

Section 194R: Deduction of Tax on benefit or perquisite in respect of business or profession w.e.f. 01.07.2022

The section provides that a person responsible for providing to a resident, any benefit or perquisite, whether convertible into money or not, arising from carrying out of a business or exercising of a profession by such resident, shall before providing such benefit or perquisite deduct tax @ 10% in respect of such benefit or perquisite.

Nature of Perquisite

In Cash or In Kind or Partially in cash and Partially in Kind.

TDS u/s 194R is to be deducted on fair market value of the benefit or perquisite, however if deductor has purchased the benefit/perquisite before providing it to the recipient. In that case, the purchase price (Actual cost) shall be the value for such benefit/perquisite. Further, if the deductor manufactures such item then the price that it charges to its customers for such item shall be the value for such benefit / perquisite. GST is to be excluded from the Purchase Value or Fair Market Value of such Benefit or Perquisite, for the Purpose of TDS Deduction.

Threshold Limit

No tax is deductible if aggregate value of the benefit or perquisite to a resident does not exceed Rs 20,000/- during financial year

For F.Y. 2022-23, the Value of Benefit or Perquisite given in the Period from 1.4.2022 to 30.6.2022, will be counted and considered for determining the threshold limit of Rs. 20,000 in a year, but TDS u/s 194R will not be deducted on such Benefits or Perquisites. TDS u/s 194R will be deducted only on those Benefits or Perquisites which are provided or given on or after 1.7.2022.

Non Applicability- No TDS if provider is a specified individual or HUF

In case of Business- Individual or HUF, whose total sales or turnover does not exceed Rs. 1 Crore or in case of Profession- Gross receipts does not exceeds Rs. 50 lakhs, during the financial year immediately preceding the financial year in which such benefit or perquisite, as the case may be, is provided.

TDS implication on reimbursement expenses

Case-1

Reimbursement of out of pocket expenses incurred by service provider in course of rendering service. **(Out of pocket expenses incurred by service provider with invoice in name of service recipient)**

Expenses paid by service provider is incurred wholly and exclusively for the purpose of rendering service and invoice is in the name of company (service recipient) and then reimbursement made by company being the service recipient will not be considered as a benefit / perquisite so TDS u/s 194R not attract.

Case-2

Reimbursement of out of pocket expenses incurred by service provider in course of rendering service. **(Out of pocket expenses incurred by service provider with invoice in name of service provider)**

If invoice is in the name of service provider and payment is made by company directly or reimbursement, it is the benefit/ perquisite provided by company to the service provider for which TDS u/s 194R required to deduct.

TDS implication on Social Media Influencer:

Case-1

Social media influencer is given a product (like car, mobile, outfit, cosmetic etc.) of a manufacturing company so that he can use that product and make audio/video to speak about that product in social media **(IF product is return to the manufacturer after using for the purpose of rendering service)**

It will not treated as benefit / perquisite so TDS u/s 194R not attract because product is return to the manufacturer after using for the purpose of rendering service.

Case-2

Social media influencer is given a product (like car, mobile, outfit, cosmetic etc.) of a manufacturing company so that he can use that product and make audio/video to speak about that product in social media **(IF product is retained after using for the purpose of rendering service)**

It will be in the nature of benefit or perquisite so TDS u/s 194R required to deduct because product is retained after using for the purpose of rendering service.

TDS implication on Free Sample provided to Medical Practitioners:

Case-1

Distribution of free samples to the hospital for doctors **(Doctor working as Employee of the hospital)**

TDS u/s 194R required to be deducted by the company in the hands of the hospital when distribution of free samples to the hospital for doctors receiving free samples of medicines while employed in a hospital. The hospital as an employer may treat such samples as a taxable perquisite for employees and deduct tax under Section 192. For those, the threshold of ₹20,000 has to be seen concerning the hospital.

Case-2

Distribution of free samples to the hospital for doctors **(Doctor working as consultant of the hospital)**

TDS u/s 194R required to be deduct While for doctors working as consultants with a hospital and receiving free samples, TDS would apply to the hospital first as a recipient, then hospital may again deduct TDS u/s 194R to the consultant for providing the same benefit or perquisite. To remove the difficulty, as an alternative, the original benefit or perquisite provider may directly deduct tax under section 194R of the Act in the case of the consultant doctor as a recipient.

Kindly note that any benefit or perquisite provided in the course of employment will not invoke the provision of Section 194R of The Income Tax Act 1961. Any perquisite given in the course of employment shall be dealt as per section 192 of the Income Tax Act 1961.