



TDS on Benefits or Perquisites

Introduction

The Finance Act, 2022, introduced a new provision Section 194R into the Income Tax Act, 1961, which comes into effect from **July 1, 2022**. This section mandates deduction of Tax Deducted at Source(TDS) **at the rate of 10%** on the value of any benefit or perquisite (whether in cash, in kind, or partly in both) provided to a resident in the course of business or profession. It was a part of the government's efforts to widen the scope of Tax Deducted at Source (TDS) and ensure tax on non-monetary benefits or perquisites provided in the course of business or profession.

Types of Benefits & Perquisites

Materials Benefits	Abstract Benefits
<ul style="list-style-type: none">• Gifts• Promotional Items• Free Samples• Stock options to non employees.	<ul style="list-style-type: none">• Loyalty rewards• Use of Asset• Travel Packages• Event sponsorships

Section 194R mandates the deduction of TDS when any benefit or perquisite is provided to a resident, arising from business or profession, whether in cash, kind, or a combination of both. These payments include promotional items provided to dealers, free samples, gifts, discounts, and other such perquisites. The person providing the benefit or perquisite is required to deduct TDS at the **rate of 10%** if the aggregate value **exceeds Rs. 20,000** in a financial year.

TDS under Section 194R must be deducted before providing such benefits or perquisites.

TDS on Benefits & Perquisites

Illustration

Month	Value of Gift/ Perquisites provided	Cumulative Value of Gift/ Perquisites provided	TDS Applicable ?	Remarks
April	5,000	5,000	No	Below Rs. 20,000 threshold individually
July	20,000	25,000	Yes	Aggregate exceed Rs. 20,000 – TDS @ 10% amounts to Rs. 2,500
January	10,000	35,000	Yes	Aggregate exceeds TDS threshold limit. Total TDS to be deducted amounts to Rs. 3,500

Points to be noted

- ❖ TDS under Section 194R shall be deducted by the person providing the benefit or perquisite, except where such person is an individual or a Hindu Undivided Family (HUF) whose total sales, gross receipts, or turnover do not exceed ₹1 crore in case of business or ₹50 lakhs in case of profession during the immediately preceding financial year.
- ❖ Under Section 194R, the person providing any benefit or perquisite arising from business or profession must obtain a TAN (if not already held), deduct TDS at 10% when the aggregate value exceeds ₹20,000 in a financial year, deposit the deducted tax by the 7th of the following month (except for March, which is due by 30th April), and file quarterly TDS returns in Form 26Q. These compliance steps are essential to ensure timely and accurate reporting under the Income-tax Act.
- ❖ For calculating TDS under Section 194R, the value of gifts or perquisites is generally determined at their fair market value. However, if the item is purchased, it is valued at the purchase price, and if it is manufactured, it is valued at the price at which the item is sold to customers. GST is to be excluded while valuing the benefit/perquisite for TDS purposes.
- ❖ TDS under section 194R is applicable if the aggregate value of gifts or perquisites provided to a resident exceeds Rs. 20,000 in a financial year, even if the individual value of gifts or perquisites, such as promotional item (Rs. 18,000), Free Sample (Rs. 1,000), and Foreign trip (Rs. 7,500), do not independently exceed the threshold. In such a case, since the total is Rs. 26,500, TDS will be applicable.

FAQs regarding 194R

The CBDT has issued the following guidelines vide Circular No. 12/2022 dated 16.6.2022 and Circular No. 18/2022 dated 13.9.2022:

Question 1: Whether sales discount, cash discount and rebates are benefit or perquisite?

Answer: No. Sales discounts, cash discount or rebates allowed to customers from the listed retail price represent lesser realization of the sale price itself. To that extent purchase price of customer is also reduced. Logically these are also benefits though related to sales/purchase. However, it is seen that subjecting these to tax deduction would put seller to difficulty and to remove such difficulty it is clarified that no tax is required to be deducted under section 194R of the Act on sales discount, cash discount and rebates allowed to customers.

Question 2: Whether reimbursement of out of pocket expense incurred by service provider in the course of rendering service is benefit/perquisite?

Answer: If a person incurs an expense that is the liability of someone carrying on business or profession, and that expense is paid by another person, it is considered a benefit or perquisite under Section 194R. However, if the expense is incurred wholly and exclusively for rendering services and the invoice is in the name of the service recipient, then reimbursement of such expense is not treated as a benefit/perquisite. But if the invoice is not in the name of the service recipient, and the expense is paid or reimbursed by them, it will be treated as a benefit/perquisite and subject to TDS under Section 194R.

Question 3: Is there any requirement to deduct tax under section 194R, when the benefit or perquisite is in the form of a capital asset?

Answer: There is no requirement to check whether the perquisite or benefit is taxable in the hands of the recipient and the section under which it is taxable. Further, Courts have held many benefits or perquisites to be taxable even though one can argue that they are in the nature of capital asset through judgement CIT (Addl) v Ram Kripal Tripathi (1980) 125 ITR 408.

Thus, the asset given as benefit or perquisite may be a capital asset in general sense of the term like car, land, etc, but in the hands of the recipient, it is benefit or perquisite and has accordingly been held to be taxable. In any case, as stated earlier, the deductor is not required to check if the benefit or perquisite is taxable in the hands of recipient. Thus, the deductor is required to deduct tax under section 194R in all cases where benefit or perquisite (of whatever nature) is provided.

Question 4: If loan settlement/waiver by a bank is to be treated as benefit/ perquisite, it would lead to hardship as the bank would need to incur the additional cost of tax deduction in addition to the haircut that he has taken. Will section 194R apply in such a situation?

Answer: it has been clarified, vide Circular no. 18/2022 dated 13.9.2022, that one-time loan settlement with borrowers or waiver of loan granted on reaching settlement with the borrowers by the Public Financial Institution (PFI) and Scheduled Bank would not be subjected to tax deduction at source under section 194R.

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