

What's New

News Flash



October 2016

CBDT clarifies that no tax is required to be deducted at source under section 194-I of the Income-tax Act, 1961, on lease premium paid for acquisition of long-term leasehold rights

Background

Section 194-I of the Income-tax Act, 1961 (the Act) requires deduction of tax at source on payment of rental income. Currently, tax is required to be deducted at source at the rate of 10 per cent on rent payable for use of land or building.

Rent is defined under the provisions of the aforesaid section to mean any payment, by whatever name called, under any lease, sub-lease, tenancy or any other agreement or arrangement for the use of land or building or machinery or plant or equipment or furniture or fittings.

Traditionally, the question pertaining to the inclusion of lease premium paid for acquisition of long-term leasehold rights in the aforesaid definition of “rent”, and consequently, the requirement to deduct tax at source under the provisions of section 194-I of the Act, has been a subject matter of litigation.

The Delhi High Court and the Chennai High Court, in the cases of Indian Newspaper Society¹, Foxconn India Developer Limited² and Tril Infopark Limited,³ have held that no tax is required to be deducted at source under section 194-I of the Act on payment of lease premium/ upfront charges paid for acquisition of leasehold rights. The Revenue has accepted the decisions of the High Courts and has not filed a special leave petition in the Supreme Court.

CBDT clarification

In view of the settled position, the CBDT has, *vide* circular no. 35 dated 13 October 2016, clarified that lumpsum lease premium or one-time upfront lease charges, which are not adjustable against periodic rent paid or payable for acquisition of long-term leasehold rights over land or any other property, are not payments in the nature of rent within the meaning of section 194-I of the Act. Hence, no tax is required to be deducted at source under the provisions of section 194-I of the Act on such payments.

¹ Indian Newspaper Society v. ITO ITA No. 918 and 920/2015 (Delhi)

² Foxconn India Developer (Pvt) Ltd v. ITO Appeal No. 801/2013 (Chennai)

³ Tril Infopark Limited v. ITO Appeal No. 882/2015 (Chennai)

If your interest lies in a specific area or subject, do advise us so we can send you only the relevant alerts. For any additional information, please reach out to your PwC relationship manager or write in to ***pwctrs.knowledgemanagement@in.pwc.com***

With Best Regards
PwC TRS Team

About PwC

At PwC, our purpose is to build trust in society and solve important problems. We're a network of firms in 157 countries with more than 223,000 people who are committed to delivering quality in assurance, advisory and tax services. Find out more and tell us what matters to you by visiting us at www.pwc.com.

In India, PwC has offices in these cities: Ahmedabad, Bengaluru, Chennai, Delhi NCR, Hyderabad, Kolkata, Mumbai and Pune. For more information about PwC India's service offerings, visit **www.pwc.com/in**

PwC refers to the PwC International network and/or one or more of its member firms, each of which is a separate, independent and distinct legal entity. Please see www.pwc.com/structure for further details.

©2016 PwC. All rights reserved

Follow us on [Facebook](#), [LinkedIn](#), [Twitter](#) and [YouTube](#).

© 2016 PricewaterhouseCoopers Private Limited. All rights reserved. In this document, "PwC" refers to PricewaterhouseCoopers Private Limited (a limited liability company in India having Corporate Identity Number or CIN : U74140WB1983PTC036093), which is a member firm of PricewaterhouseCoopers International Limited (PwCIL), each member firm of which is a separate legal entity

Our Tax & Regulatory Services **Direct Tax** **Indirect Tax** **Transfer Pricing** **Regulatory** **M & A**
Tax Controversy and Dispute Resolution **Financial Services**

NOTE : If you wish to unsubscribe receiving communications, please send in a blank email as reply to this mail with subject line "Unsubscribe".
