## Key Points

### Advance Tax

Common advance tax payment schedule for corporates and non-corporates (other than an eligible assessee in respect of eligible business referred to in section 44AD) from 1<sup>st</sup> June, 2016:

<table>
<thead>
<tr>
<th>Due date of installment</th>
<th>Amount payable</th>
</tr>
</thead>
<tbody>
<tr>
<td>On or before 15&lt;sup&gt;th&lt;/sup&gt; June</td>
<td>Not less than 15% of advance tax liability.</td>
</tr>
<tr>
<td>On or before 15&lt;sup&gt;th&lt;/sup&gt; September</td>
<td>Not less than 45% of advance tax liability less amount paid in earlier installment.</td>
</tr>
<tr>
<td>On or before 15&lt;sup&gt;th&lt;/sup&gt; December</td>
<td>Not less than 75% of advance tax liability less amount paid in earlier installment or installments.</td>
</tr>
<tr>
<td>On or before 15&lt;sup&gt;th&lt;/sup&gt; March</td>
<td>Whole amount of advance tax liability less amount paid in earlier installment or installments.</td>
</tr>
</tbody>
</table>

### Eligible assessee computing profits on presumptive basis under section 44AD to pay advance tax by 15<sup>th</sup> March

An eligible assessee, opting for computation of profits or gains of business on presumptive basis in respect of eligible business referred to in section 44AD, shall be required to pay advance tax of the whole amount in one instalment on or before the 15th March of the financial year.

However, any amount paid by way of advance tax on or before 31st March shall also be treated as advance tax paid during each financial year on or before 15th March.

### Interest for non-payment or short-payment of advance tax [Section 234B]

1. Interest under section 234B is attracted for non-payment of advance tax or payment of advance tax of an amount less than 90% of assessed tax.

2. The interest liability would be 1% per month or part of the month from 1<sup>st</sup> April following the financial year upto the date of determination of income under section 143(1).
Provisions concerning Advance Tax and Tax Deducted at Source

(3) Such interest is calculated on the amount of difference between the assessed tax and the advance tax paid.

(4) Assessed tax is the tax calculated on total income less tax deducted at source.

Interest payable for deferment of advance tax [Section 234C]

Manner of computation of interest under section 234C for deferment of advance tax by corporate and non-corporate assesses:

In case an assessee, other than an eligible assessee in respect of the eligible business referred to in section 44AD, who is liable to pay advance tax under section 208 has failed to pay such tax or the advance tax paid by such assessee on its current income on or before the dates specified in column (1) is less than the specified percentage [given in column (2)] of tax due on returned income, then simple interest@1% per month for the period specified in column (4) on the amount of shortfall, as per column (3) is leviable under section 234C.

<table>
<thead>
<tr>
<th>Specified date</th>
<th>Specified %</th>
<th>Shortfall in advance tax</th>
<th>Period</th>
</tr>
</thead>
<tbody>
<tr>
<td>15th June</td>
<td>15%</td>
<td>15% of tax due on returned income (-) advance tax paid up to 15th June</td>
<td>3 months</td>
</tr>
<tr>
<td>15th September</td>
<td>45%</td>
<td>45% of tax due on returned income (-) advance tax paid up to 15th September</td>
<td>3 months</td>
</tr>
<tr>
<td>15th December</td>
<td>75%</td>
<td>75% of tax due on returned income (-) advance tax paid up to 15th December</td>
<td>3 months</td>
</tr>
<tr>
<td>15th March</td>
<td>100%</td>
<td>100% of tax due on returned income (-) advance tax paid up to 15th March</td>
<td>1 month</td>
</tr>
</tbody>
</table>

Note – However, if the advance tax paid by the assessee on the current income, on or before 15th June or 15th September, is not less than 12% or, as the case may be, 36% of the tax due on the returned income, then, the assessee shall not be liable to pay any interest on the amount of the shortfall on those dates.
## 9.3 Income-tax

### (b) Computation of interest under section 234C in case of an eligible assessee in respect of eligible business referred to in section 44AD:

In case an eligible assessee in respect of the eligible business referred to in section 44AD, who is liable to pay advance tax under section 208 has failed to pay such tax or the advance tax paid by the assessee on its current income on or before 15th March is less than the tax due on the returned income, then, the assessee shall be liable to pay simple interest at the rate of 1% on the amount of the shortfall from the tax due on the returned income.

### (c) Non-applicability of interest under section 234C in certain cases:

Interest under section 234C shall not be leviable in respect of any shortfall in payment of tax due on returned income, where such shortfall is on account of under-estimate or failure to estimate –

1. the amount of capital gains;
2. income of nature referred to in section 2(24)(ix) i.e., winnings from lotteries, crossword puzzles etc.;
3. 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.

However, the assessee should have paid the whole of the amount of tax payable in respect of such income referred to in (i), (ii) and (iii), as the case may be, had such income been a part of the total income, as part of the remaining instalments of advance tax which are due or where no such instalments are due, by 31st March of the financial year.
### Deduction of Tax at source

<table>
<thead>
<tr>
<th>Section</th>
<th>Description</th>
<th>Threshold Limit</th>
<th>Payer</th>
<th>Type of Payee</th>
<th>Rate of TDS</th>
<th>Time of deduction</th>
<th>Payments / Income exempted from TDS</th>
</tr>
</thead>
<tbody>
<tr>
<td>192</td>
<td>Salary</td>
<td>Basic exemption limit (₹2,50,000/ ₹3,00,000, as the case may be)</td>
<td>Any person</td>
<td>Individual</td>
<td>Average rate of income-tax computed on the basis of the rates in force.</td>
<td>At the time of payment</td>
<td>Allowances, to the extent exempt under section 10, and exempt perquisites would be excluded.</td>
</tr>
</tbody>
</table>
| 193     | Interest on Securities | 8% Savings (Taxable) Bonds, 2003 - ₹ 10,000 | Any person | Any resident | 10%         | At the time of credit of such income to the account of the payee or at the time of payment, whichever is earlier. | Some exempted interest payments are interest –
- On any security of the Central Government or a State Government.
- Payable to LIC, GIC or any of the four public sector insurance companies formed by GIC in respect of any securities owned by it or in which it has full beneficial interest.
- Payable to any other insurer in respect of any securities owned by it or in which it has full beneficial interest.
- Payable on any security issued by a company, where such security is in dematerialized form and is listed on a recognized stock exchange in India. |
### 9.5 Income-tax

<table>
<thead>
<tr>
<th>Section</th>
<th>Description</th>
<th>Threshold Limit</th>
<th>Payer</th>
<th>Type of Payee</th>
<th>Rate of TDS</th>
<th>Time of deduction</th>
<th>Payments / Income exempted from TDS</th>
</tr>
</thead>
<tbody>
<tr>
<td>194</td>
<td>Dividend</td>
<td>₹ 2,500 in a financial year</td>
<td>The Principal Officer of a domestic company</td>
<td>Resident Individual</td>
<td>10%</td>
<td>At the time of payment</td>
<td>Dividend credited or paid to LIC, GIC or any of the four public sector insurance companies formed by GIC, or any other insurer, in respect of shares owned by it or in which it has full beneficial interest. Dividend referred to in section 115-O, since the domestic company distributing dividend has paid dividend distribution tax on such dividend.</td>
</tr>
<tr>
<td>194A</td>
<td>Interest other than interest on securities</td>
<td>₹ 10,000 in a financial year, in case of interest paid by – (i) a banking company; (ii) a cooperative society engaged in banking business; and (iii) deposits with post office.</td>
<td>Any person, other than an individual or HUF not liable to tax audit u/s 44AB in the immediately preceding financial year.</td>
<td>Any Resident</td>
<td>10%</td>
<td>At the time of credit of such income to the account of the payee or at the time of payment, whichever is earlier.</td>
<td>Interest credited or paid to: - any banking company, or a cooperative society engaged in the business of banking - any financial corporation established by or under a Central, State or Provincial Act. - the Life Insurance Corporation of India. - the Unit Trust of India; - any company and cooperative society carrying on the business of insurance. - notified institution, association, body or class of institutions, associations or bodies Interest credited or paid by a firm to a partner</td>
</tr>
<tr>
<td>Section</td>
<td>Description</td>
<td>Threshold Limit</td>
<td>Payer</td>
<td>Type of Payee</td>
<td>Rate of TDS</td>
<td>Time of deduction</td>
<td>Payments / Income exempted from TDS</td>
</tr>
<tr>
<td>---------</td>
<td>------------------------------------------------------------------------------</td>
<td>-----------------</td>
<td>---------------</td>
<td>---------------</td>
<td>-------------</td>
<td>-------------------</td>
<td>-------------------------------------</td>
</tr>
<tr>
<td>194B</td>
<td>Winnings from any lottery, crossword puzzle or card game or other game of any sort</td>
<td>₹ 5,000 in a financial year, in other cases.</td>
<td>Any Person</td>
<td>Any Person</td>
<td>30%</td>
<td>At the time of payment</td>
<td>Interest credited or paid by a co-operative society to its member or to any other co-operative society, etc.</td>
</tr>
<tr>
<td>194BB</td>
<td>Winnings from horse race</td>
<td>₹ 10,000</td>
<td>Book Maker or a person holding licence for horse racing, wagering or betting in any race course.</td>
<td>Any Person</td>
<td>30%</td>
<td>At the time of payment</td>
<td>-</td>
</tr>
</tbody>
</table>

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<table>
<thead>
<tr>
<th>Section</th>
<th>Description</th>
<th>Threshold Limit</th>
<th>Payer</th>
<th>Type of Payee</th>
<th>Rate of TDS</th>
<th>Time of deduction</th>
<th>Payments / Income exempted from TDS</th>
</tr>
</thead>
<tbody>
<tr>
<td>194C</td>
<td>Payments to Contractors</td>
<td>Single sum credited or paid - ₹ 30,000 or The aggregate of sums credited or paid during the financial year - ₹ 1,00,000 (₹ 75,000 upto 31.5.2016)</td>
<td>Central / State Govt., Local authority, Central/Provincial Corpns., company, firm, trust, co-operative society, individuals/ HUFs liable to tax audit in the immediately preceding financial year.</td>
<td>Any Resident contractor for carrying out any work (including supply of labour)</td>
<td>1% of sum paid or credited, if the payee is an Individual or HUF 2% of sum paid or credited, if the payee is any other person.</td>
<td>At the time of credit of such sum to the account of the contractor or at the time of payment, whichever is earlier.</td>
<td>Any sum credited or paid to a contractor in transport business, who owns ten or less goods carriages at any time during the previous year if the contractor furnishes a declaration to that effect along with his PAN to the person paying or crediting such sum. Any sum credited or paid by an individual or HUF exclusively for personal purposes of such individual or HUF.</td>
</tr>
<tr>
<td>194D</td>
<td>Insurance Commission</td>
<td>₹ 15,000 in a financial year (₹ 20,000 upto 31.5.2016)</td>
<td>Any person</td>
<td>Any Resident</td>
<td>10%</td>
<td>At the time of credit of such income to the account of the payee or at the time of payment, whichever is earlier.</td>
<td></td>
</tr>
<tr>
<td>Section</td>
<td>Description</td>
<td>Threshold Limit</td>
<td>Payer</td>
<td>Type of Payee</td>
<td>Rate of TDS</td>
<td>Time of deduction</td>
<td>Payments / Income exempted from TDS</td>
</tr>
<tr>
<td>---------</td>
<td>--------------------------------------</td>
<td>---------------------------------------------</td>
<td>------------------</td>
<td>--------------</td>
<td>-------------</td>
<td>------------------</td>
<td>------------------------------------------------------------------------</td>
</tr>
<tr>
<td>194DA</td>
<td>Any sum under a Life Insurance Policy</td>
<td>Less than ₹ 1,00,000 (aggregate amount of payment to a payee in a financial year)</td>
<td>Any person</td>
<td>Any resident</td>
<td>1% (2% upto 31.5.2016)</td>
<td>At the time of payment</td>
<td>Sums which are exempt under section 10(10D)</td>
</tr>
<tr>
<td>194H</td>
<td>Commission or brokerage</td>
<td>₹ 15,000 in a financial year (₹ 5,000 upto 31.5.2016)</td>
<td>Any person, other than an individual or HUF not liable to tax audit u/s 44AB in the immediately preceding financial year.</td>
<td>Any resident</td>
<td>5% (10% upto 31.5.2016)</td>
<td>At the time of credit of such income to the account of the payee or at the time of payment, whichever is earlier.</td>
<td>Commission or brokerage payable by BSNL or MTNL to their PCO franchisees.</td>
</tr>
<tr>
<td>194-I</td>
<td>Rent</td>
<td>₹ 1,80,000 in a financial year</td>
<td>Any person, other than an individual or HUF not liable to tax audit u/s 44AB in the immediately preceding financial year.</td>
<td>Any resident</td>
<td>For P &amp; M or equipment-2% For land, building, furniture or fixtures -10%</td>
<td>At the time of credit of such income to the account of the payee or at the time of payment, whichever is earlier.</td>
<td>-</td>
</tr>
</tbody>
</table>
### 9.9 Income-tax

<table>
<thead>
<tr>
<th>Section</th>
<th>Description</th>
<th>Threshold Limit</th>
<th>Payer</th>
<th>Type of Payee</th>
<th>Rate of TDS</th>
<th>Time of deduction</th>
<th>Payments / Income exempted from TDS</th>
</tr>
</thead>
<tbody>
<tr>
<td>194-IA</td>
<td>Payment on transfer of certain immovable property</td>
<td>Less than ₹ 50 lakh (Consideration for transfer)</td>
<td>Any person, being a transferee</td>
<td>Resident transferor</td>
<td>1%</td>
<td>At the time of credit of such sum to the account of the transferor or at the time of payment, whichever is earlier.</td>
<td>Payment for transfer of agricultural land.</td>
</tr>
<tr>
<td>194-J</td>
<td>Fees for professional or technical services/ Royalty/ Non-compete fees/ Director remuneration</td>
<td>₹ 30,000 in a financial year, for each category of income. (However, this limit does not apply in case of payment made to director of a company).</td>
<td>Any person, other than an individual or HUF not liable to tax audit u/s 44AB in the immediately preceding financial year.</td>
<td>Any Resident</td>
<td>10%</td>
<td>At the time of credit of such sum to the account of the payee or at the time of payment, whichever is earlier.</td>
<td>Any sum by way of fees for professional services credited or paid by an individual or HUF exclusively for personal purposes of such individual or any member of HUF.</td>
</tr>
<tr>
<td>194-L.A</td>
<td>Compensation on acquisition of certain immovable property</td>
<td>₹ 2,50,000 in a financial year (₹ 2,00,000 upto 31.5.2016)</td>
<td>Any person</td>
<td>Any Resident</td>
<td>10%</td>
<td>At the time of payment</td>
<td>Compensation on acquisition of agricultural land.</td>
</tr>
</tbody>
</table>
Question 1

Compute the amount of tax deduction at source on the following payments made by M/s. S Ltd. during the financial year 2016-17 as per the provisions of the Income-tax Act, 1961.

<table>
<thead>
<tr>
<th>Sr. No.</th>
<th>Date</th>
<th>Nature of Payment</th>
</tr>
</thead>
<tbody>
<tr>
<td>(i)</td>
<td>1-10-2016</td>
<td>Payment of ₹2,00,000 to Mr. “R” a transporter who owns 8 goods carriages throughout the previous year and furnishes a declaration to this effect along with his PAN.</td>
</tr>
<tr>
<td>(ii)</td>
<td>1-11-2016</td>
<td>Payment of fee for technical services of ₹25,000 and Royalty of ₹20,000 to Mr. Shyam who is having PAN.</td>
</tr>
<tr>
<td>(iii)</td>
<td>30-06-2016</td>
<td>Payment of ₹25,000 to M/s X Ltd. for repair of building.</td>
</tr>
<tr>
<td>(iv)</td>
<td>01-01-2017</td>
<td>Payment of ₹2,00,000 made to Mr. A for purchase of diaries made according to specifications of M/s S Ltd. However, no material was supplied for such diaries to Mr. A by M/s S Ltd.</td>
</tr>
<tr>
<td>(v)</td>
<td>01-01-2017</td>
<td>Payment made ₹1,80,000 to Mr. Bharat for compulsory acquisition of his house as per law of the State Government.</td>
</tr>
<tr>
<td>(vi)</td>
<td>01-02-2017</td>
<td>Payment of commission of ₹14,000 to Mr. Y.</td>
</tr>
</tbody>
</table>

Answer

(i) No tax is required to be deducted at source under section 194C by M/s S Ltd. on payment to transporter Mr. R, since he satisfies the following conditions:

1. He owns ten or less goods carriages at any time during the previous year.
2. He is engaged in the business of plying, hiring or leasing goods carriages;
3. He has furnished a declaration to this effect along with his PAN.

(ii) As per section 194J, liability to deduct tax is attracted only in case the payment made as fees for technical services and royalty, individually, exceeds ₹30,000 during the financial year. In the given case, since, the individual payments for fee of technical services i.e. ₹25,000 and royalty ₹20,000 is less than ₹30,000 each, there is no liability to deduct tax at source. It is assumed that no other payment towards fees for technical services and royalty were made during the year to Mr. Shyam.

(iii) Provisions of section 194C are not attracted in this case, since the payment for repair of building on 30.06.2016 to M/s. X Ltd. is less than the threshold limit of ₹30,000.

(iv) According to section 194C, the definition of “work” does not include the manufacturing or supply of product according to the specification by customer in case the material is purchased from a person other than the customer.

Therefore, there is no liability to deduct tax at source in respect of payment of ₹2,00,000 to Mr. A, since the contract is a contract for ‘sale’.
9.11 Income-tax

(v) As per section 194LA, any person responsible for payment to a resident, any sum in the nature of compensation or consideration on account of compulsory acquisition under any law, of any immovable property, is responsible for deduction of tax at source if such payment or the aggregate amount of such payments to the resident during the financial year exceeds ₹ 2,50,000.

In the given case, no liability to deduct tax at source is attracted as the payment made does not exceed ₹ 2,50,000.

(vi) As per section 194H, any person (other than an individual or HUF) who is responsible for paying commission or brokerage to a resident shall deduct tax at source @5% if the amount of such income or the aggregate of the amounts of such income credited or paid during the financial year exceeds ₹ 15,000.

Since the commission payment made to Mr. Y does not exceeds ₹ 15,000, the provisions of section 194H are not attracted.

Question 2
State the applicability of TDS provisions and TDS amount in the following cases:

(a) Rent paid for hire of machinery by B Ltd. to Mr. Raman ₹ 2,10,000.

(b) Fee paid to Dr. Srivatsan by Sundar (HUF) ₹ 35,000 for surgery performed on a member of the family.

Answer

(a) Since the rent paid for hire of machinery by B. Ltd. to Mr. Raman exceeds ₹ 1,80,000, the provisions of section 194-I for deduction of tax at source are attracted.

The rate applicable for deduction of tax at source under section 194-I on rent paid for hire of plant and machinery is 2% assuming that Mr. Raman had furnished his permanent account number to B Ltd.

Therefore, the amount of tax to be deducted at source:

= ₹ 2,10,000 x 2% = ₹ 4200.

Note: In case Mr. Raman does not furnish his permanent account number to B Ltd., tax shall be deducted @ 20% on ₹ 2,10,000, by virtue of provisions of section 206AA.

(b) As per the provisions of section 194J, a Hindu Undivided Family is required to deduct tax at source on fees paid for professional services only if it is subject to tax audit under section 44AB in the financial year preceding the current financial year.

However, if such payment made for professional services is exclusively for the personal purpose of any member of Hindu Undivided Family, then, the liability to deduct tax is not attracted.

Therefore, in the given case, even if Sundar (HUF) is liable to tax audit in the immediately preceding financial year, the liability to deduct tax at source is not attracted.
in this case since, the fees for professional service to Dr. Srivatsan is paid for a personal purpose i.e. the surgery of a member of the family.

Question 3
What are the provisions relating to tax deduction at source in respect of:
(a) ABC and Co. Ltd. paid ₹19,000 to one of its Directors as sitting fees on 1-01-2017.
(b) Mr. X sold his house to Mr. Y on 01-02-2017 for ₹60 lacs?

Answer
(a) Section 194J provides for deduction of tax at source @10% from any sum paid by way of any remuneration or fees or commission, by whatever name called, to a resident director, which is not in the nature of salary on which tax is deductible under section 192. The threshold limit of ₹30,000 upto which the provisions of tax deduction at source are not attracted in respect of every other payment covered under section 194J is, however, not applicable in respect of sum paid to a director.

Therefore, tax@10% has to be deducted at source under section 194J in respect of the sum of ₹19,000 paid by ABC Ltd. to its director.

(b) Section 194-IA requires every person, being a transferee, responsible for paying any sum as consideration for transfer of any immovable property (other than agricultural land), to deduct tax@1% of such sum, at the time of credit of such sum to the account of the resident transferor or at the time of payment of such sum to a resident transferor, whichever is earlier.

Such tax is required to be deducted at source where the consideration for transfer of immovable property is ₹50 lakhs or more.

In this case, since the consideration for transfer of house exceeds ₹50 lakhs, Mr. Y is liable to deduct tax at source@1% under section 194-IA on the consideration of ₹60 lakhs payable for transfer of house to Mr. X.

Question 4
Ashwin doing manufacture and wholesale trade furnishes you the following information:

<table>
<thead>
<tr>
<th>Particulars</th>
<th>₹</th>
</tr>
</thead>
<tbody>
<tr>
<td>2015-16</td>
<td>2,05,00,000</td>
</tr>
<tr>
<td>2016-17</td>
<td>95,00,000</td>
</tr>
</tbody>
</table>

Total turnover for the financial year

State whether tax deduction at source provisions are attracted for the below said expenses incurred during the financial year 2016-17:

<table>
<thead>
<tr>
<th>Particulars</th>
<th>₹</th>
</tr>
</thead>
<tbody>
<tr>
<td>Interest paid to UCO Bank</td>
<td>41,000</td>
</tr>
</tbody>
</table>
9.13 Income-tax

| Contract payment to Raj (2 contracts of ₹ 12,000 each) | ₹ 24,000 |
| Shop rent paid (one payee) | ₹ 1,90,000 |
| Commission paid to Balu (on 1.8.2016) | ₹ 7,000 |

**Answer**

As the turnover of Ashwin for F.Y.2015-16, i.e. ₹ 205 lakh, has exceeded the monetary limit of ₹ 100 lakh prescribed under section 44AB, he has to comply with the tax deduction provisions during the financial year 2016-17, subject to, however, the exemptions provided for under the relevant sections for applicability of TDS provisions.

**Interest paid to UCO Bank**

TDS under section 194A is not attracted in respect of interest paid to a banking company.

**Contract payment of ₹ 24,000 to Raj for 2 contracts of ₹ 12,000 each**

TDS provisions under section 194C would not be attracted if the amount paid to a contractor does not exceed ₹ 30,000 in a single payment or ₹ 1,00,000 in the aggregate during the financial year. Therefore, TDS provisions under section 194C are not attracted in this case.

**Shop Rent paid to one payee** – Tax has to be deducted under section 194-I as the rental payment exceeds ₹ 1,80,000.

**Commission paid to Balu** – No, tax has to be deducted under section 194-H in this case as the commission does not exceed ₹ 15,000.

**Question 5**

State in brief the applicability of tax deduction at source provisions, the rate and amount of tax deduction in the following cases for the financial year 2016-17:

(i) Winning by way of jackpot in a horse race ₹ 1,00,000.

(ii) Payment made by a firm to sub-contractor ₹ 3,00,000 with outstanding balance of ₹ 1,20,000 shown in the books as on 31-03-2017.

(iii) Rent paid for plant and machinery ₹ 1,50,000 by a partnership firm having sales turnover of ₹ 20,00,000 and net loss of ₹ 15,000.

(iv) Payment made to Ricky Ponting, an Australian cricketer, by a newspaper for contribution of articles ₹ 25,000.

**Answer**

(i) Provisions for tax deduction at source under section 194BB @ 30% are attracted if the amount exceeds ₹ 10,000 in respect of income arising by way of winning a jackpot in horse races.

Tax to be deducted = ₹ 1,00,000 x 30% = ₹ 30,000

(ii) Provisions of tax deduction at source under section 194C are attracted in respect of...
payment by a firm to a sub-contractor. Under section 194C, tax is deductible at the time of credit or payment, whichever is earlier @ 1% if the payment is made to an individual or HUF and 2% for others.

Assuming that sub-contractor to whom payment has been made is an individual and the aggregate amount credited during the year is ₹ 4,20,000, tax is deductible @ 1% on ₹ 4,20,000.

Tax to be deducted = ₹ 4,20,000 x 1% = ₹ 4,200

(iii) As per section 194-I, tax is to be deducted @ 2% on payment of rent for plant and machinery, only if the payment exceeds ₹ 1,80,000 during the financial year. Since rent of ₹ 1,50,000 paid by a partnership firm does not exceed ₹ 1,80,000, tax is not deductible.

(iv) Under section 194E, the person responsible for payment of any amount to a non-resident sportsman for contribution of articles relating to any game or sport in India in a newspaper shall deduct tax @ 20%. Further, since Ricky Ponting is a non-resident, education cess @2% and secondary and higher education cess @ 1% on TDS would also be added.

Therefore, tax to be deducted = ₹ 25,000 x 20.60% = ₹ 5,150.

**Question 6**

State in brief the applicability of tax deduction at source provisions, the rate and amount of tax deduction in the following cases for the financial year 2016-17:

1. Payment of ₹ 27,000 made to Jacques Kallis, a South African cricketer, by an Indian newspaper agency on 02-07-2016 for contribution of articles in relation to the sport of cricket.
2. Rent of ₹ 1,70,000 paid by a partnership firm for use of plant and machinery.
3. Winning from horse race ₹ 1,50,000.
4. ₹ 2,00,000 paid to Mr. A, a resident individual, on 22-02-2017 by the State of Uttar Pradesh on compulsory acquisition of his urban land.

**Answer**

1. Section 194E provides that the person responsible for payment of any amount to a non-resident sportsman for contribution of articles relating to any game or sport in India in a newspaper has to deduct tax at source @ 20%. Further, since Jacques Kallis, a South African cricketer, is a non-resident, education cess @2% and secondary and higher education cess @1% on TDS should also be added.

Therefore, tax to be deducted = ₹ 27,000 x 20.60% = ₹ 5,562.

2. As per section 194-I, tax is to be deducted at source @ 2% on payment of rent for use of plant and machinery, only if the payment exceeds ₹ 1,80,000 during the financial year.
9.15 **Income-tax**

Since rent of ₹ 1,70,000 paid by a partnership firm does not exceed ₹ 1,80,000, tax is not deductible.

(3) Under section 194BB, tax is to be deducted at source, if the winnings from horse races exceed ₹ 10,000. The **rate of deduction of tax at source is 30%**. Assuming that winnings are paid to the residents, education cess@2% and secondary and higher education cess@1% has not been added to the tax rate of 30%.

Hence, tax to be deducted = ₹ 1,50,000 x 30% = ₹ 45,000.

(4) As per section 194LA, any person responsible for payment to a resident, any sum in the nature of compensation or consideration on account of compulsory acquisition under any law, of any immovable property, is required to deduct tax at source @ 10%, if such payment or the aggregate amount of such payments to the resident during the financial year exceeds ₹ 2,50,000.

In the given case, there is no liability to deduct tax at source as the payment made to Mr. A does not exceed ₹ 2,50,000.

**Question 7**

*Mr. Madan sold his house property in Surat as well as his rural agricultural land for a consideration of ₹ 65 lakhs and 20 lakhs, respectively, to Mr. Raman on 01-10-2016. He has purchased the house property for ₹ 40 lakhs and the land for ₹ 15 lakhs, in the year 2014. There was no difference in the stamp valuation. You are required to determine TDS implications, if any, assuming both persons are resident Indians.*

**Answer**

As per section 194-IA, any person, being a transferee, responsible for paying to a resident transferor any sum by way of consideration for transfer of any immovable property (other than rural agricultural land) is required to deduct tax at source@1% of such sum, if the consideration for transfer is ₹ 50 lakhs or more. The deduction of tax at source has to be made at the time of credit of such sum to the account of the transferor or at the time of payment of such sum, whichever is earlier.

Accordingly, in this case, since the sale consideration of house property exceeds ₹ 50 lakh, Mr. Raman, the transferee, is required to deduct tax at source at 1% of ₹ 65 lakhs, being the consideration for transfer of house property.

The tax to be deducted under section 194-IA would be ₹ 65,000, being 1% of ₹ 65 lakh.

Since TDS provisions under section 194-IA are attracted in respect of transfer of any immovable property, other than rural agricultural land, no tax is required to be deducted by Mr. Raman from the sale consideration payable for transfer of rural agricultural land.
Question 8

State the concessions granted to transport operators onwards in the context of cash payments under section 40A(3) and deduction of tax at source under section 194-C.

Answer

Section 40A(3) provides for disallowance of expenditure incurred in respect of which payment or aggregate of payments made to a person in a day exceeds ₹ 20,000, and such payment or payments are made otherwise than by account payee cheque or account payee bank draft.

However, in case of payment made to transport operators for plying, hiring or leasing goods carriages, the disallowance will be attracted only if the payments made to a person in a day exceeds ₹ 35,000. Therefore, payment or aggregate of payments up to ₹ 35,000 in a day can be made to a transport operator otherwise than by way of account payee cheque or account payee bank draft, without attracting disallowance under section 40A(3).

Under section 194C, tax had to be deducted in respect of payments made to contractors at the rate of 1% in case the payment is made to individual or Hindu Undivided Family or at the rate of 2% in any other case.

However, no deduction is required to 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 the business of plying, hiring or leasing goods carriages, if the following conditions are fulfilled:-

1. He owns ten or less goods carriages at any time during the previous year.
2. He is engaged in the business of plying, hiring or leasing goods carriages;
3. He has furnished a declaration to this effect along with his PAN.

Question 9

Mrs. Indira, a landlord, derived income from rent from letting a house property to M/s Vaibhav Corporation Ltd. of ₹ 1,00,000 per month. She charged service tax @ 15% on lease rent charges. Calculate the deduction of tax at source (TDS) to be made by M/s Vaibhavi Corporation Ltd. on payment made to Mrs. Indira and narrate related formalities in relation to TDS.

Answer

1. As per Circular No. 4/2008 dated 28th April, 2008 issued by the CBDT, the service tax paid by the tenant does not partake the nature of income of the landlord. The landlord only acts as a collecting agency for collection of service tax. Therefore, tax deducted at source under section 194-I would be required to be made on the amount of rent paid or payable excluding the amount of service tax, i.e. tax has to be deducted under section 194-I on ₹ 12 lakh.

2. Tax is deductible @ 10% under section 194-I.

3. Hence, in the given case, TDS under section 194-I would amount to ₹ 10,000, to be deducted every month.
(4) Tax deducted should be deposited within prescribed time i.e. on or before seven days from the end of the month in which the deduction is made and upto 30th April for the month of March.

Question 10

Bharghav doing textiles business furnishes you the following information:

**Total turnover for the financial year:**

<p>| | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>2015-16</td>
<td>₹ 205,00,000</td>
</tr>
<tr>
<td>2016-17</td>
<td>₹ 95,00,000</td>
</tr>
</tbody>
</table>

State whether the provisions of tax deduction at source are attracted for the following expenses incurred during the financial year 2016-17:

<table>
<thead>
<tr>
<th>Description</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Interest paid to Indian Bank on Term Loan</td>
<td>₹ 92,800</td>
</tr>
<tr>
<td>Advertisement expenses to R (two individual payments of ₹ 24,000 and ₹ 34,000)</td>
<td>₹ 58,000</td>
</tr>
<tr>
<td>Factory rent paid to C</td>
<td>₹ 1,85,000</td>
</tr>
<tr>
<td>Brokerage paid to B, a sub-broker (on 10.11.2016)</td>
<td>₹ 16,000</td>
</tr>
</tbody>
</table>

**Answer**

Since the turnover of Mr. Bharghav for F.Y. 2015-16, i.e., ₹ 205 lakhs, has exceeded the monetary limit of ₹ 100 lakhs prescribed under section 44AB, he has to comply with the tax deduction provisions during the financial year 2016-17, subject to, however, the exemptions provided for under the relevant sections for applicability of TDS provisions.

(i) **Interest paid to Indian Bank on term loan**

TDS under section 194A is not attracted in respect of interest paid to a banking company.

(ii) **Advertisement expenses to R (two individual payments of ₹ 24,000 and ₹ 34,000)**

Under section 194C, the provisions for tax deduction at source would not be attracted if the amount paid to a contractor does not exceed ₹ 30,000 in a single payment or ₹ 100,000 in the aggregate during the financial year. Therefore, provisions for deduction of tax at source under section 194C are not attracted in respect of payment of ₹ 24,000 to R.

However, payment of ₹ 34,000 to R would attract TDS@1% under section 194C, since it exceeds ₹ 30,000.

*Note* - The tax to be deducted would be ₹ 340, being 1% of ₹ 34,000.

(iii) **Factory rent of ₹ 1,85,000 paid to C**

Tax has to be deducted under section 194-I as the rental payment exceeds ₹ 1,80,000.
Provisions concerning Advance Tax and Tax Deducted at Source

Note - The tax to be deducted is ₹ 18,500, being 10% of ₹ 1,85,000.

(iv) Brokerage of ₹ 16,000 paid to B, a sub-broker
Tax has to be deducted @5% under section 194-H as the brokerage exceeds ₹ 15,000 during the F.Y. 2016-17.
Note - The tax to be deducted is ₹ 800, being 5% of ₹ 16,000.

Question 11
What is the difference between TDS and TCS under the Income-tax Act, 1961?

Answer

Difference between TDS and TCS

<table>
<thead>
<tr>
<th></th>
<th>TDS</th>
<th>TCS</th>
</tr>
</thead>
<tbody>
<tr>
<td>(1)</td>
<td>TDS is tax deduction at source</td>
<td>TCS is tax collection at source.</td>
</tr>
<tr>
<td>(2)</td>
<td>Person responsible for paying is required to deduct tax at source at the prescribed rate.</td>
<td>Seller of certain goods or provider of certain services is responsible for collecting tax at source at the prescribed rate from the buyer. Person who grants licence or lease (in respect of any parking lot, toll plaza, mine or quarry) is responsible for collecting tax at source at the prescribed rate from the licensee or lessee, as the case may be.</td>
</tr>
<tr>
<td>(3)</td>
<td>Generally, tax is required to be deducted at the time of credit to the account of the payee or at the time of payment, whichever is earlier. However, in case of payment of salary and payment in respect of life insurance policy, tax is required to be deducted at the time of payment.</td>
<td>Generally, tax is required to be collected at source at the time of debiting of the amount payable by the buyer of certain goods to the account of the buyer or at the time of receipt of such amount from the said buyer, whichever is earlier. However, in case of sale of jewellery or bullion or any other goods or any services, tax collection at source is required at the time of receipt of sale consideration in cash exceeding specified threshold limit. Further, in case of sale of Motor Vehicle of value exceeding ₹ 10 lakhs tax has to be collected at the prescribed rate at the time of receipt.</td>
</tr>
</tbody>
</table>

Question 12

Who is liable to pay advance tax? What is the procedure to compute the advance tax payable?
9.19 Income-tax

Answer

Persons liable to pay advance tax

As per section 207(1), tax shall be payable in advance during any financial year in accordance with the provisions of sections 208 to 219, in respect of an assessee’s current income i.e., the total income of the assessee which would be chargeable to tax for the assessment year immediately following that financial year.

In order to reduce the compliance burden on senior citizens having passive sources of income like interest, rent etc., section 207(2) provides exemption from payment of advance tax to a resident individual -

(1) not having any income chargeable under the head “Profits and gains of business or profession”; and

(2) of the age of 60 years or more at any time during the previous year.

As per section 208, the obligation to pay advance tax arises in every case where such tax payable by the assessee during that year is ₹10,000 or more.

Procedure for computing advance tax payable [Section 209]

(1) An assessee has to first estimate his current income (under five heads of income after applying the provisions of aggregation of income and set-off or carry forward of losses and allowing deductions under Chapter VI-A).

(2) The assessee shall then compute the income-tax payable on his current income at the rates in force in the financial year.

(3) The tax so calculated shall be reduced by the amount of tax which has been actually deducted at source.

(4) Net agricultural income is also to be considered for the purpose of computing advance tax in case of specified classes of assesses.

The specified percentage of advance tax shall be paid by the assessee on his accord on or before the due date of each installment. A person who pays any installment or installments may, increase or reduce the amount of advance tax payable in subsequent installment(s) in accordance with his estimate of current income and the advance tax payable thereon [Sections 210(1) and (2)].

Question 13

Briefly discuss the provisions relating to payment of advance tax on income arising from capital gains and casual income.

Answer

The proviso to section 234C contains the provisions for payment of advance tax in case of capital gains and casual income.
Advance tax is payable by an assessee on his/its total income, which includes capital gains and casual income like income from lotteries, crossword puzzles, etc.

Since it is not possible for the assessee to estimate his capital gains, or income from lotteries etc., it has been provided that if any such income arises after the due date for any installment, then, the entire amount of the tax payable (after considering tax deducted at source) on such capital gains or casual income should be paid in the remaining installments of advance tax, which are due.

Where no such installment is due, the entire tax should be paid by 31st March of the relevant financial year.

No interest liability on late payment would arise if the entire tax liability is so paid.

**Note:** In case of casual income the entire tax liability is fully deductible at source @30% under section 194B and 194BB. Therefore, advance tax liability would arise only in respect of the education cess and secondary and higher education cess element of such tax, if the same along with tax liability in respect of other income, if any, is ₹10,000 or more.

**Question 14**

*Briefly discuss the provisions of section 234B of the Income-tax Act, 1961 for short-payment or non-payment of advance tax.*

**Answer**

Provisions of section 234B for short-payment or non-payment of advance tax

1. Interest under section 234B is attracted for non-payment of advance tax or payment of advance tax of an amount less than 90% of assessed tax.

2. The interest liability would be 1% per month or part of the month for the period from 1st April next following the financial year upto the date of determination of total income under section 143(1) and where a regular assessment is made, upto the date of such regular assessment.

3. Such interest is calculated on an amount equal to the assessed tax; in a case where advance tax is paid in part, such interest is calculated on the amount of difference between the assessed tax and the advance tax paid.

**Question 15**

*What are the consequences of failure to deduct or pay the tax under section 201 of the Income-tax Act, 1961?*

**Answer**

Any person, including principal officer of a company, responsible for deducting tax at source shall be deemed to be an assessee in default in respect of such tax, if he does not deduct or
after deducting fails to pay, the whole or any part of the tax as required by or under the provisions of the Income-tax Act, 1961.

However, no penalty shall be charged under section 221 from such person, unless the Assessing Officer is satisfied that such person, without good and sufficient reasons, has failed to deduct and pay such tax.

As per section 201(1A), a person who fails to deduct tax or after deduction, fails to pay the tax, is liable to pay simple interest @ 1% for every month or part of a month on the amount of such tax from the date on which such tax was deductible to the date on which such tax is actually deducted and simple interest @ 1½% for every month or part of month from the date on which tax was deducted to the date on which such tax is actually paid. Such interest should be paid before furnishing the statement of tax deducted at source under section 200(3).

Where such tax has not been paid after it is deducted, the amount of tax together with the amount of simple interest thereon shall be a charge upon all the assets of the person, or the company, as the case may be.

Exercise

1. Any person responsible for paying to a resident any sum exceeding ₹ 2.5 lakh towards compensation for compulsory acquisition of his urban industrial land under any law has to deduct income-tax at the rate of -
   (a) 10%
   (b) 15%
   (c) 20%

2. The rate of TDS on rental payments of plant, machinery or equipment is -
   (a) 2%
   (b) 5%
   (c) 10%

3. For non-payment or short payment of advance tax -
   (a) interest is payable under section 234A
   (b) interest is payable under section 234B
   (c) interest is payable under section 234C

4. For deferment of advance tax -
   (a) interest is payable under section 234A
(b) interest is payable under section 234B
(c) interest is payable under section 234C

5. Write short notes on -
   (a) Certificate for deduction of tax at lower rate
   (b) Installments of advance tax and due dates for payment of advance tax
   (c) Payment of advance tax in case of capital gains

6. Explain the meaning of the following terms in the context of section 194J -
   (a) Professional services
   (b) Fees for technical services

7. Who are the “persons responsible for paying” taxes deducted at source as per section 204?

8. Which are the payments for which individuals and HUFs, who are liable to get their accounts audited under section 44AB, are vested with the liability to deduct tax at source? Discuss.

Answers
1. a; 2. a; 3. b; 4. c.