
Note on Section 194-IA – TDS on Purchase of Immovable Property

Applicability:- Section has been inserted w.e.f. **01.06.2013**

Person responsible for tax deduction:-

Any person (being a transferee) responsible for paying (other than person referred to in section 194LA) to a Resident transferor any sum by way of consideration for transfer of any immovable property (other agricultural land in rural area in India), is liable to deduct the TDS under this section.

Time of deduction:-

At the time of payment or credit, whichever is earlier.

Rate of TDS:-

TDS to be deducted:

- @ 1% of the sum paid/payable if the PAN of the Deductee (Transferor) is available else,
- @ 20%, if the Deductee (Transferor) does not furnish PAN.

Threshold Limit:-

No tax is deductible where the consideration paid or payable for the transfer of an immovable property is less than Rs. 50,00,000/-.

Online Payment of TDS (mandatory)

Tax so deducted should be deposited to:

- within a period of seven days from the end of the month in which the deduction is made
 - in the Government Account through the authorized bank branches using the e-Tax payment option available at NSDL E-payment
 - using challan cum statement on Form 26QB
 - (Link for List of authorized Banks
<https://onlineservices.tin.nsdl.com/etaxnew/Authorizedbanks.html>)
 - TDS certificate must be issued to the deductee in Form 16B within 15 days from the due date of deposit of TDS
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- For Online Payment and filing statement:
 - Log on to NSDL-TIN website (www.tin-nsdl.com)
 - Under **TDS on sale of property**, click on the option “**Online form for furnishing TDS on property**”
 - Alternatively you can click on this link
<https://onlineservices.tin.nsdl.com/etaxnew/tdsnontds.jsp>

Important Notes:

- Immovable property means any land, building or part of building. Such property may be situated in India or outside India
- These provisions shall apply only if the *transferor* is resident in India.
- These provisions *shall not apply* if a person acquires *rural agricultural land in India*.
- Provisions of TAN not applicable.
- Threshold limit of Rs. 50 Lacs will be applicable to each & every property separately.
- The threshold limit of Rs. 50 Lacs is with reference to each property. If a property transaction involves more than one buyer and share of each buyer in the property is less than Rs. 50 Lacs but the value of the property in aggregate is more than Rs. 50 lacs then provisions of section 194-IA will be applicable. In such case, TDS will be deducted and deposited by each buyer in respect of their respective share in the property.
- Similarly, in case of a property transaction involving more than one seller, TDS will be deducted in respect of amount paid to each seller and their respective PAN will be quoted while making payment through Form 26QB
- Property can be either of residential or official purpose.
- Purchaser can be a dealer, user of the property or a salaried employee.
- The deductee shall be entitled to avail credit for the entire amount of TDS deducted during that particular financial year in its Return of Income.
- TDS u/s 194-IA shall be deducted even if the transaction takes place before 1st June, 2013 and payment is made after 1st June, 2013. However, if credit to the account of the transferor has been given before 1st June, 2013 then provisions of section 194-IA will not apply, even if payment has been made after 1st June, 2013. (Payment or credit whichever is earlier)
- In case of under construction properties, TDS will be required to be deducted on installments paid on or after 1st June, 2013, if the aggregate purchase consideration is more than Rs. 50 Lacs. Thus, no TDS is required to be deducted in respect of installments paid before 1st June, 2013. In case any installment becomes due before 1st June, 2013 but paid after 1st June, 2013 and the transferee has not credited the same to the account of the transferor before 1st June, 2013, then these provisions shall apply and TDS will be deducted on the amount paid after 1st June, 2013.
- In case of installment system of payment, TDS is required to be deducted on all such installments individually which fall due after 1st June, 2013 but only on principal portion and not on the interest or penalty portion.

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- In case the property is partly financed by bank then TDS will be required to be deducted by the transferee on the entire amount of consideration.

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