

TAX FLASH NEWS

6 July 2020

CBDT amends TDS Rules in line with various TDS related amendments introduced by the Finance Act, 2020

The Finance Act, 2020 introduced various new TDS provisions in the Income-tax Act, 1961 for e.g. TDS on payment of certain sums by e-commerce operator to e-commerce participant¹, TDS on income in respect of units², etc. Further, certain provisions were amended like TDS on cash withdrawal³, TDS on royalty and fees for technical services⁴, TDS on interest⁵, non-deduction of tax in certain cases⁶, etc.

Recently, the Central Board of Direct Taxes (CBDT) has issued a Notification⁷ amending Rule 31A and Form 26Q/27Q in line with the above amendments.

Key amendments in Rules:

- Currently, the deductor at the time of preparing statements of tax deducted requires to furnish particulars of amount paid or credited on which tax was not deducted in view of the Notification issued Section 197A(1F)⁸. As per the amended rule, the deductor is additionally required to furnish particulars of amount deducted at a lower rate.
- With effect from 1 July 2020, the deductor at the time of preparing TDS statements shall furnish particulars of amount paid or credited on which tax was not deducted or deducted at a lower rate in view of-
 - Notification issued under the second proviso to Section 194N⁹ or

- Exemption provided in third proviso to Section 194N¹⁰ or
- Notification issued under the fourth proviso to Section 194N¹¹
- The deductor at the time of preparing statements of tax deducted shall furnish particulars of amount paid or credited on which:
 - Tax was not deducted or deducted at lower rate in view of the Notification issued under Section 194A(5)¹²
 - Tax was not deducted under Section 194LBA(2A)¹³
 - Tax was not deducted in view of clause (a) or clause (b) of Section 197A(1D)¹⁴
 - Tax was not deducted in view of the exemption provided to persons referred to in various CBDT Circulars¹⁵

¹ Section 194-O

² Section 194K

³ Section 194N

⁴ Section 194J

⁵ Section 194A

⁶ Section 197A

⁷ CBDT Notification No. 43/2020, dated 3 July 2020

⁸ No deduction 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

⁹ Central Government may specify in consultation with the RBI, by notification, the recipient in whose case the first proviso (tax deduction) shall not apply or apply at reduced rate, if such recipient satisfies certain conditions

¹⁰ 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

(iv) any white label automated teller machine operator of a banking company or co-operative society engaged in carrying on the business of banking

¹¹ Central Government may specify in consultation with the RBI, by notification, the recipient in whose case the provision of this section shall not apply or apply at reduced rate, if such recipient satisfies the specified conditions

¹² Central Government may, by notification, 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

¹³ Nothing contained in sub-sections (1) and (2) of Section 194LBA shall apply in respect of income of the nature referred to in Section 10(23FC)(b), if the special purpose vehicle referred to in the said clause has not exercised the option under Section 115BAA (concessional tax regime)

¹⁴ No deduction of tax shall be made by the Offshore Banking Unit from the interest paid:

(a) on deposit made on or after the 1 April 2005, by a non-resident or a person not ordinarily resident in India; or

(b) on borrowing, on or after the 1 April 2005, from a non-resident or a person not ordinarily resident in India

¹⁵ Circular No. 3/2002, dated 28 June 2002, Circular No. 11/2002, dated 22 November 2002, Circular No. 18/2017, dated 29 May 2017

Amendment in Form 26Q (Quarterly statement of deduction of tax in respect of payments other than salary)

- Reporting with respect to TDS on payment of certain sums by e-commerce operator to e-commerce participant¹⁶, TDS on income in respect of units¹⁷ and non-deduction of tax in certain cases¹⁸ have been included in the ambit of Form 26Q.
- Further the amended Form 26Q includes the following to provide information with respect to:
 - Amount of cash withdrawal which is in excess of INR 20 lakhs but does not exceed INR 1 crore (TDS at the rate of 2 per cent - Sub-clause (a) of clause (ii) of first proviso to Section 194N).
 - Amount of cash withdrawal which is in excess of INR 1 crore (TDS at the rate of 5 per cent - Sub-clause (b) of clause (ii) of first proviso to Section 194N).

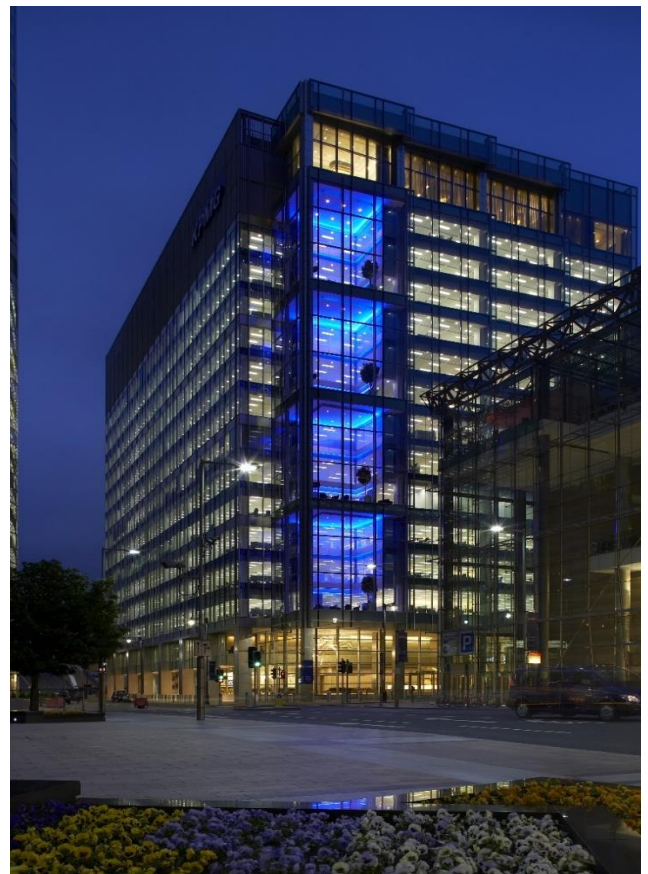
Amendment in Form 27Q (Quarterly statement of deduction of tax in respect of payments other than salary made to non-residents)

- Reporting with respect to TDS on cash withdrawal¹⁹ and non-deduction of tax in certain case²⁰ have been included in the ambit of Form 27Q.
- Further the amended Form 27Q includes the following to provide information with respect to the cash withdrawal:
 - Amount of cash withdrawal in excess of INR 1 crore as referred to in Section 194N (in cases not covered by the first proviso to Section 194N)
 - Amount of cash withdrawal which is in excess of INR 20 lakhs but does not exceed INR 1 crore (TDS at the rate of 2 per cent - Sub-clause (a) of clause (ii) of first proviso to Section 194N)
 - Amount of cash withdrawal which is in excess of INR 1 crore (TDS at the rate of 5 per cent - Sub-clause (b) of clause (ii) of first proviso to Section 194N)

Our comments

The Finance Act 2020 widened the scope of TDS mechanism by introducing obligation on e-commerce operator to deduct tax at source on payment of certain sums to e-commerce participants. Further, in order to discourage cash transactions and move towards less cash economy, amendments were made in the TDS provisions relating to cash withdrawal. Some more provisions were also amended like TDS on cash withdrawal, TDS on royalty and fees for technical services, TDS on interest, non-deduction of tax in certain cases, etc.

However, there was no corresponding amendments in the Rules. In line with the amendments introduced by the Finance Act 2019 the relevant Rules have been amended. These changes in the Rules may create additional compliance burden on the taxpayers.



¹⁶ Section 194-O

¹⁷ Section 194K

¹⁸ Section 197A

¹⁹ Section 194N

²⁰ Section 197A

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