

Finance Act, 1995

Section 36 - Insertion of New Sections 194j and 194k

After section 194-I of the Income-tax Act, the following sections shall be inserted with effect from the 1st day of July, 1995, namely :-

'194J. Fees for professional or technical services. - (1) Any person, not being an individual or a Hindu undivided family, who is responsible for paying to a resident any sum by way of -

(a) fees for professional services, or

(b) fees for technical services,

shall, at the time of credit of such sum to the account of the payee or at the time of payment thereof in cash or by issue of a cheque or draft or by any other mode, whichever is earlier, deduct an amount equal to five per cent. of such sum as income-tax on income comprised therein :

Provided that no deduction shall be made under this section -

(A) from any sums as aforesaid credited or paid before the 1st day of July, 1995; or

(B) where the amount of such sum or, as the case may be, the aggregate of the amounts of such sums credited or paid or likely to be credited or paid during the financial year by the aforesaid person to the account of, or to the payee, does not exceed -

(i) twenty thousand rupees, in the case of fees for professional services referred to in clause (a), or

(ii) twenty thousand rupees, in the case of fees for technical services referred to in clause (b).

(2) Where the Assessing Officer is satisfied that the total income of any person in receipt of the sum referred to in sub-section (1) justifies the deduction of income-tax at any lower rate or no deduction of income-tax, as the case may be, the Assessing Officer shall, on an application made by that person in this behalf, give to him such certificate as may be appropriate.

(3) Where any such certificate is given, the person responsible for paying the sum referred to in sub-section (1) shall, until such certificate is cancelled by the Assessing Officer, deduct income-tax at the rates specified in such certificate or deduct no tax, as the case may be.

Explanation : For the purposes of this section, -

(a) "professional services" means services rendered by a person in the course of carrying on legal, medical, engineering or architectural profession or the profession of accountancy or technical consultancy or interior decoration or advertising or such other profession as is notified by the Board for the purposes of section 44AA or of this section;

(b) "fees for technical services" shall have the same meaning as in Explanation 2 to clause (vii) of sub-section (1) of section 9;

(c) where any sum referred to in sub-section (1) is credited to any account, whether called "Suspense account" or by any other name, in the books of account of the person liable to pay such sum, such crediting shall be deemed to be credit of such sum to the account of the payee and the provisions of this section shall apply accordingly.

194K. Income In Respect Of Units. - (1) Where Any Income Is Payable To A Resident In Respect Of Units Of A Mutual Fund Specified Under Clause (23d) Of Section 10 or of the Unit Trust of India the person responsible for making the payment shall, at the time of credit of such income to the account of the payee or at the time of payment thereof in cash or by issue of a cheque or draft or by any other mode, whichever is earlier, deduct income-tax thereon at the rate of, -

(a) twenty per cent., if the payee is a company, and

(b) fifteen per cent. in the case of other payees.

(2) The provisions of sub-section (1) shall not apply -

(i) where the amount of such income or, as the case may be, the aggregate of the amounts of such income credited or paid or likely to be credited or paid during the financial year by the person responsible for making the payment to the account of, or to, the payee does not exceed ten thousand rupees :

Provided that the amount of ten thousand rupees shall be computed with reference to the income credited or paid, -

(a) in respect of a branch office of the Mutual Fund or of the Unit Trust of India, as the case may be, and

(b) under a particular scheme under which the units have been issued;

(ii) to such income credited or paid before the 1st day of July, 1995;

(iii) to such income credited or paid in respect of units issued under such scheme already in operation of the Mutual Fund or of the Unit Trust of India, as the Central Government may, by notification in the Official Gazette, specify in this behalf having regard to the plan of payment of income thereunder to the unit-holders; and

(iv) to such income credited or paid in respect of units issued under any scheme of the Unit Trust of India to any institution or fund where such income is not liable to inclusion in its total income under the provisions of sections 11 and 12 or clause (22) or clause (22A) or clause (23) or clause (23AA) or clause (23C) of section 10.

Explanation : For the purposes of this section, -

(a) "Unit Trust of India" means the Unit Trust of India established under the Unit Trust of India Act, 1963 (52 of 1963);

(b) where any income as aforesaid is credited to any account, whether called "Suspense account" or by any other name, in the books of account of the person liable to pay such income, such crediting shall be deemed to be credit of such income to the account of the payee and the provisions of this section shall accordingly.'