

# INTRODUCTION OF SECTION 194R

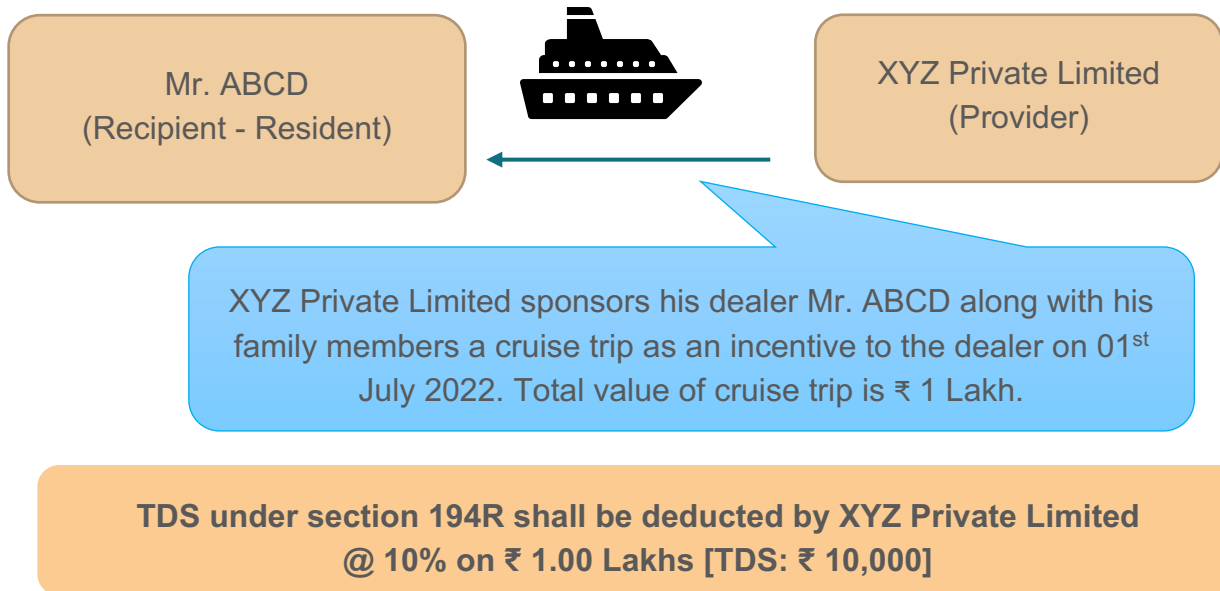
Dear All,

Hope you and your family are fine.

As you all are aware of introduction of section to the Income tax Act, 1961, ("the Act") namely Section 194R. This section is effective for the application from 01<sup>st</sup> July 2022.

## 1. Tax Deduction at Source (TDS) under section 194R - Deduction of tax at source for providing benefit or perquisites:

Applicability of the section 194R arises only when a person (other than individual or HUF having turnover less than ₹ 1 crore from business or ₹ 50 lakhs from profession) provides any benefit or perquisites to a resident, whether convertible into money or not, for a value aggregating more than ₹ 20,000 in a financial year, has to deduct tax at source at a 10 % before providing such benefit or perquisite.



### Section is applicable only when

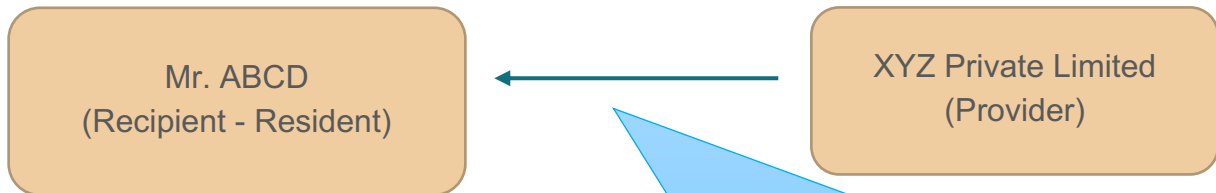
- The recipient of the benefit shall be resident.
- Aggregate value of benefit or perquisites received is more than ₹ 20,000.

The benefit or perquisite which has been provided on or before 30<sup>th</sup> June 2022, would not be subjected to tax deduction under section 194R of the Act.

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### 2. Speical circumstances on applicability of section 194R:

#### a. Benefit being provided partly in cash and partly in kind



XYZ Private Limited provides his dealer Mr. ABCD a brand-new motor vehicle worth ₹ 5 Lakhs along with cash amount of ₹ 1 lakh.

**TDS under section 194R shall be deducted by XYZ Private Limited @ 10% on ₹ 6.00 Lakhs [TDS: ₹ 60,000]**

Note: In case the total tax required to be deducted on such benefit (party in cash and in kind) and such cash portion is insufficient to meet the TDS amount, the provider of the benefit has to ensure that tax that is required to be deducted u/s 194R of the act shall be paid before releasing such benefit or perquisites. A declaration along with a copy of the advance tax payment challan shall be obtained from the recipient confirming that the tax required to be deducted on the benefit/perquisite has been deposited.

#### b. Benefit being caspial assets

Even in case of benefits provided to the resident is being a capital asset, the provider has to deduct the tax under 194R for the value of the capital asset irresective to the question such benefit would be taxable in the hands of receiptent.

**As stated in above example, TDS under section 194R shall be deducted by XYZ Private Limited @ 10% on ₹ 6.00 Lakhs [TDS: ₹ 60,000] including the value of motor vehicle (being a capital asset)**

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### c. Benefit being sales discount, cash discount and rebates to customers

- Sales discounts, cash discount or rebates allowed to customers from the listed retail price represent lesser realization of the sale price itself. To that extent purchase price or customer is also reduced. It is clarified that no tax is required to be deducted under section 194R of the Act on sales discount, cash discount and rebates allowed to customers.
- The above relaxation is not extended to other benefits provided by the seller in connection with its sale such as
  - *When a person gives incentives (other than discount, rebate) in the form of cash or kind such as car, TV, computers, gold coin, mobile phone etc.*
  - *When a person sponsors a trip for the recipient and his/her relatives upon achieving certain targets*
  - *When a person provides free ticket for an event*
  - *When a person gives medicine samples free to medical practitioners*

### d. Benefit being provided to employees of the recipient entity

If the benefits are being provided and used by owner or director or employee of the recipient entity or their relatives, the tax is required to be deducted by the person in the name of recipient entity since the usage by owner or director or employee or their relative is by virtue of their relation with the recipient entity and in substance the benefit or perquisite has been provided by the person to the recipient entity.



**Doctor**

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#### being Employee of the Hospital

1. Any benefit received by the doctor being employee of the Hospital, the provider of such benefit shall be deduct tax @ 10% u/s 194R of the act in the name of Hospital.
2. In turn, the Hospital can treat the above benefit has perquisite given

#### being Consultant of the Hospital

1. Any benefit received by the doctor being consultant of the Hospital, the provider of such benefit shall be deduct tax @ 10% u/s 194R of the act in the name of
    - a. doctor (being consultant) or
    - b. Hospital.
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- to its employees u/s 17 of the act and deducted tax u/s 192 of the act.
3. In such a case it would be first taxable in the hands of the hospital and then allowed as deduction as salary expenditure.
2. In case of tax is being deducted in the name of the Hospital, the Hospital can treat the above benefit as benefit provided to the resident person and deducted tax @ 10% u/s 194R of the act.
3. In such a case it would be first taxable in the hands of the hospital and then allowed as deduction as business expenditure.
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### **e. Benefit being provided to a social media influencer**

Nowadays social media influencer receives a product of a manufacturing company so that he can use that product and make audio or video content to speak about that product in social media.

However, if the product is returned to the manufacturing company after using for the purpose of rendering service, then it will not be treated as a benefit/perquisite for the purposes of section 194R of the Act.

In case product is retained then it will be in the nature of benefit/perquisite and tax is required to be deducted accordingly under section 194R of the Act.

### **f. Reimbursement of out of pocket expense incurred by service provider**

Any expenditure which is the liability of a person carrying out business or profession, if met by the other person is in effect benefit or perquisite provided by the second person to the first person in the course of business or profession.

For Instance, a consultant is rendering service to a person "X" for which he is receiving consultancy fee. In the course of rendering that service, he has to travel to different city from the place where is regularly carrying on business or profession. For this purpose, he pays for boarding and lodging expense incurred exclusively for the purposes of rendering the service to "X".

Ordinarily, the expenditure incurred by the consultant is part of his business expenditure which is deductible from the fee that he receives from company "X". In such a case, the fee received by the consultant is his income and the

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expenditure incurred on travel is his expenditure deductible from such income in computing his total income.

Now if this travel expenditure is met by the company "X", it is benefit or perquisite provided by "X" to the consultant.

- However, sometimes the invoice is obtained in the name of "X" and accordingly, if paid by the consultant, is reimbursed by "X". In this case, since the expense paid by the consultant (for which reimbursement is made) is incurred wholly and exclusively for the purposes of rendering services to "X" and the invoice is in the name of "X", then the reimbursement made by "X" being the service recipient will not be considered as benefit or perquisite for the purposes of section 194R of the Act.
- If the invoice is not in the name of "X" and the payment is made by "X" directly or reimbursed, it is the benefit/perquisite provided by "X" to the consultant for which deduction is required to be made under section 194R of the Act.

### **g. Benefits to dealers of the entity**

- Any business conference held by the company for the dealers or customers with the prime object to educate them about a new product being launched, discussion as to how the product is better than others, obtaining orders from, teaching sales techniques to, addressing queries of, or reconciliation of accounts with dealers or customers.
- However, such conference must not be in the nature of incentives or benefits to select dealers or customers who have achieved particular targets. If so, tax deduction is required to be made under section 194R of the Act.
- Further, in the following cases the expenditure would be considered as benefit or perquisite for the purposes of section 194R of the Act: —
  - Expense attributable to leisure trip or leisure component, even if it is incidental to the dealer or business conference.
  - Expenditure incurred for family members accompanying the person attending dealer/business conference

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- Expenditure on participants of dealer/business conference for days which are on account of prior stay or overstay beyond the dates of such conference.

### **h. Valuation of benefit or perquisite**

The valuation would be based on fair market value of the benefit or perquisite except in following cases:

- a) The benefit or perquisite provider has purchased the benefit or perquisite before providing it to the recipient. In that case the purchase price shall be the value for such benefit or perquisite.
- b) The benefit or perquisite provider manufactures such items given as benefit or perquisite, then the price that it charges to its customers for such items shall be the value for such benefit or perquisite.

Goods and Services Tax will not be included for the purposes of valuation of benefit or perquisite for TDS under section 194R of the Act.

**Applicability of the above section are effective from 01<sup>st</sup> July 2022**

**Thanks & Regards**

**From,**

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Chartered Accountants,  
Hosur.**