

SECTION 194A OF INCOME-TAX ACT, 1961 - DEDUCTION OF TAX AT SOURCE - INTEREST OTHER THAN INTEREST ON SECURITIES - TAX DEDUCTION AT SOURCE ON THE DEPOSITS IN BANKS IN THE NAME OF THE REGISTRAR/PROTHONOTARY AND SENIOR MASTER ATTACHED TO THE SUPREME COURT/ HIGH COURT ETC. DURING THE PENDENCY OF LITIGATION OF CLAIM/COMPENSATION

CIRCULAR NO. 8/2011 [F.NO. 275/30/2011- IT (B)], DATED 14-10-2011

Section 194A of Income-tax Act, 1961 ("the Act") stipulates deduction of tax at source (TDS) on interest other than interest on securities if the aggregate of amount of such interest credited or paid to the account of the payee during the financial year exceeds the specified amount.

2. The Board has received references expressing difficulties in implementation of provisions of section 194A of the Act in a situation where in the course of the proceedings before Supreme Court/High Court/ any other court or tribunal (hereinafter "the court"), one or more than one litigant (hereinafter 'the depositor') is directed by the court that a specified amount (hereinafter "deposit") be deposited in the bank either directly or through the court in order to protect the interest of litigants. Such deposits (usually time deposits) are kept in the bank in the names of Registrar/Prothonotary and Senior Master or any other name as per the order of the court. Difficulties are faced in making TDS on the interest periodically accruing on such deposits/time deposits and about the person(s) as deductee who is entitled to TDS certificate in Form 16A.

3.1 The matter has been examined in the Board and it has been decided that, subject to para 4 below, this circular shall be applicable to cases where one or more than one litigant is directed by the court that a specified amount be deposited in the bank directly or through the court. The bank shall in accordance with the provisions of the Act, deduct tax at source on the interest accruing on the above mentioned deposit(s) as per existing procedure and at the rates in force. The certificate of deduction of tax shall be issued by the bank in the name of 'the depositor'. If more than one person has been directed to deposit any specified amount, the amount of TDS shall be corresponding to each such depositor for the portion of interest accrued in its respective share in the total amount deposited and TDS certificates shall be accordingly issued by the bank.

3.2 At the time of making deposit of the amount ordered by the court, the depositor(s) shall submit a prescribed declaration with the court for record purpose and to facilitate the administration of TDS. The Registrar/Prothonotary and Senior Master or any person authorized by the court will pass the information furnished therein to the bank concerned for TDS properly in the name of the depositor(s) in accordance with the provisions of the Act.

3.3 Some of the instances covered by this circular are:

- a.* In the course of appellate proceedings, the court directs an insurance company (the depositor) to deposit a part of compensation awarded by Motor Accident Claims Tribunal. This amount is deposited as Time Deposit in a bank in such name as per the directions of the court, the credit of TDS on interest accruing on such deposit will be allowed to the Insurance company which has made the said deposit.

- b. The Court while deciding the cases of land compensation directs the authority concerned (liable for making payment of compensation) to deposit any sum in time deposit in any bank, the TDS on time deposit shall be in the name of the authority making deposit, if such authority is an entity liable for charge to Income-tax on its income. In case the deposit in the bank is by Central or State Government no tax will be deducted.
- c. The court adjudicating upon financial dispute during pendency of proceedings direct any party(ies) to deposit any amount as security in time deposit, the TDS on interest accruing on such deposit will be in name of the depositor irrespective of the fact that at the directions of the court such time deposit has been drawn in the name of the officer of the court or joint name or any other name.

4. The above procedure shall not apply to:

- (a) any deposit in the bank held or dealt by the court or any other person appointed by the court in the capacity of being an administrator or receiver or any authority of similar nature; or
- (b) any deposit which has not been made by any specific depositor but has arisen due to attachment made by the Court; or
- (c) the cases of "representative assessee" within the meaning of section 160 of the Act.

DECLARATION TO BE FILED BY THE DEPOSITOR AND TO BE FORWARDED BY THE REGISTRAR/PROTHONOTARY & SENIOR MASTER ETC.

A case of the following description is pending in the Court of _____ and during the pendency of the case, the court *vide* order dated _____ (copy enclosed) has directed the below mentioned person(s) to make a deposit of the amount mentioned in (d) with the bank mentioned in (e) below:—

| | | |
|-----|---|--|
| (a) | The title of case with complete details such as case No. and the year to which it pertains, complete details of the parties to the case. | |
| (b) | Name and address of the person directed by the court to make deposit (separate declaration should be filled if more than one person has been directed by the court to make the deposit, indicating their respective share). | |
| (c) | Date of order of the court by which directions were issued to make the aforesaid deposit. | |
| (d) | Amount ordered to be deposited. | |
| (e) | Name/branch of the depository bank, if known. | |
| (f) | Whether assessed to income-tax, if yes, Permanent Account Number (PAN) | |
| (g) | Any other information | |

It is certified that the information above is true to best of my knowledge and belief.

Date:

Place

(SIGNATURE OF THE DEPOSITOR)

Forwarded to the Bank concerned for proper compliance of the TDS provisions of the Income-tax Act, 1961. Tax is to be deducted in the name of the depositor mentioned above in

accordance with rule 37(BA) of the Income-tax Rules,1962. The information provided above is correct as per the records in the case mentioned above.

Date:

Place

REGISTRAR/PROTHONOTARY and SENIOR MASTER

NOTE: If more than one person has been directed to deposit any specified amount, separate declaration by each depositor may be submitted.