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(Setup by an Act of Parliament)

TIRUPUR BRANCH (SIRC)

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THE INSTITUTE OF CHARTERED ACCOUNTANTS OF INDIA
(Set up by an Act of Parliament)

TIRUPUR BRANCH (SIRC)

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Views expressed herein are the opinion of the respective authors and not that of the branch or the Managing / Newsletter committee.

Your views / suggestions / comments are welcome. Kindly send your queries to tiruicai@gmail.com

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Dear Professional Colleagues,

As we step into the vibrant month of April, let us reflect on the enriching experiences and insightful events that unfolded in March, and look forward to the exciting opportunities ahead. March witnessed a plethora of engaging activities, including celebrations, seminars, and programs aimed at nurturing professional excellence and fostering camaraderie among our members.



We commenced the month with a heartfelt celebration of Women's Day, recognizing and honoring the invaluable contributions of women in our profession and society at large. The event served as a reminder of the importance of gender diversity and inclusivity in our workplaces and communities.

Throughout March, our branch hosted several Continuing Professional Education (CPE) seminars, covering diverse topics crucial for professional development. These included seminars on Audit Quality Maturity Model, LLP Formation and procedure, Bank Audit etc. These sessions provided members with deep insights into contemporary issues, regulatory updates, and best practices, thereby enhancing their competencies and ensuring compliance with evolving standards.

I want to extend my heartfelt appreciation to each member of the Tirupur CA Cricket Team for your participation in the recent Panchabootha Cricket Tournament held in Erode. Despite the outcome not being in our favor, your collective effort and dedication truly stood out. Let's take this experience as a learning opportunity to grow stronger and strive for even greater achievements in the future.

We kickstart April with a Study Circle Meeting, offering members a platform for collaborative learning, knowledge sharing, and peer interaction. As we celebrate Financial Literacy Day, we acknowledge the importance of financial literacy in empowering individuals and communities.

Continuing our focus on regulatory compliance and knowledge enhancement, a CPE seminar on Penalties under MCA by a New Faculty is scheduled to deepen our understanding of legal frameworks and compliance requirements.

As we embark on this journey of continuous learning and growth, I encourage each of you to actively participate in our upcoming events, engage with fellow members, and seize the opportunities for personal and professional development.

Together, let us continue to uphold the ideals of our profession and contribute meaningfully to the advancement of our community and society.

Best wishes for a productive and fulfilling month ahead!

With Best Regards,

CA. Senthilkumar K C
Chairman
The Institute of Chartered Accountants of India
(Set up by an Act of Parliament)
Tirupur Branch (SIRC)

Forthcoming Programs

Date	Day & Timing	Program	CPE Hours	Speaker/Guest	Venue
01.04.2024	Monday, 6.00 pm to 8 pm	Study Circle Meeting on Balancing Professional Life and Personal Life	-	Lead by CA S Saravanan, Tirupur	ICAI Bhawan Tirupur
20.04.2024	Saturday, 5.00 pm to 8.00 pm	CPE Seminar on Penalties under MCA (New Faculty Program)	3	CA V Srivignesh, Tirupur	ICAI Bhawan Tirupur
25.04.2024	Thursday	Celebration of Financial Literacy Day	-	-	ICAI Bhawan Tirupur
26.04.2024	Friday, 5.00 pm to 8.00 pm	CPE Seminar on Code of Ethics	3	CA P Rajendrakumar, CCM	ICAI Bhawan Tirupur

TDS on Sale and Purchase of Immoveable Property by Non-Residents (NRIs)

By **Dr. CA ABHISHEK MURALI**,

B.Com, M.Com, MBA, FCA, ACMA, CGMA, CIMA(Lon.), MBA, LLB, CISA(USA), DISA(ICAI), ADIT (UK), D.Litt.



INTRODUCTION TO THE TDS PROVISIONS:

Owing to an increase in the transactions of purchase and sale of immovable properties, going unreported and undervalued, the Government felt the need to bring a regulation to improve the reporting of such transactions, with the PAN card number and details of the buyer and seller. The result of the same is Section 194IA. Vide the Union Budget 2013-14, Section 194IA was introduced directing a TDS on Property @ 1% on all Immoveable Property Transactions of Rs. 50 Lakhs or more under Section 194IA.

Summary of TDS on Sale of Immoveable Property

Particulars	%
Where Seller is a RESIDENT Any immovable property (other than agricultural land) provided consideration is Rs.50 lakhs or more – Sec 194IA	1% of the Sale Consideration
Where Seller is a NON-RESIDENT and certificate of Capital Gains is obtained from ITO (Sec 195) - Any immovable property	20% of Capital Gains
Where Seller is a NON-RESIDENT and no certificate obtained from ITO (Sec 195) - Any immovable property	20% of the Sale Consideration

TDS on Sale of Immoveable Property by Non-Residents (Sec 195)

Introduction

The TDS to be deducted on sale of immovable property by a Non-Resident is vastly different from the case of a sale of property by a Resident.

Scope of Taxation on Sale of Immovable Property by Non-Resident

In case of purchase of property from NRI, TDS under Section 195 is required to be deducted on the Capital Gains, if conditions are complied, as below. There is **no monetary limit** for the purpose of applicability of TDS:

Particulars	Rate (%)
Long Term Capital Gains (i.e. Property held for more than 2 years)	20%
Short Term Capital Gains (i.e. Property held for less than 2 years)	Slab Rate of seller

For a resident, TDS is applicable only if the sale value is Rs.50 lakhs or more. However, for a non-resident, there is **no monetary limit for the purpose of TDS** in case of sale of property. Hence, even if the sale value of the property is Rs.5 lakhs and the property is sold by a non-resident, the TDS of 20% u/s 195 will be applicable.

Hence, this TDS is required to be deducted whenever any payment is made to the NRI for purchase of property. Even if any advance is being paid for purchase of property – TDS is required to be deducted on that advance.

Amount on which TDS is deducted – Sale Consideration or Capital Gains

The initial idea is that the TDS is required to be deducted on the Capital Gains. The perception is that the seller will calculate the amount of Capital Gains arising in their own hands, from sale of this property. Seller shall intimate the same to the buyer, to appropriately deduct the tax on 20% of the amount.

HOWEVER, this computation of Capital Gains cannot be done by the Seller himself and should be done by the Income Tax Officer ONLY. The Income Tax Officer will issue a certificate with the capital gains taxable, which should be provided to the buyer.

Hence, **if the certificate is not obtained** by the Seller, then TDS should be deducted at **20% of the Sale Consideration.**

Particulars	%
Where seller is a NON-RESIDENT and certificate of Capital Gains is obtained from ITO (Sec 195) - Any immovable property	20% of Capital Gains
Where Seller is a NON-RESIDENT and no certificate obtained from ITO (Sec 195) - Any immovable property	20% of the Sale Consideration

TDS Remittance, TDS Return and PAN No.:

TAN No. to be Obtained

Buyer should obtain a TAN No. first. TAN No. is not required in case the property is purchased from a Resident Indian but is required in case the property is purchased from a Non-Resident Indian. A TAN No. is different from a PAN No. **Hence, in addition to PAN, a TAN No. must be obtained by the BUYER.**

TDS to be Deposited in 7 Days from end of Month of Sale

The TDS so deducted by the buyer shall be deposited with the Govt within 7 days from the end of the month in which the TDS has been deducted vide Challan No./ ITNS 281.

TDS Return to be Filed

After the deposit of TDS, the buyer is required to furnish a TDS Return. This TDS Return is required to be furnished in Form 27Q and is required to be furnished separately for each quarter in which the TDS has been deducted.

This TDS Return is required to be deposited within 31 days from the end of the quarter in which the TDS has been deducted.

Frequently Asked Questions on TDS on Sale of Property by Non-Resident (FAQs)

1. What details to provide the Tax Officer?

The Officer will go through details like Purchase Price, Date of Purchase, any expenses on Renovation/ Construction etc.

2. What if excess TDS is deducted than actual tax payable?

In such a case, the seller can claim refund of TDS at the time of filing of the Income Tax Return.

3. What certificate should the seller collect from the buyer?

Seller should collect Form 16A from the Buyer when it is available.

4. What if multiple payments are made for the property?

Deduct TDS at the time of each payment and not at the time of Registration of Property.

5. What if TDS is Wrongly Deducted or Not Deducted at All?

If the TDS is wrongly deducted or not deducted, the Income Tax Dept will not do anything to the seller but will catch hold of the buyer of property to deposit the TDS. If the buyer forgot to deduct the TDS or deducted less TDS – the Income Tax Dept will recover the TDS from the buyer.

6. Is it possible to lower the TDS Rate?

Yes, vide an application in Form 13, the TDS rate can be reduced with the approval of the Jurisdictional Officer.

Conclusion

Hence, it is evident that TDS on sale of property is a very important provision for Sellers/Buyer of Immovable Properties. It is even more important to know the nuanced provisions applicable when it is sold by a non-resident.

Hence, it is important to plan the taxes and remittance of the same, with the assistance of your professional, before the property is sold.

Important Judgements:

- No GST on Women hostel as end use is not commercial. "residential dwelling" referred to in Entry 12 of the Exemption Notification No. 12 of 2017 would include hostel facilities also. W.P.No.28486 of 2023, Thai Mookambikaa Ladies Hostel (Madras High Court)
- Supreme Paradise vs AC (ST), North I Circle Tirupur in WP 13424 of 2023 Madras high court held that Levying GST on volume discount received u/s. 15(2) of the CGST Act is not maintainable. When after sales discount is offered as per sec 15(3)(b) it is relevant only to determine the "transaction value" of the seller, it cannot be further linked to the value at which the buyer sells the goods. Discount can be taxes as subsidy only if it is not included in the "transactional value" in the invoice and compensated to the supplier.
- Engineering Tools Corporation WP 3505 of 2024 Madras high court held that ITC cannot be rejected on the basis of supplier GSTIN was cancelled with retrospective effect. ITC can be given provided the transaction is genuine.

DUE DATES CHART FOR THE MONTH OF APRIL 2024:

GST Due Dates:

Date	Period	Form No	Description
10-04-24	Mar, 24	GSTR-7	Summary of Tax Deducted at Source (TDS) and deposited under GST laws for the month of March, 2024
10-04-24	Mar, 24	GSTR-8	Summary of Tax Collected at Source (TCS) and deposited by e-commerce operators under GST laws for the month of March, 2024
11-04-24	Mar, 24	GSTR-1	Summary of outward supplies where turnover exceeds Rs.5 crore or have not chosen the QRMP scheme for the quarter of Jan - Mar, 24
13-04-24	Mar, 24	GSTR-6	GSTR 6 is a monthly return for Input Service Distributors (ISD) to provide the details of their inward supplies & distributed Input Tax Credit (ITC).
13-04-24	Jan, 24 to Mar, 24	GSTR-1	Opted for quarterly filing as per QRMP Scheme
13-04-24	Mar, 24	GSTR-5	Summary of outward taxable supplies and tax payable by a non-resident taxable person
18-04-24	Jan, 24 to Mar, 24	CMP-08	Quarterly Challan-cum-statement to be furnished by composition dealers
20-04-24	Mar, 24	GSTR-5A	Summary of outward taxable supplies and tax payable by a person supplying OIDAR services
20-04-24	Mar, 24	GSTR-3B	Summary of outward supplies, ITC claimed, and net tax payable for taxpayers with turnover more than Rs.5 crore in the last FY or have not chosen the QRMP scheme for the quarter of Jan - Mar, 24
25-04-24		ITC-04	Summary of Goods sent to or received from a job – worker – Those with AATO more than Rs.5 crore – Half-yearly from October 23 – March, 24 due on 25th April, 24. Summary of Goods sent to or received from a job – worker – Taxpayers with an annual aggregate turnover of up to Rs. 5 crore need to file ITC-04 yearly.
30-04-24	FY 23-24	GSTR-4	Yearly Return for taxpayers opted into the composition scheme

PHOTO GALLERY



CPE Seminar on 02.03.2024



Trade Seminar on 04.03.2024



Study Circle Meet on 04.03.2024



Women's Day Celebration on 06.03.2024



CPE Seminar on 08.03.2024



Career Counselling Prog on 11.03.2024



CPE Seminar on 15.03.2024



Panchabootha Cricket Tournament on 16.03.2024 & 17.03.2024



Financial Literacy Drive on 19.03.2024



Investor Awareness Programme on 20.03.2024



CPE Seminar on 22.03.2024



CA Career Education Fair on 30 & 31.03.2024



Tree Plantation on 31.03.24