



BOMBAY GOODS TRANSPORT ASSOCIATION

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IN SERVICE TO THE NATION AND INDUSTRY SINCE 1949

BGTA/TDS/2015-2016/28

January 8, 2016

TO : ALL MEMBER TRANSPORT/LOGISTICS COMPANIES

Please find here below the clarification regarding deduction of tax under Section 194C of the Income Tax Act 1961 from payments to transporters.

GREWAL GURVINDER SINGH
HONORARY GENERAL SECRETARY

TDS PROVISION UNDER SECTION 194C(6) {WITH EFFECT FROM 1ST JUNE 2015}

43 Clarification regarding deduction of tax Under section 194C of Income Tax Act, 1961 from payments to transporters.

43.1 Under the existing provisions of section 194C of the Act payment to contractors is subject to tax deduction at source (TDS) at the rate of 1% in case the payee is an individual or Hindu Undivided family (HUF) and at the rate of 2% in case of other payees if such payment exceeds Rs. 30,000 or aggregate of such payment in a financial year exceeds Rs. 75,000. Prior to 1.10.2009, section 194C of the Income Tax Act provided for exemption from TDS to an individual transporter who did not own more than two goods carriage at any time during the previous year.

43.2 The Finance (No.2) Act, 2009 substituted section 194C of the Income Tax Act with effect from 1.10.2009, which inter alia provided for non- deduction of tax from payments made to the contractor during the course of plying, hiring and leasing goods carriage if the contractor furnishes his Permanent Account Number (PAN) to the payer.

The memorandum explaining the provisions of Finance (No.2) Bill, 2009 indicates that the intention was to exempt only small transport operators (as defined in section 44AE of the Act) from the purview of TDS on furnishing of Permanent Account Number (PAN). Thus, the intention was to reduce the compliance burden on the small transporters. However, the current language of sub-section (6) of section 194C of the Income Tax Act did not convey the desired intention and as a result all transporters, irrespective of their size, were claiming exemption from TDS under the existing provisions of sub-section (6) of section 194C of the Income Tax Act on furnishing of PAN.

43.3 As there is no rationale for exempting payment to all transporters, irrespective of their size, from the purview of TDS, the provisions of section 194C (6) of the Income Tax Act have been amended so as to expressly provide that the relaxation under sub-section (6) of section 194C of the Income Tax Act for non-deduction of tax shall only be applicable to the payment in the nature of transport charges (whether

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paid by a person engaged in the business of transport or otherwise) made to an contractor who is engaged in the business of transport i.e. plying, hiring or leasing goods carriage and who is eligible to compute income as per the provisions of section 44AE of the Act (i.e a person who is not owning more than 10 goods carriage at any time during the previous year) and who has also furnished a declaration to this effect along with his PAN to the person paying such sum.

43.4 Further, this exemption from TDS is applicable only in respect of transport charges received for plying, hiring or leasing of goods carriage (s) owned by the transporter. Therefore, if a person receives payment in respect of plying, hiring or leasing of goods (s) which are not owned by him, he shall not be entitled to claim exemption from TDS in respect of these payments.

43.5 The condition of not owning more than ten goods carriages by the transporter is required to be fulfilled on the date on which the amount is credited or paid, whichever is earlier. In case a transporters does not own ten goods carriages on the date on which the amount is credited or paid but becomes owner of ten goods carriages later in the previous year, the payer shall not be required to deduct tax from the payment made to the transporter during the period of the previous year when he was not owning more than ten goods carriages. However, the tax shall be required to be deducted from the payment made during that part of the previous year during which the transporter owned more than ten goods carriages.

43.6 Further, for determining the aggregate amounts of sum credited or paid for the purposes of proviso to sub-section (5) of section 194C all the payment made during the financial year shall be taken into account including the amount credited or paid during the period of the financial year during which the transporter was not owning more than ten goods carriages. However, as the provisions of section 194C(6) were amended with effect from 1st June 2015, for determining the aggregate payments for the financial year 2015-2016, the payments made on or after 1st June 2015 shall only be taken into account. This is explained by way of following illustration;-

“T” an individual owns five goods carriages from 1st April 2015 to 31st October 2015. On 1st November 2015, he purchase 6 more goods carriages. On 1st January 2016, he sold 8 goods carriages. ‘P’ makes following payment of transport charges to “T” during the financial year 2015-2016.

15th April 2015	Rs. 35,000.00
15 th July 2015	Rs. 40,000.00
15 th November 2015	Rs. 20,000.00
15 th December 2015	Rs. 20,000.00
15 th February 2016	Rs. 50,000.00

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No Tax is applicable on payment made on 15th April 2015 if "T" furnishes his PAN as per the pre-amended provisions of section 194C (6) of the Income Tax Act. No tax is deductible from payment made on 15th July 2015 if "T" furnishes a declaration that he does not own more than 10 goods carriages during the relevant financial year alongwith his PAN as per the requirement of the amended provision of section 194c (6) of the Income Tax Act. The tax is also not deductible from payment made on 15th November 2015 as the payment does not exceed Rs.30,000/- and the aggregate of payments during the period from 1st June 2015 (i.e. the date of affectivity of the amended provision of section 194C (6)) to 15th November 2015 does not exceed Rs. 75,000.00 as specified in proviso to section 194C(5) of the Income Tax Act. Tax at the rate of 1% i.e. Rs.200/- is deductible from payment made on 15th December 2015 as "T" owns more than 10 goods carriages on that date and the aggregate of the payments made during the period from 1st June 2015 to 15th December 2015 exceeded the threshold of Rs.75,000/-, Tax is also deductible from the payment made on 15th February 2016 even though "T" did not own more than 10 goods carriages on 15th February 2016. This is because "T" owned more than 10 goods carriages during the financial year 2015-2016 and the payment exceeded both the specified threshold for individual and aggregate payments. In view of this "T" is not eligible to claim the exemption under section 194C(6) of the Income Tax Act by furnishing declaration along with the PAN in accordance with the provisions of section 194C (6) in respect of payments made on 15th December 2015 and 15th February 2016.

43.7 Further, for the purposes of ensuring uniformity in the format of declaration to be furnished by the payee under section 194C (6) of the Income Tax Act for receiving the payment without deduction of tax, the following format for furnishing of declaration is specified.

"DECLARATION UNDER SECTION 194C (6) OF THE INCOME TAX ACT, 1961

No..... (To be provided by payee)

Date

From : (Name and address of the payee)

To : (Name and address of the payer.)

The freight/transport charges amounting to Rs..... for transportation of goods by goods carriages having Registration Number may be paid or credited to my account without deduction of tax under section 194C of the Income Tax Act, 1961. I/Wein the capacity of hereby declare that I/We do not own more than ten goods carriage and also did not own more than ten goods carriage at any time during the period from 1st April to My Permanent Account Number (PAN) is I, hereby enclose a self-attested photocopy of my PAN Card.

Place:

Signature of the person making Declaration

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43.8 It may be mentioned here that the person responsible for paying to transporter is required to report the particulars of payment made to transporters without deduction of tax in compliance to the provision of section 194C (6) of the Income Tax Act in the statement of deduction of tax (Form 260) as per the provision of rule 31A (4) (vi) of the Income Tax Rules, 1962. Non-furnishing or incomplete furnishing of this information shall make the deductor liable for penalty as per the provision of section 271H of the Income Tax Act.

43.9 Applicability : This amendment takes effect from 1st June 2015.

44. Extension of eligible period of concessional tax rate under section 194LD of the Income Tax Act.

Under the existing provisions contained in sub-section (6) of the aforesaid section, no deduction shall be made from any sum credited or paid or likely to be credited or paid during the previous year to the account of a contractor during the course of business of plying, hiring or leasing goods carriages, on furnishing of his Permanent Account Number, to the person paying or crediting such sum.

It is proposed to amend sub-section (6) of the said section so as to provide that no deduction shall be made from any sum credited or paid or likely to be credited or paid during the previous year to the account of a contractor during the course of business of plying, hiring or leasing goods carriages, where such contractor owns ten or less than ten goods carriages at any time during the previous year and furnishes a declaration to that effect along with his Permanent Account Number, to the person paying or crediting such sum.

This amendment will take effect from 1st June, 2015.

(NEW FORMAT OF DECLARATION, AS PER THE CLARIFICATIONS GIVEN BELOW)

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DECLARATION UNDER SECTION 194C(6) OF THE INCOME TAX ACT 1961

No. _____

Date : _____

From : (Payee) _____

To, (Payer) _____

The freight / transport charges amounting to Rs. _____ for transportation of goods by goods carriages having registration Number _____ may be paid or credited to my account without deducting of tax under section 194C of the Income Tax Act, 1961.

I/We _____ in the capacity of individual/proprietor hereby declare that I/We do not own more than ten goods carriage and also did not own more than ten goods carriages at any time during the period 1st April 2015 to 31st March 2016.

My Permanent Account Number (PAN) is _____. I hereby enclose a self – attested photo-copy of my PAN Card.

Place : _____

(Signature of person making declaration)

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