

TDS U/S 194R - Relates to TDS on benefits / perquisite
(New TDS section proposed in the Finance Bill 2022,
Applicable from 01.07.2022)

● **Applicability –**

👍 All assessee (other than Individual & HUF)

AND

👍 Individual & HUF
(Having Business Aggregate Turnover above Rs. 1 Crores

OR

Professional receipt above Rs 50 Lakhs in F.Y. 2021-22 (A.Y 2022-23))

This section 194R requires **deduction of TDS @ 10%, by any person, providing any benefit or perquisite, exceeding Rs.20,000/- in value, in a year, to a resident, arising from the business or profession of such resident** and such benefit or perquisite is in the nature of income falling u/s.28(iv) of the Income tax Act.

● **The Benefits / Perquisites covered by section 194R -**

Those perks, benefits, amenities, or facilities, probably in kind, or in a combination of cash and kind, which a resident person enjoys, pursuant to, or in exercise of his business or profession, in lieu of the regular consideration payable to him, in monetary terms, in exercise of such business or profession. Such benefits or perquisites are taxable as business receipts u/s 28(iv) of the Income Tax Act

Sec 28: The following income shall be chargeable to income-tax under the head “Profits and gains of business or profession”,

(iv) The value of any benefit or perquisite, whether convertible into money or not, arising from business or the exercise of a profession. **Also, such gifts, perks or benefits provided on some special occasions like festivals (Eg. Diwali sweets), marriage occasions, etc. may not liable for tax deduction at source, as section 194R contemplates to cover only those benefits or perquisites, which arise out of business or profession.**

* **Note** - The benefit or perquisite referred to the perquisite u/s 17(2), under the head salary income, paid or payable by the employer to employees, TDS is covered by section 192 is already there

● **Special Points -**

👍 For calculating Aggregate limit of Rs.20,000/- financial year is to be considered as a whole and not period after 01.07.2022.

👍 Such gifts, perks or benefits provided are not in relation to business of resident person. (Eg. Honorarium given to resident as guest of honour for function or event)

👍 The monetary limit of Rs.20,000/- includes both Cash and Non-cash gifts, Perks or Benefits.

● **Summary –**

👍 The TDS shall be applicable on a Resident who provides any benefit/perquisite to another Resident;

- 👍 The Benefit/Perquisite has to be arising from Business/Profession;
- 👍 TDS should be deducted at the rate of 10% on the value or aggregate of value of such benefit or perquisite;
- 👍 Such TDS should be deducted before such benefit or perquisite is provided.

Sec No.	Nature of Payment	Monetary Limit for Deduction	Payer (Person making Payment)	Payee (Receiver)	Rate
194 R	Benefit / perquisite provided in Cash or Kind. (Gifts, Perks or Benefits)	Above Rs. 20,000	Any person (Other than Individual / HUF) And Individual/ HUF having (T/O above Rs.1 Crores or Professional receipts above Rs.50 Lakhs (i.e. Resident or Non Resident)	Resident Person	10%

● **Examples –**

Following are the income and should be disclosed in the income tax return.

- 👍 Benefits like free medicine samples received by doctors
- 👍 Free IPL tickets
- 👍 Foreign flight ticket received in the course of business or profession
- 👍 Travel Packages
- 👍 Gift cards/ Vouchers
- 👍 Products under incentive scheme like phones, vehicles etc.

* **Note** - The Company can claim deduction for the sales promotion expenditure, but that promotion would be a taxable income in the hands of the person receiving it. "Therefore you have to deduct TDS".

● **Ambiguities in Section 194R –**

There are a few queries that taxpayers have with respect to the proposed provisions. Hence these queries must be cleared at the earliest to clear all ambiguities. Some of the common queries are as follows:

- 👍 The terms perquisites/benefits have not been defined categorically to get clarity on Section 194R, which leave these words open ended. Hence the finance ministry should clear the air about these two terms and define them categorically.
- 👍 Further, the basis on which the value of benefit/perquisite is determined has not been specified in cases where they are not convertible to money.
- 👍 The proposed provisions of this section state that in case of non-monetary benefits or perquisites, the provider of such benefits/perquisites needs to ensure that the tax is paid beforehand on such benefit/perquisite. However, the provision is silent on how the provider can comply with this.

● **Issues requiring more Clarity from the Legislature In respect of new section 194R -**

How the value of benefits or perquisites arising out of business or profession, provided in kind, will be arrived at, for the purpose of deduction of tax at source? Will it be the actual cost, fair market value in line with existing Rule 11U or 11UA or any other criteria?

Section 194R in its present form would pose a huge compliance challenge for various businesses as there are different types of perquisites & benefits that are provided to their dealers/distributors/agents/ channel partners etc. Additionally, this section has a few ambiguities with respect to some of its provisions; hence to solve the queries of taxpayers a detailed clarification should be issued.

"By and large, most companies have said they will adhere to the guidelines. It is just a matter of some administrative chinks that remain to be ironed out. We are working on more directives and FAQs to make our guidelines clearer," a government official said.

The government has also assured stakeholders that it would meet them again within 90 days to assess the situation and review the progress regarding its directives, the sources added.

We shall update on the same as and when the more guidelines or clarity is received.

**FOR ANY QUERIES ON THE SAME, REQUEST YOU TO KINDLY MAIL US WITH
POSSIBLE SPECIFIC SITUATIONS FOR US TO BETTER UNDERSTAND
APPLICABILITY ON mumassociate@pkmg.co.in**

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