

Brief Write up on newly introduced Section 194R:

TDS on perquisites arising in business or profession:

1. Sec 194R has been introduced in Finance Act 2022 and made applicable from 1st July, 2022.
2. It seeks to deduct tax at source (TDS) in case a person provides any benefit or perquisite in kind to a resident at the time of execution of a business transaction.
3. It is important to note that this TDS arises only in the course of a business transaction. Salary perquisite is not covered by this provision.
4. Example: Freebies to doctors, personal benefits such as foreign tours to professionals in lieu of compensation, etc.
5. The rate of TDS is 10%.
6. No TDS would be applicable in case of benefit/perks per person is not more than 20,000 in a Financial Year and for calculating Aggregate limit of Rs. 20,000 financial year is to be considered as a whole and not period after 01/07/2022.
7. No TDS is to be deducted when deductor is an Individual/HUF in business/professional with turnover/receipts in business/professional below Rs.1 Crore / Rs.50 Lakhs.

Some clarifications on TDS on perquisites U/S 194R:

(Circular No. 12 of 2022)

8. It is clarified that no tax is required to be deducted under section 194R of the Act on sales discount, cash discount and rebates allowed to customers.
9. There could be another situation, where a seller is selling its items from its stock in trade to a buyer. The seller offers two items free with purchase of 10 items. It is clarified that TDS U/S 194R shall not be applicable in such a situation.

10. However TDS would have to be deducted in the following situations:

When a person gives incentives (other than discount, rebate) in the form of cash or kind such as car, TV, computers, gold coin, mobile phone etc.

When a person sponsors a trip for the recipient and his/her relatives upon achieving certain targets

When a person provides free ticket for an event

When a person gives medicine samples free to medical practitioners.

11. It is further clarified that these benefits/perquisites may be used by owner/director/employee of the recipient entity or their relatives who in their individual capacity may not be carrying on business or exercising a profession. However, the tax is required to be deducted by the person in the name of recipient entity. For eg: free medicine sample may be provided by a company to a doctor who is an employee of a hospital. The TDS is required to be deducted by the company in the hands of hospital. The hospital may subsequently treat this benefit/perquisite as the perquisite given to its employees (if the person who used it is his employee) under section 17 of the Act and deduct tax under section 192 of the Act.