

Interplay of section 194J and section 194S

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What is 194 S?

- Any person responsible for paying to any resident any sum by way of consideration for transfer of a virtual digital asset, shall, at the time of credit of such sum to the account of the resident or at the time of payment of such sum by any mode, whichever is earlier, deduct an amount equal to one per cent of such sum as income-tax thereon
- Wholly in kind – Exchange of another VDA – No cash
- Partly in Cash / Kind – Cash portion not sufficient to deduct tax
- Ensure tax is paid before making such payment.

No tax shall be deducted

- Specified person – aggregate Less than Rs. 50,000
- Any other person – aggregate Less than Rs. 10,000

Who is a specified person?

(a) being an individual or a Hindu undivided family, whose total sales, gross receipts or turnover from the business carried on by him or profession exercised by him does not exceed one crore rupees in case of business or fifty lakh rupees in case of profession, during the financial year immediately preceding the financial year in which such virtual digital asset is transferred;

(b) being an individual or a Hindu undivided family, not having any income under the head "Profits and gains of business or profession.

- If 194 O also applies, then tax shall be deducted under 194 - S

What is 194 J

- Tax to be deducted at 10 % - Professional service, any remuneration or fees or commission by whatever name called, other than those on which tax is deductible under section 192, to a director of a company, or]
- Tax to be deducted at 2% - Technical service and Royalty
- No TDS – Aggregate of Rs. 30,000
- No TDS – Individual or Huf – Turnover less than 1cr or 50L in previous year.

What is Interplay

- Dictionary Definition - the way in which two or more things have an effect on each other.

What is Interplay in Tax?

- The same definition – When one section has an effect on another and to see which one prevails.

When would Interplay occur?

- Professional service or Technical service – Rendered
- Payment is in Cash – No interplay – 194 J
- Payment is in Cash and Kind – Whether VDA Involved – No – 194J
- Payment is in VDA – Interplay - 194 J or 194 S
- Payment is in Cash and VDA – Interplay – 194 J or 194 S

How to decide?

- Get into the facts of the case.
- Try to apply the act as a whole
- Referring to case law if any is available
- Substance over form

EXAMPLE

- ABC P Ltd hires a technical expert for providing some technical service amounting to Rs. 1,00,000/- the payment was decided to be settled by means of VDA.
- ABC P Ltd hires a technical expert for providing some technical service amounting to Rs. 1,00,000/- the payment amounting Rs. 50,000/- was settled through banking channel and remaining was settled as VDA.

THANK YOU