



P R S S & CO LLP

Chartered Accountants

Section 194R - TDS on benefit or perquisite in respect of business or profession

Sr No.	Particulars	Details
1	Applicability from	01/07/2022
2	Coverage	Perquisites/benefits, In cash or in kind, Related to business/profession
3	Responsibility of Tax deduction	Payer (Provider of benefits or perquisites)
4	Monetary Limit	Exceeding Rs.20,000/- to a person, in a particular FY for a single transaction or aggregate of transactions
5	Rate	10%
6	Rate incase payee does not provide PAN	20%

Persons required to deduct tax

- 1 Any Resident or Non Resident, other than Individual/HUF
- 2 It includes all type of companies, firms, LLPs, Trusts, AOPs, BOIs, etc.
- 3 However, an Individual/HUF
 - with a total sales/gross receipts/gross turnover from Business of more than Rs. 1 Crore
- OR**
 - Gross receipts from Profession of more than Rs. 50 Lakhs in preceding FY, will be liable to deduct tax
(i.e. one needs to check total sales/receipts of FY 2021-22 to check applicability for FY 2022-23)
- 4 The payee (receiver of benefit or perquisite) should be a Resident person.
 - In case, the payee is a non-resident TDS will be deducted u/s 195

Exclusions from 194R

- 1 Sales discounts, cash discount and rebates in the ordinary course of business.
- 2 A product given by manufacturer to a influencer for the purpose of marketing/influencing, only if the item/product is **returned**
- 3 The expenditure related to any business meetings/conferences related to launching of new product, marketing techniques, dressing queries or any techniques incidental to business

Inclusions in 194R

- 1 Incentives (other than discount, rebate) in the form of cash or kind such as car, TV, computers, gold coin, mobile phone etc.
- 2 Sponsored trips for the recipient/ his relatives upon achieving certain targets
- 3 Free ticket for an event
- 4 Free Samples
- 5 Non returnable products given to influencers for marketing
- 6 The expenditure related to any business meetings/conferences related to incentives/benefits to selected dealers/customers who have achieved particular targets.
 - i) Expense attributable to leisure trip or leisure component, even if it is incidental to the dealer business conference.
 - ii) Expenditure incurred for family members accompanying the person attending dealer business conference.
 - iii) Expenditure on participants of dealer/business conference for days which are on account of prior stay or overstay beyond the dates of such conference.



P R S S & CO LLP

Chartered Accountants

Calculation of limit of Rs. 20,000/-

Particular	Date	
	01/04/2022 to 30/06/2022	01/07/2022 to 31/03/2023
Applicability of TDS	No	Yes
Whether to consider amount paid/benefits given for calculation of annual limit	Yes	Yes

For example

Case	Date		TDS
	01/04/2022 to 30/06/2022	01/07/2022 to 31/03/2023	
1	NIL	Rs. 15,000/-	NIL
2	Rs. 25,000	NIL	NIL
3	Rs. 10,000	Rs. 10,000/-	NIL
4	NIL	Rs. 25,000	TDS @ 10% on Rs. 25,000/-
5	Rs. 25,000	Rs. 10,000	TDS @ 10% on Rs. 10,000/-
6	Rs. 20,000	Rs. 10,000	TDS @ 10% on Rs. 10,000/-
7	Rs. 15,000	Rs. 10,000	TDS @ 10% on Rs. 10,000/-
8	Rs. 5,000	Rs. 20,000	TDS @ 10% on Rs. 20,000/-

Valuation of benefit/perquisite

Generally, the fair market value of the benefit/perquisite will be considered as value for calculation of TDS

Exceptions:

- 1 In case the benefit/perquisite provider has purchased the said benefit/perquisite before providing it to the recipient, the purchase price shall be the value for such benefit/perquisite.
- 2 In case the benefit/perquisite provider manufactures such items given as benefit/perquisite, then the price that it charges to its customers for such items shall be the value for such benefit/perquisite.

In case a free item is given to a person in relation to an item purchased by him/her, for e.g. in schemes such BOGO (Buy one Get one) or 2+1, tax shall not be deducted on the free item that is supplied.

However, when only free samples are provided, tax shall be deducted



P R S S & CO LLP

Chartered Accountants

Procedure

Benefit in CASH	Benefit in KIND	
	Case 1- TDS paid by the benefit giver	Case 2- TDS paid by the benefit receiver
In this case, the NET BENEFIT i.e. Benefit in cash after deducting TDS will be received by the payee.	The benefit received in kind is considered to be grossed up (i.e. TDS amount also forms a part of such benefit).	The benefit provided to the recipient is considered to be Net off tax.
	The benefit giver will pay the TDS component on it to the government.	The benefit receiver becomes liable to pay TDS in the form of advance tax on such benefit received.
	Such TDS will get reflected in the Form 26AS of the person receiving the benefit.	The payer may rely on: 1. A declaration given by the benefit receiver 2. A copy of the advance tax payment challan provided by the recipient confirming that the tax required to be deducted on the benefit/perquisite has been deposited.
	He can claim credit of such TDS paid while filing his ITR	The payee would be required to report such TDS paid in the return (Form 26Q) along with Challan number.

Suppose benefit worth Rs.50,000 in kind is provided to a recipient then the provider have to calculate value as $50000 \times 100/90$ which is equal to Rs.55,555. The amount of TDS that he has to be paid to the Government is $55,555.55 - 50,000$ i.e. equal to Rs.5,555.55. In Form 26Q the benefit provider will need to show it as tax deducted on benefit provided.

Incase Benefit is received by a director

Where the benefit or perquisite used by owner, director, employee or by their relatives who might not be carrying on business in professional capacity, tax is to be deducted by person in the name of recipient entity since the usage of benefit or perquisite is because of relation with the recipient entity.

In Case of Reimbursement:

A consultant is rendering service to a person 'X' for which he is receiving consulting fees and the expenses related to travelling and accommodation are generally deductible from such income.

If in such case the expenditure is met by 'X' then it will be considered as benefit /perquisite and it will be covered under this section.

But, in case the invoices related to travelling and accommodation is made in the name of 'X' and expenditure is temporarily paid by the consultant and then reimbursed from 'X', then it will not be considered as benefit/perquisite.



P R S S & CO LLP

Chartered Accountants

In Case of Free Samples

Illustration: Explained by use of example of Medical free samples

TDS is applicable when a person gives medical samples free to medical practitioners/any person

A medicine manufacturing company gives any free medical samples to doctor/any person, then there may be 2 conditions:

Company -->	Doctor (who is an employee in a hospital)
SITUATION 1 (when the doctor is an employee in hospital)	Then TDS will be deducted in the hands of hospital. Further, hospital can claim credit of such TDS deducted. However, hospital may treat such benefit/perquisite as perquisite provided to its employees. Therefore, ultimately it is taxable in the hands of employee & not the hospital.
Company -->	Doctor (Doctor who is working as consultant in hospital)
SITUATION 2 (when the doctor is working as a consultant in hospital)	In this case, 2 options are given. Option 1- The benefit/perquisite provider may deduct TDS u/s 194R in the hands of the hospital & then the hospital/any company may again deduct TDS for providing the same benefit/perquisite to such consultant. Option 2- The benefit/perquisite provider may directly deduct tax u/s 194R in the hands of such consultant.
EXCEPTION:	TDS will not be deducted u/s 194R if the benefit/perquisite is provided to any Government entity, like Government hospital.