person, other than a public sector company (herein after called as "Licensee or Lessee")
- for the use of such parking lot or toll plaza or mine or quarry for the purposes of business shall,
- at the time of **debiting** of the amount payable by the licensee or lessee to the account of the licencsee or lessee
- or at the time of **receipt** of such amount from the licensee or lessee,
- **whichever is earlier,**
- collect from the licensee or lessee.
- **2% of such amount as income-tax.**

Note: The above rate will be reduced to 1.5% from 14/05/2020 to 31/03/2021.
SEC 206C(1F)

Every person, being a seller, who receives any amount as consideration for sale of a motor vehicle of the value exceeding Rs. 10,00,000, shall, at the time of such amount, collect from the buyer, a sum equal to 1% of the sale consideration as income-tax. (Added by Finance Act, 2016)

Note: The above rate will be reduced to 0.75% from 14/05/2020 to 31/03/2021.

CBDT clarifies the following queries raised by various quarters:

**Question 1:** Whether tax collection at source (‘TCS’) at the rate of 1% is on sale of Motor Vehicle at retail level or also on sale of motor vehicles by manufacturers to dealers/distributors.

**Answer:** Sec 206C of will not apply on sale of motor vehicles by manufacturers to dealers/distributors.

**Question 2:** Whether TCS is applicable on each sale of motor vehicle or on aggregate value of sale during the year?

**Answer:** Tax is to be collected at source at the rate of 1% on sale consideration of a motor vehicle exceeding ten lakh rupees. It is applicable to each sale and not to aggregate value of sale made during the year.

**Amendment made by Finance Act, 2017**

Purchase of motor vehicle by Government/local authority not subject to TCS - Under Sec 206C(1F), the seller is required to collect tax at source at the rate of 1 per cent, if sale consideration of a motor vehicle exceeds Rs. 10 lakhs. This provision has been amended to exempt the following cases of buyers (of motor vehicles):

- the Central Government, a State Government and an embassy, a High Commission, legation, commission, consulate and the trade representation of a foreign State; or a local authority; or
- a public sector company which is engaged in the business of carrying passengers.
**Sec 206CC: Requirement to furnish PAN- Tax Collection at higher rate for failure to furnish PAN:**

1. The buyer, shall furnish his PAN to the Seller, **failing** which tax shall be collected at the higher of the following rates, namely:—
   
   (i) at **twice the rate** specified in the relevant provision of this Act; or
   
   (ii) at the rate of **5%**.

---

**Restriction on cash transactions [Secs 269ST and 271DA]**

Sec 269ST provides that **no person shall receive an amount of Rs. 2 lakh** (or more) otherwise than by an account-payee cheque or account-payee bank draft or use of electronic clearing system through a bank account **or such other electronic mode as may be prescribed**. This provision will be applicable whether the recipient is seller of goods or service provider or transferor of a capital asset (or any other person). The ceiling of Rs. 2 lakh will be calculated as follows -

1. **Same payer in a day** - The aggregate amount received (other than by an account-payee cheque/draft/use of electronic clearing system through a bank account **or such other electronic mode as may be prescribed**) from the same person in a day should not be Rs. 2 lakh or more.

2. **Same transaction** - Amount received (other than by an account-payee cheque/draft/use of electronic clearing system through a bank account **or such other electronic mode as may be prescribed**) in respect of a single transaction should not be Rs. 2 lakh or more.

3. **Same event/occasion** - Amount received (other than by an account payee cheque/draft/use of electronic clearing system through a bank account **or such other electronic mode as may be prescribed**) in respect of a transaction relating to one event/occasion from a person should not be Rs. 2 lakh or more.

**When restriction not applicable** - The above restriction shall not apply when recipient is Government, any banking company, post office savings bank or co-operative bank. Further, the above restriction shall not apply when recipient is
Penalty for failure to comply with provisions of Sec 269ST [Sec 271DA] - Sec 271DA provides for levy of penalty. If a person receives any sum in contravention of the provisions of Sec 269ST, he shall be liable to pay, by way of penalty, a sum equal to the amount of such receipt. However, penalty shall not be imposable if such person proves that there were good and sufficient reasons for the contravention. Penalty under this Sec shall be imposed by the Joint Commissioner.

Amendment made by Finance Act (No.2) 2019
Mandating acceptance of payments through prescribed electronic modes
As per Sec 269SU every person, carrying on business, shall, provide facility for accepting payment through the prescribed electronic modes, in addition to the facility for other electronic modes of payment, if any, being provided by such person, if his total sales, turnover or gross receipts in business exceeds fifty crore rupees during the immediately preceding previous year.
In order to ensure compliance of the aforesaid provisions, it is further proposed to insert a new Sec 271DB to provide that the failure to provide facility for electronic modes of payment prescribed under Sec 269SU shall attract penalty of a sum of five thousand rupees, for every day during which such failure continues. However, the penalty shall not be imposed if the person proves that there were good and sufficient reasons for such failure. Any such penalty shall be imposed by the Joint Commissioner.
The prescribed electronice modes as per Rule 119AA are as follows:
1. Debit Card powered by RuPay
2. Unified Payments Interface (UPI)(BHIM-UPI)

Amendment made by Finance Act 2020
Rationalisation of provision relating to Form 26AS
Sec 203AA of the Act, inter-alia, requires the prescribed income-tax authority or the person authorised by such authority referred to in sub-Sec (3) of Sec 200, to prepare and deliver a statement in Form 26AS to every person from whose income, the tax has been deducted or in respect of whose income the tax has been paid specifying the amount of tax deducted or paid. The Form 26AS as prescribed in the Rules, inter-alia, contains the information about tax collected or deducted at source. However, with the advancement in technology and enhancement in the capacity of system, multiple information in respect of a person such as sale/purchase of immovable property, share transactions etc. are being captured or proposed to be captured. In future, it is envisaged that in order to facilitate compliance, this information will be provided to the assessee by uploading the same in the registered account of the assessee on the designated portal of the Income-tax Department, so that the same can be used by the assessee for filing of the return of income and calculating his correct tax liability.

As the mandate of Form 26AS would be required to be extended beyond the information about tax deducted, it is proposed to introduce a new Sec 285BB in the Act regarding annual financial statement. This Sec proposes to mandate the prescribed income-tax authority or the person authorised by such authority to upload in the registered account of the assessee a statement in such form and manner and setting forth such information, which is in the possession of an income-tax authority, and within such time, as may be prescribed.

Consequently, Sec 203AA is proposed to be deleted.

These amendments will take effect from 1st June, 2020.

Reduction in Rate of TDS:

In order to provide more funds at the disposal of the taxpayers for dealing with the economic situation arising out of COVID-19 pandemic, the rates of Tax Deduction at Source (TDS) for the following non-salaried specified payments made to residents has been reduced by 25% for the period from 14th May, 2020 to 31st March, 2021:

<table>
<thead>
<tr>
<th>Sr No.</th>
<th>Sections</th>
<th>Nature of Payment</th>
<th>Existing Rate of TDS</th>
<th>Reduced Rate from 14/05/2020 to 31/03/2021</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Description</td>
<td></td>
<td></td>
</tr>
<tr>
<td>---</td>
<td>---</td>
<td>-----------------------------------------------------------------------------</td>
<td>---</td>
<td>---</td>
</tr>
<tr>
<td>1</td>
<td>193</td>
<td>Interest on Securities</td>
<td>10%</td>
<td>7.5%</td>
</tr>
<tr>
<td>2</td>
<td>194</td>
<td>Dividend</td>
<td>10%</td>
<td>7.5%</td>
</tr>
<tr>
<td>3</td>
<td>194A</td>
<td>Interest other than interest on securities</td>
<td>10%</td>
<td>7.5%</td>
</tr>
<tr>
<td>4</td>
<td>194C</td>
<td>Payment of Contractors and sub-contractors</td>
<td>1% (individual/HUF) 2% (others)</td>
<td>0.75% (individual/HUF) 1.5% (others)</td>
</tr>
<tr>
<td>5</td>
<td>194D</td>
<td>Insurance Commission</td>
<td>5%</td>
<td>3.75%</td>
</tr>
<tr>
<td>6</td>
<td>194DA</td>
<td>Payment in respect of life insurance policy</td>
<td>5%</td>
<td>3.75%</td>
</tr>
<tr>
<td>7</td>
<td>194EE</td>
<td>Payments in respect of deposits under National Savings Scheme</td>
<td>10%</td>
<td>7.5%</td>
</tr>
<tr>
<td>8</td>
<td>194F</td>
<td>Payments on account of re-purchase of Units by Mutual Funds or UTI</td>
<td>20%</td>
<td>15%</td>
</tr>
<tr>
<td>9</td>
<td>194G</td>
<td>Commission, prize etc., on sale of lottery tickets</td>
<td>5%</td>
<td>3.75%</td>
</tr>
<tr>
<td>10</td>
<td>194H</td>
<td>Commission or brokerage</td>
<td>5%</td>
<td>3.75%</td>
</tr>
<tr>
<td>11</td>
<td>194-I(a)</td>
<td>Rent for plant and machinery</td>
<td>2%</td>
<td>1.5%</td>
</tr>
<tr>
<td>12</td>
<td>194-I(b)</td>
<td>Rent for immovable property</td>
<td>10%</td>
<td>7.5%</td>
</tr>
<tr>
<td>13</td>
<td>194-IA</td>
<td>Payment for acquisition of immovable property</td>
<td>1%</td>
<td>0.75%</td>
</tr>
<tr>
<td>14</td>
<td>194-IB</td>
<td>Payment of rent by individual or HUF</td>
<td>5%</td>
<td>3.75%</td>
</tr>
<tr>
<td>15</td>
<td>194-IC</td>
<td>Payment for Joint Development Agreements</td>
<td>10%</td>
<td>7.5%</td>
</tr>
<tr>
<td>16</td>
<td>194J</td>
<td>Fee for Professional or Technical Services (FTS), Royalty, etc.</td>
<td>2% (FTS, certain royalties, call centre)</td>
<td>1.5% (FTS, certain royalties, call centre) 7.5% (others)</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>---</td>
<td>---</td>
<td>---</td>
<td></td>
<td></td>
</tr>
<tr>
<td>17</td>
<td>194K</td>
<td>Payment of dividend by Mutual Funds 10% 7.5%</td>
<td></td>
<td></td>
</tr>
<tr>
<td>18</td>
<td>194LA</td>
<td>Payment of Compensation on acquisition of immovable property 10% 7.5%</td>
<td></td>
<td></td>
</tr>
<tr>
<td>19</td>
<td>194LBA(1)</td>
<td>Payment of income by Business trust 10% 7.5%</td>
<td></td>
<td></td>
</tr>
<tr>
<td>20</td>
<td>194LBB(i)</td>
<td>Payment of income by Investment fund 10% 7.5%</td>
<td></td>
<td></td>
</tr>
<tr>
<td>21</td>
<td>194LBC(1)</td>
<td>Income by securitisation trust 25% (Individual/HUF) 30% (Others) 18.75% (Individual/HUF) 22.5% (Others)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>22</td>
<td>194M</td>
<td>Payment to commission, brokerage etc. by Individual and HUF 5% 3.75%</td>
<td></td>
<td></td>
</tr>
<tr>
<td>23</td>
<td>194-O</td>
<td>TDS on e-commerce participants 1% (w.e.f. 1.10.2020) 0.75%</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Note 1: Therefore, TDS on the amount paid or credited during the period from 14th May, 2020 to 31st March, 2021 shall be deducted at the reduced rates specified in the table in para 1 above. Similarly, the tax on the amount received or debited during the period from 14th May, 2020 to 31st March, 2021 shall be collected at the reduced rates specified in the table above.

Note 2: It is further stated that there shall be no reduction in rates of TDS or TCS, where the tax is required to be deducted or collected at higher rate due to non-furnishing of PAN/Aadhaar. For example, if the tax is required to be deducted at 20% under sec 206AA of the Income-tax Act due to non-furnishing of PAN/Aadhaar, it shall be deducted at the rate of 20% and not at the rate of 15%.
1. An assessee is required to pay advance tax if his liability for advance tax is Rs. 10,000 or more.

2. Advance tax is not payable by:
   - An individual
   - resident in India
   - who does not have any income chargeable under the head “Profits & Gains from Business or Profession”
   - and is of the age of 60 years or more at any time during the Previous Year.

3. Advance tax is payable in the following instalments:

<table>
<thead>
<tr>
<th>Due date of Instalment</th>
<th>Amount Payable</th>
</tr>
</thead>
<tbody>
<tr>
<td>On or before 15th June</td>
<td>Not less than 15% of the advance tax liability.</td>
</tr>
<tr>
<td>On or before 15th September</td>
<td>Not less than 45% of the advance tax liability as reduced by the amount, if any, paid in earlier instalment.</td>
</tr>
<tr>
<td>On or before 15th December</td>
<td>Not less than 75% of the advance tax liability as reduced by the amount, if any, paid in earlier instalment.</td>
</tr>
<tr>
<td>On or before 15th March</td>
<td>The whole amount of the advance tax liability as reduced by the amount, if any, paid in the earlier instalments.</td>
</tr>
</tbody>
</table>

In case of eligible assessee in respect of an eligible business/profession referred to in Sec 44AD/44ADA

<table>
<thead>
<tr>
<th>Due date of Instalment</th>
<th>Amount Payable</th>
</tr>
</thead>
<tbody>
<tr>
<td>On or before 15th March</td>
<td>The whole amount of the advance tax liability.</td>
</tr>
</tbody>
</table>

Note: It may be noted that an eligible assessee who is governed by Sec 44AD/ADA is required to pay advance tax by 15th March of the Previous Year.
irrespective of the fact that he has substantial incomes apart from the income deemed under Sec 44AD/ADA.

6. Any amount paid by way of advance tax on or before 31st March shall also be treated as advance tax paid during the financial year for all purposes of the Act.

<table>
<thead>
<tr>
<th>Sec 234A</th>
<th>Sec 234B</th>
<th>Sec 234C</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
First Proviso to Sec 234C
(Applicable to Corporate & Non-Corporate Assesses)

The provisions of Sec 234C shall not apply to any shortfall in the payment of the tax due on the returned income where such shortfall is on account of under-estimate or failure to estimate
(a) the amount of capital gains or
(b) income by way of winnings from lotteries, crossword puzzles, races, card games, gambling etc.
(c) income under the head “Profits and gains of business or profession” in cases where the income accrues or arises under the said head for the first time.
(d) income referred in sec 115BBDA.

and the assessee has paid the whole of the amount of tax payable in respect of the incomes referred in (a) to (d) above as part of the remaining instalments of advance tax which are due, or where no such instalment is due, by 31st March of the financial year.

Chief Commissioners and Directors-General (Investigation) empowered to reduce or waive penal interest for late furnishing of return of income, non-payment or inadequate payment of advance tax, etc.

Interest under Sec 234A/B/C can be waived by Chief Commissioner of Income-tax/ Director General (Investigation) in the following cases. However, no reduction or waiver of such interest shall be ordered unless the assessee has filed the return of income for the relevant assessment year and paid the entire income-tax (principal component of demand) due on the income as assessed. {Even ITSC can waive in the following 4 cases as per the SC Case of Anjum M.H. Ghaswala- Refer Page________}

1. Where during the course of proceedings for search and seizure under Sec 132 of the Income-tax Act, the books of account and other documents have been seized, and the assessee has been unable to furnish the return of income for the previous year. In this case, interest under Sec 234A shall be waived.

2. Any income chargeable to income-tax under any head of income, other than "Capital Gains" is received or accrued after due date of payment of the first or subsequent instalments of advance tax which was neither anticipated nor was in
the contemplation of the assessee, and the advance tax on such income is paid in the remaining instalment or installments. In this case, interest under Sec 234C shall be waived.

3. In consequence of any retrospective amendment of law or the decision of the Supreme Court of India or a decision of a larger Bench of the jurisdictional High Court (which was not challenged before the Supreme Court and has become final), some expense is disallowed or certain receipts which were not taxable become taxable. In this case, interest under Sec 234B and 234C shall be waived.

4. Where a return of income could not be filed by the assessee due to unavoidable circumstances and such return of income is filed voluntarily by the assessee or his legal heirs without detection by the Assessing Officer. In this case, interest under Sec 234A shall be waived.

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**Sec 234D: Interest on excess Refund**

Sec 234D provides:

- Where any refund is granted to the assessee under Sec 143(1), and
- On regular assessment made:
  - The assessee is not entitled to any refund; or
  - The amount refunded exceeds the amount refundable on regular assessment.
- Regular assessment means assessment under Sec 143(3) or 144 or assessment made under Sec 147/153A.
- Then, the assessee shall be liable to pay simple interest:
  - @ $ \frac{1}{2} \%$ on the whole or excess amount so refunded;
  - for every month or part of the month comprised in the period from the date of grant of refund to the date of such regular assessment.

An assessee may also have been paid interest on refund. Such interest shall also be recovered from the assessee. In such a case, the interest under Sec 234D is payable on refund as well as on the interest required to be recovered from the assessee.
Sec 244A(1): Interest on Refunds

Where the refund of any amount becomes due to the assessee under this Act, he shall, subject to the provisions of this Sec, be entitled to receive, in addition to the said amount, simple interest thereon calculated in the following manner, namely:

(a) where the refund is out of any TDS/TCS/Advance tax such interest shall be calculated at the rate of \( \frac{1}{2} \) % for every month or part of a month comprised in the period, -

i) from the 1st day of April of the assessment year to the date on which the refund is granted, if the return of income has been furnished on or before the due date specified under Sec 139(1) or

ii) from the date of furnishing of return of income to the date on which the refund is granted, in a case not covered under sub-clause (i);

(aa) Where the refund is out of any tax paid under Sec 140A, such interest shall be calculated at the rate of \( \frac{1}{2} \) % for every month or part of a month comprised in the period, from the date of furnishing of return of income or payment of tax, whichever is late, to the date on which the refund is granted.

Provided that no interest under clause (a) or clause (aa) shall be payable, if the amount of refund is less than 10% of the tax as determined under Sec 143(1) or on regular assessment.

Note:
For Calculation of Sec 234A & Sec 234B with respect to Income Escaping and Search & Seizure Assessment refer Page______

ALL THE BEST