

## **1 Provisions of [Section 194-IA](#):**

(1) Any person, being a transferee, responsible for paying (other than the person referred to in [section 194LA](#)) to a resident transferor any sum by way of consideration for transfer of any immovable property (other than agricultural land), shall, at the time of credit of such sum to the account of the transferor or at the time of payment of such sum in cash or by issue of a cheque or draft or by any other mode, whichever is earlier, deduct an amount equal to one per cent of such sum as income-tax thereon.

(2) No deduction under sub-section (1) shall be made where the consideration for the transfer of an immovable property and the stamp duty value of such property, both, is less than fifty lakh rupees.

(3) The provisions of [section 203A](#) shall not apply to a person required to deduct tax in accordance with the provisions of this section.

*Explanation* — For the purposes of this section,—

(a) "agricultural land" means agricultural land in India, not being a land situate in any area referred to in items (a) and (b) of sub-clause (iii) of clause (14) of [section 2](#);

(aa) "consideration for transfer of any immovable property" shall include all charges of the nature of club membership fee, car parking fee, electricity or water facility fee, maintenance fee, advance fee or any other charges of similar nature, which are incidental to transfer of the immovable property;'

(b) "immovable property" means any land (other than agricultural land) or any building or part of a building.

## **2 Scope of [section 194-IA](#):**

[Section 194-IA](#), provides that any person, being a transferee, responsible for paying (other than the person referred to in [section 194LA](#)) to a resident transferor any sum by way of consideration for transfer of any immovable property (other than agricultural land) shall deduct an amount equal to one per cent of such sum as income-tax at the time of credit of such sum to the account of the transferor or at the time of payment of such sum in cash or by issue of cheque or draft or by any other mode, whichever is earlier.

No deduction shall be made the consideration for the transfer of an immovable property and the stamp duty value of such property, both, is less than fifty lakh rupees.

## **3 What payment is covered by [section 194-IA](#):**

Any sum paid by way of consideration for transfer of any immovable property (other than agricultural land) is covered under [section 194-IA](#), provided the consideration for transfer of an immovable property is not less than Rs. 50 lakhs.

**3.1 Agricultural Land:** Agricultural land means agricultural lands in India, not being a land situated in any area referred to in [section 2\(14\)\(iii\)\(a\)/\(b\)](#).

A land shall not be treated as Agriculture Land, if:

- a) It is situated within jurisdiction of Municipality or Cantonment Board which has a population of not less than 10,000; or
- b) It is situated in any area within below given distance measured aerially:

| <b>Population of the Municipality</b>            | <b>Distance from Municipal limit or Cantonment Board</b> |
|--|--|
| More than 10,000 but does not exceed 1,00,000    | Within 2 kms.  |
| More than 1,00,000 but does not exceed 10,00,000 | Within 6 kms.  |
| Exceeding 10,00,000                              | Within 8 kms.  |

**3.2 Immovable Property:** Immovable property means any land (other than agricultural land) or any building or part of building.

**4 Who is the payer:**

The payer is any person, being a transferee, responsible for paying (other than the person referred to in [section 194-IA](#)) to a resident transferor any sum by way of consideration for transfer of any immovable property (other than agricultural land).

**5 Who is the payee:**

The payee is resident transferor of any immovable property (other than agricultural land).

**6 Conditions to be satisfied for applicability of [section 194-IA](#):**

For applicability of [section 194-IA](#) following conditions need to be satisfied:

- The payer must be any person referred to in Para 4 above.
- The payee must be a resident transferor of an immovable property (other than agricultural land).
- The payment must be by way of consideration for transfer of any immovable property (other than agricultural land).
- The quantum of payment, or stamp duty value of property, must be Rs. 50 lakhs or more.

**7 Time of deduction of tax:**

Tax shall be deducted at the time of credit of such sum to the account of the transferor or at the time of payment of such sum in cash or by issue of a cheque or draft or by any other mode, whichever is earlier.

**8 Rate of TDS:**

Tax shall be deducted at the rate of 1%.

**9 Effect of non-furnishing of PAN on rate of tax:**

[Section 206AA](#), as inserted with effect from 1-4-2010, provides as under:

- Every person whose receipts are subject to deduction of tax at source (*i.e.*, the deductee) shall furnish his PAN to the deductor.
- If such person does not furnish PAN to the deductor, the deductor will deduct tax at source at higher of the following rates:
  - (a) the rate prescribed in the Act;

(b) at the rate in force, *i.e.*, the rate mentioned in the Finance Act; or

(c) at the rate of 20 per cent.

- Where the PAN provided to the deductor is invalid or does not belong to the deductee, it shall be deemed that the deductee has not furnished his PAN to the deductor and above provisions shall apply accordingly.

**10 Tax Deduction and Collection Account Number (TAN):**

Provisions pertaining to Tax Deduction and Collection Account Number, *i.e.*, [section 203A](#), shall not apply to a person deducting tax at source under [Section 194-IA](#).

**11 Deposit of tax to the credit of the Central Government:**

Any sum deducted under [section 194-IA](#) shall be paid to the credit of the Central Government within a period of thirty days from the end of the month in which the deduction is made and shall be accompanied by a challan-cum-statement in [Form No. 26QB](#).

The sum so deducted shall be deposited to the credit of the Central Government by remitting it electronically to the Reserve Bank of India or the State Bank of India or to any authorised bank.

**12 Certificate for tax deducted at source:**

Every person responsible for deduction of tax under [section 194-IA](#) shall furnish the certificate of deduction of tax at source in [Form No. 16B](#) to the payee within fifteen days from the due date for furnishing the Challan-cum-statement in [Form No. 26QB](#) under [Rule 31A](#) after generating and downloading the same from the web portal specified by the Director General of Income-tax (System) or the person authorised by him.

**13 Furnishing of statements by tax deductor to department:**

Every person responsible for deduction of tax under [section 194-IA](#) shall furnish to the Director General of Income-tax (System) or the person authorised by him a challan-cum-statement in [Form No. 26QB](#) electronically within 30 days from the end of the month in which the deduction is made. CPC-TDS has also enabled the online functionality for correction in [Form No. 26QB](#).

[As amended by Finance Act, 2022]