

# TDS 194C

## Introduction

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This section was introduced in the year 1972 and subsequently amended from time to time. The scope of the said provision has been explained by CBDT from time to time through various circulars bearing Nos. 86 dated May 29, 1972, 93 dated 26.9.1972, 558 dated 28.3.1990, 681 dated 8.3.1994, 714 dated 3.8.1995, 723 dated 19.9.1995, , 715 dated 8.8.1995 and 13 dated 13.12 2006. This section has also been substituted by Finance (No 2) Act 2009.

## Salient Features

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This section provides that tax is to be deducted at source against payments made to contractors/subcontractors. The followings are the salient features of the section as it stands today:

- TDS is to be made at the prescribed rate where payment is made for carrying out any work (including supply of labour for carrying out any work) by a contractor;
- Such work must be in pursuance of a contract (including sub contract) between the contractor and a specified person as defined in the Explanation;
- The recipient of payment must be a resident of India;
- TDS is to be made at the time of credit to the account of contractor or at the time of payment in cash or by cheque or draft or by any other mode whichever is earlier;
- TDS is to be made @ 1% where payment is to be made to an individual or a HUF and @ 2% in other cases;
- Where TDS is required to be made for the work of manufacturing or supplying a product according to the requirement or specification of a customer by using material purchased from the customer, TDS shall be made on the invoice value excluding the value of material, if such value is mentioned separately in the invoice and where value of the material is not mentioned separately in the invoice then TDS shall be made on the whole of invoice value (sub section 3);
- No TDS is required to be made by an individual or a HUF where payment is required to be made to the contractor for the work carried out for the personal purpose of such individual/HUF(sub section 4);
- No TDS is to be made where sum credited or paid or likely to be credited or paid does not exceed Rs.30000/-. However, if aggregate of the amount of such sums credited or paid or likely

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to be credited or paid in the financial year exceeds Rs.75,000/-, TDS is required to be made (sub section 5);

- No TDS is to be made where such sum is credited to the account of or paid to the contractor in the course of business of plying, hiring or leasing of goods carriages if the PAN is furnished by the contractor. Goods carriage shall mean as defined under Motor Vehicle Act 1988.
- The word “work” in this section would include—
  - a) advertising;
  - b) broadcasting and telecasting including production of programmes for such broadcasting or telecasting;
  - c) carriage of goods and passengers by any mode of transport other than railways;
  - d) catering;
  - e) Manufacturing or supplying a product according to the requirement or specification of a customer by using the material purchased from such customer, but does not include manufacturing or supplying a product according to the requirement or specification of a customer by using the material purchased from a person, other than such customer.

*Interpretation of the expression “carrying out any work (including supply of labour for carrying out any work)”*

At this stage, it would be appropriate to refer the first circular No 86 dated 29.5.72 wherein it was clarified by the CBDT that section 194C would apply only in relation to 'works contracts' and 'labour contracts' and would not cover contracts for sale of goods. In the said circular, it was made clear that the contracts for rendering of professional services by lawyers, physicians, surgeons, engineers, accountants, architects, consultants, etc., could not be regarded as contracts 'for carrying out any work' and, accordingly, no deduction of income-tax need to be made from payments relating to such contracts u/s 194C.

In another circular bearing No. 93, dated September 26, 1972, It further clarified that the provisions of section 194C will not be applicable to transport contracts. This circular, inter alia, states that a transport contract cannot ordinarily be regarded as a "contract for carrying out any work" . In the case of a composite contract involving transport as well as loading and unloading, the entire contract will be regarded as a "works contract" and income tax will have to be deducted from payments made there under. Where, however, the element of labour provided for loading and unloading is negligible, no income-tax will be deductible.