

Service Tax component to be considered for deducting tax on any sum paid as professional and technical fees under section 194J

The Central Board of Direct Taxes (CBDT) has clarified that the payments made under section 194I differ significantly from payments made under section 194J in the way that in the case of 194I, TDS has to be deducted on any income paid as rent. However, in the case of section 194J TDS has to be deducted on any sum paid as professional and technical fees. The CBDT had decided to exclude TDS on service tax component on rental payment because it was construed that service tax payment cannot be regarded as income of the landlord. Since section 194J covers any sum paid, therefore the CBDT has decided not to extend the scope of Circular No. 4/2008 dated 28 April 2008, to such payment under section 194J.

Note: Circular No. 4/2008, dated 28 April 2008 states that service tax paid by the tenant is not in the nature of income of the landlord. The landlord only acts as a collecting agency for Government for collection of service tax. Therefore, TDS under sections 194I of the Act would be required to be made on the amount of rent paid/payable without including the service tax.

Circular No. F. No.275/73/2007-IT(B) by Ministry of Finance dated 30 June 2008