

## **TDS U/S 194R OF THE INCOME TAX ACT, 1961 APPLICABLE W.E.F. 01 JULY 2022**

### **SUMMARY OF CIRCULAR NO. 12 OF 2022 DATED 16 JUNE 2022**

#### **TAXABILITY OF BENEFIT / PERQUISITE IN HANDS OF THE RECEIPIENT IS NOT RELEVANT**

Circular states that it is not necessary for the person providing the benefit to examine whether the benefit/perquisite is taxable in hands of the recipient.

#### **REIMBURSEMENTS/ OUT OF POCKET EXPENSES TO BE COVERED**

Circular illustrates that reimbursement of expenses granted by X to Y towards expenses incurred by Y during the course of providing services to X are to be treated as benefit or perquisite, and tax is required to be deducted u/s 194R. However, if the invoice for the expenditure is in the name of X, the reimbursement is not to be treated as benefit / perquisite and tax is not required to be deducted.

#### **BENEFITS / PERQUISITES RECEIVED BY SOCIAL MEDIA INFLUENCERS**

It is clarified in the circular that where goods or products are provide to influencers to be used by them for creating content, the same will be covered within the ambit of S. 194R only when the products are retained by them. However, if such products are returned by them, no tax is required to be deducted.

#### **BENEFIT / PERQUISITE MAY BE IN CASH OR IN KIND OR PARTLY IN CASH OR PARTLY IN KIND**

The Circular clarifies that a benefit / perquisite provided in cash or in kind or partly in cash and partly in kind will be covered within the ambit of S. 194R.

#### **TAX TO BE DEDUCTED IN THE NAME OF ULTIMATE RECEIPIENT OF THE BENEFIT**

For instance, if free medicine samples are provided by a company to doctors who are employed by a hospital, taxis required to be deducted by the company in the name of such hospital. In turn, the hospital shall include the value of such benefit / perquisite in the salary of the doctors and deduct tax thereon u/s 192. To remove difficulty, however it is provided that the original benefit provider may directly deduct in the name of ultimate recipient of the benefit.

#### **SALES DISCOUNT, CASH DISCOUNTS AND REBATES**

Circular provides that though sales discounts, free items on purchase of certain number of items etc. are in the nature of benefit/perquisite, to remove practical difficulties, no taxis required to be deducted on the same u/s 194R. The relaxation will not however apply to free samples, free tickets, sponsoring of trips etc.

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**CONFERENCES HELD TO EDUCATE DEALERS**

Circular states that if a conference is held to educate the dealers or customers about the new products, obtaining orders, teaching sales techniques etc. then the expenditure on such conference would be outside the purview of S. 194R. However, conferences in the nature of incentive to select dealers/customers for achieving targets etc. are to be treated as benefit / perquisite.

**MANNER OF ENSURING THAT TAX HAS BEEN PAID ON NON-CASH COMPONENT**

Circular clarifies that where the cash component of the benefit / perquisite is not sufficient to cover the tax required to be deducted, the provider of benefit is required to ensure that tax has been paid by the recipient by way of advance tax by obtaining a declaration to that effect along with a copy of challan for advance tax deposited. Such challan number is to be reported in the TDS return to be filed by the provider of benefit.

**CALCULATION OF THRESHOLD FOR FY 2022-23**

Since a threshold limit of Rs. 20,000/- is provided in the section with respect to a financial year, for the purpose of calculation of such threshold for F.Y. 22-23, benefits granted prior to 01<sup>st</sup> July are to be considered. However, tax is not required to be deducted in respect of benefit / perquisites provided on or before 30.06.2022.

**CONFERENCES / LEISURE TRIPS**

Following expenditure is to be treated as benefit / perquisite for the purpose of S. 194R:

- (i) Expenditure on leisure trips / leisure component, even if the same is incidental to business conference.
- (ii) Expenditure on family members accompanying the person attending a business conference
- (iii) Expenditure towards prior stay or overstay beyond the dates of a business conference.

**OPTION TO THE PERSON PROVIDING THE BENEFIT / PERQUISITE TO PAY TAX ON BEHALF OF THE RECIPIENT**

Where the cash component of the benefit / perquisite is not sufficient to cover the tax required to be deducted, as an alternative to ensuring that tax is paid by the recipient, the provider may pay the tax u/s 194R in the name of the recipient. Such tax paid on behalf of the recipient is itself to be treated as a benefit / perquisite and provisions of S. 194R shall apply to the same accordingly.

**VALUATION OF BENEFIT / PERQUISIT FOR THE PURPOSE OF S. 194R**

The valuation of benefit / perquisite would be based on FMV thereof. However, if the benefit provider has purchased or manufactured the items given as benefit or perquisite, then purchase price or price charged by him to his customers for such items, as the case may be, shall be considered as the value of the benefit / perquisite.