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The CBDT notifies new rules for tax withholding on immovable property with a transaction value of INR five million or more under section 194-IA

In Brief

The Finance Act 2013 has introduced under its ambit, section 194-IA, with effect from 1 June 2013, imposing a withholding tax rate of 1% on the payment of consideration for an immovable property (other than an agricultural land), if the consideration value for such a transfer is INR 5 million or more. Section 194-IA is applicable to every person without any exception, and as such it applies even to individuals. The withholding tax will be applicable at the time of credit or payment, whichever is earlier.

New rules notified

The Central Board of Direct Taxes (CBDT) has notified[1] a new set of rules for tax withholding under section 194-IA. It has prescribed procedures for the following:

- Deposit of the withholding tax[2]
- Issuance of withholding tax certificates[3]
- Filing statement of withholding tax[4]

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[1] Vide Notification no. SO 1404(E), dated 31 May 2013
[2] Rule 30(2A), 30(6A),30(7A)
[3] Rule 31(3A) and 31(6A)
[4] Rule 31A(4A)

Salient features of new rules

- The new challan-cum-statement under Form 26QB has been introduced for the purpose of an electronic deposit of the withholding tax, whereas Form 16B has been introduced for the issuance of a withholding tax certificate to either transferor, the payee or the seller.

- Form 26QB also includes details such as the name, address and permanent account number (PAN) of the transferor, payee or seller. No separate withholding tax return is required to be submitted.

- Form 26QB has to be submitted separately for payments made to each transferor, payee or seller, every month.

- The tax deducted under section 194-IA has to be deposited within seven days from the end of the month in which tax has been deducted.

- Form 16B can be downloaded electronically and furnished to the transferor, payee or seller within 15 days of the due date of filing Form 26QB, that is, within 22 days from the end of the month in which tax has been deducted.

- The above compliance do not require the payer to obtain a tax deduction account number (TAN) as the Forms 26QB and 16B, are to be filed using the PAN details of the transferee, the payer or the buyer and the transferor or payee or the seller.

PwC Observations

- As section 194-IA applies to every person (even to individuals), there are apprehensions regarding the burden of compliance which will be put on those buyers of immovable property, who are otherwise not liable to withhold tax.

- The new rules introduced for the implementation of section 194-IA clarifies most of the apprehensions and places minimal compliance on the transferee or the payer or the buyer. The comparative chart is given below:

Particulars	**Section 194-IA**	**Other withholding tax compliances (other than salary)**
Time for tax deduction	At the time of credit or payment, whichever is earlier	
Time for deposit of tax	Within seven days from the end of the month in which the tax has been deducted	
TAN	Not required	Required
Withholding tax return	Not required	Required on a quarterly basis
Withholding tax certificate	Within 15 days of the due date of depositing tax	Within 15 days from the due date for furnishing the quarterly TDS return details

- However, buyers will still be required to deposit their tax and also procure the withholding tax certificates electronically. Thus, there will still be some element of additional administrative compliance on buyers of immovable property, having a consideration of INR five million or more.

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