



Varaiya and Shah LLP

Chartered Accountants

Tax Alert

Sub: Special provision for deductions of tax at source (TDS) in respect of non-filers of Income Tax Returns

THIS INFORMATION IS FOR THOSE WHO ARE LIABLE TO DEDUCT TAX AT SOURCE WHILE MAKING PAYMENTS

You are aware of the provisions relating to TDS which apply while making payment like interest, brokerage & commission, payment to contractors, rent, professional fees, etc. covered under Chapter XVII B of The Income Tax Act, 1961. A new provision under **Section 206AB** shall come into force from 1st July 2021. The same is as explained hereunder:

Conditions:

- I. The said provision applies to all payments covered by above referred Chapter XVII B except the following:
 - i. Sec. 192 –TDS on Salary
 - ii. Sec. 192A –TDS on payment of accumulated balance of Provident Fund to employees
 - iii. Sec. 194B –TDS on winnings from lottery and crossword puzzles
 - iv. Sec. 194BB –TDS on winnings from horse races
 - v. Sec. 194LBC – TDS on income in respect of investment in securitization trust
 - vi. Sec. 194N –TDS on withdrawals from banks in excess of Rupees one crore.

II. The new provision provides that if the payee has not filed income tax returns for both two preceding assessment years, then the tax shall be deducted at the higher of the following rates, namely:

- i. at twice the rate specified in the relevant provision of the Act;
or
- ii. at twice the rate or rates in force;
or
- iii. at the rate of five per cent.

Example:

If payee (i.e. receiver) of interest has filed IT Returns of two preceding assessment years, the rate of TDS will be 10%.

However, if he has not filed IT Returns of two preceding assessment years, the rate of TDS will be 20% (i.e., double of 10%).

- III. This provision of higher TDS shall apply only if aggregate of TDS (tax deducted at source) & TCS (tax collected at source) in payee's case was Rs.50,000/- or more in each of the said two assessment years.
- IV. This provision will not be applicable in case payee or recipient is non-resident.

Action required:

If you are covered by above condition 1 & 3, you have to obtain declaration from your payee prior to 1st July 2021.

(Specimen attached)

If you do not obtain such declaration from the payee, you will be required to deduct tax at higher rate as explained in Condition 2 above.

For any assistance, mail to incometax@vnsca.co.in

Thanking You,

We, at Varaiya & Shah LLP

Date: 18th June, 2021

Varaiya & Shah LLP

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Undertaking to be obtained from payee for Section 206AB of Income Tax Act, 1961

To,
M/s. XYZ,

Dear Sirs,

Sub: Declaration confirming filing of Income Tax Return (ITR)
for immediate two preceding assessment years.

I, Mr./Ms./Mrs._____do hereby declare on behalf of myself/M/s_____ (name of entity) registered office/permanent address at_____ having PAN _____(PAN of entity) that I/we have filed ITR for immediately 2 preceding Financial Years (FY) for which due date to file return of income has expired as per sub-section (1) of section 139 of the Income Tax Act, 1961 and details of which are as given under:

FY for which ITR due date has expired under section 139 (1)	ITR filing Status	ITR filing Date as per Ack. (Mandatory, if ITR status-filed)	ITR filing Ack. No. (Mandatory, if ITR status-filed)
2019-20	Filed/ Not filed	DD/MM/YYYY	
2018-19	Filed/ Not filed	DD/MM/YYYY	

For _____ (Name of Entity)

Signature: _____

Name of person: _____

Designation: _____

Place: _____

Date: _____