

## **On Deducting Tax At Source For Rent Payments**

**FE NEWSLINE**

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A path breaking amendment has been made in Budget 2002 for individual and HUE With effect from June 1, 2002, those individuals and HUFs whose turnover, sales or receipts, in the financial year ended March 31, 2002, in business exceeds Rs 40 lakh or if they are professionals, exceeds Rs 10 lakh and thus have to get their books audited, shall also be required to deduct tax at source (TDS) from June 1,2002.

### **Summary of facts**

(i) The person should be responsible for paying any income by way of rent. 'Rent' means any payment by whatever name called, under any lease, sub-lease, tenancy or any other agreement or arrangement for the use of any land or any building (including factory building) together with furniture, fittings and land appurtenant thereto, whether or not such building is owned by the payee.

(ii) No tax is to be deducted, if the total rent payment during the financial year does not exceed Rs 1,20,000.

(iii) Tax is to be deducted either at the time of payment or credit to the account of the payee, whichever is earlier. For this purpose credit to any suspense account or any other account by whatever name called shall be deemed to be a credit of such income to the account of payee.

(iv) No tax is to be deducted or deducted at lower rates if recipient makes an application in Form No.13 to the concerned assessing officer and obtains a certificate in Form No.I5AA and files to the payer.

(v) Tax is to be deducted at the rate of 20 per cent plus surcharge in case of payment to any payee other than individual or HUE In case of individual or HUF, rate of tax is 15 per cent plus surcharge.

(vi) No tax is to be deducted, if payee is the government/local authority/statutory authority.

### **Furnishing prescribed statements and returns**

(i) The annual returns, should be sent in Form No. 26-J by June 30 of the financial year following the year to which the return relates to the assessing officer designated for the purpose by the Chief Commissioner / Commissioner of Income Tax or if there is no such person designated, the assessing officer having jurisdiction over assessee. (ii) The fourth counterfoil of the challan have to be attached to annual return.

### **Issuance of certificate of tax deducted at source**

(i) The certificate of TDS is to be issued to every payee within the following due dates:

(a) Where the amount of rent is credited to payee's account on the last day of the accounting year, then certificate is to be issued within a week after the expiry of two months from the month in which income is credited.

(b) Where payment is made in cash or by cheque or by way of credit to the account during the course of the year, then certificate is to be issued within a period of one month from the end of the month during which the credit has been given or the sums have been paid.

(ii) Where more than one certificate is required to be furnished to a payee during the financial year, a consolidated certificate covering all deductions made during that year can be issued within one month from the close of the financial year, if the payee so desires.

(iii) The certificate is to be issued in Form No.16A.

(iv) If the recipient of the certificate reports that the original certificate is lost duplicate certificate can be issued on plain paper giving details contained on Form No.16A of tax at a lower rate.

(v) The certificate should be signed by the person responsible for deduction of tax.

#### **Deduction of tax at lower rates or non-deduction of tax from payment of tax**

(i) The payee should file an application in Form No. 13 to the assessing officer having jurisdiction over him.

(ii) If the assessing officer is satisfied that payee's total income is such that no deduction or deduction of tax at lower rate is justified, he would issue a certificate in form 15AA under section 197 for no deduction of tax or deduction of tax at a lower rate.

(iii) The certificate in form 15AA so issued shall be valid for the assessment years specified therein. After the expiry of that period, a fresh application could be made for a fresh certificate.

#### **Other facts :**

(i) Advance rent is subject to TDS under section 194-I.

(ii) In case of more than one payees, each having definite and ascertainable share in the property, the limit of Rs. 1,20,000 will apply separately to each co-owner.

(iii) If the tenant directly pays the municipal taxes, ground rent, etc. then tax is not deductible on such payments as these payments are not in the nature of rent.

(iv) Payment for holding seminars, etc. at hotels attract TDS. If hotel does not charge for use of premises but charges for catering/meals only then section 194-I would not apply.

(v) If deposit/Security is not refundable then tax is deductible as it is a sort of advance rent. However, if deposit is refundable then tax is not deductible.

(vi) Rent need not necessarily be payable on monthly basis. It may be payable on quarterly, half yearly or any other basis. TDS shall be made depending upon frequency of rent payment.

(vii) Failure to deduct or deposit TDS or issue TDS certificate or file annual return within prescribed time limit attracts penalties and even imprisonment in certain cases.

<b>Deposition of amount of tax deducted at source</b>		
<b>Nature of Payer</b>	<b>Time for depositing TDS</b>	<b>Challan No.</b>

Government disbursing Officer	Same day	Not required
Any other rent credited on the last day of the accounting year	Within 2 months of the expiry of the month in which the last	No.2 where payment made
rent credited on the course of the year	Within 1 week from the last day of month in which deduction is made	No.8 where payments made to non-company payees