

Update on
Amendment of Rule 31A
of
Income Tax Rules, 1962
and
Form 26Q and Form 27Q of Statement of TDS
{w.e.f. 1.7.2020 & 3.7.2020}

1. Central Board of Direct Taxes (CBDT) has amended Rule 31A of the Income Tax Rules, 1962 *{hereinafter referred to as the Rules}* vide Notification No. 43/2020 date 3.7.2020.
2. The notification is as follows:

MINISTRY OF FINANCE
(Department of Revenue)
(CENTRAL BOARD OF DIRECT TAXES)
NOTIFICATION

New Delhi, the 3rd July, 2020

INCOME-TAX

G.S.R. 429(E).— In exercise of the powers conferred by sections 194A, 194J, 194K, 194LBA, 194N, 194-O, 197A and 200 read with section 295 of the Income-tax Act, 1961 (43 of 1961), the Central Board of Direct Taxes, hereby, makes the following rules further to amend the Income-tax Rules, 1962, namely:-

1. Short title and commencement.—

- (1) These rules may be called the Income-tax (16th Amendment) Rules, 2020.
- (2) Save as otherwise provided in these rules, they shall come into force from the date of their publication in the Official Gazette.

2. In the Income-tax Rules, 1962 (hereinafter referred to as the principal rules), in rule 31A, in **sub-rule (4), --**

- (a) **in clause (viii)**, after the words “not deducted”, the words “or deducted at lower rate” shall be **inserted**;
- (b) **for clause (ix)** the following shall be **substituted from the 1st day of July, 2020**, namely:-

“(ix) furnish particulars of amount paid or credited on which tax was not deducted or deducted at lower rate in view of the notification issued under second proviso to section 194N or in view of the exemption provided in third proviso to section 194N or in view of the notification issued under fourth proviso to

section 194N”;

(c) after clause (ix), the following clauses shall be **inserted**, namely:--

“(x) furnish particulars of amount paid or credited on which tax was not deducted or deducted at lower rate in view of the notification issued under sub-section (5) of section 194A.

(xi) furnish particulars of amount paid or credited on which tax was not deducted under sub-section (2A) of section 194LBA.

(xii) furnish particulars of amount paid or credited on which tax was not deducted in view of clause (a) or clause (b) of sub-section (1D) of section 197A.

(xiii) furnish particulars of amount paid or credited on which tax was not deducted in view of the exemption provided to persons referred to in Board Circular No. 3 of 2002 dated 28th June 2002 or Board Circular No. 11 of 2002 dated 22nd November 2002 or Board Circular No. 18 of 2017 dated 29th May 2017.”

3. In the principal rules, in Appendix II,

(I) in **form 26Q** -

(a) **for** the brackets, words, figures and letters

“[See sections 192A, 193, 194, 194A, 194B, 194BB, 194C, 194D, 194DA, 194EE, 194F, 194G, 194H, 194-I, 194J, 194LA, 194LBA, 194LBB, 194LBC, 194N and rule 31A]”

the following brackets, words, figures and letters

“[See sections 192A, 193, 194, 194A, 194B, 194BB, 194C, 194D, 194DA, 194EE, 194F, 194G, 194H, 194-I, 194J, 194K, 194LA, 194LBA, 194LBB, 194LBC, 194N, 194-O, 197A and rule 31A]”

shall be **substituted**;

(b) **for** the “**Annexure**”, the following “**Annexure**” shall be **substituted**, namely :-

“Amended Form 26Q provided”

(II) in **form 27Q** -

(a) **for** the brackets, words, figures and letters

[See sections 194E, 194LB, [194LBA, 194LBB, 194LBC], 194LC, 195, 196A, 196B, 196C, 196D, and rule 31A]”

the brackets, words, figures and letters

“[See section 194E, 194LB, [194LBA, 194LBB, 194LBC], 194LC, 194N, 195, 196A, 196B, 196C, 196D, 197A and rule 31A]”

shall be **substituted**;

(b) *for* the “Annexure” the following “Annexure” shall be **substituted**, namely:--

“Amended Form 26Q provided”

[Notification No. 43/2020/F. No. 370142/11/2020-TPL]
ANKIT JAIN, Under Secy. (Tax Policy and Legislation Division)

Date of enforcement of the Amendment Rules

3. 1(2) of the Amendment Rules provides that save as otherwise provided in these rules, they shall come into force from the date of their publication in the Official Gazette.
4. The amendment Rules are dated **3.7.2020**. Therefore, these shall be effective from **3.7.2020**.
5. However, rule 2(b) shall be substituted from **1.7.2020**.
6. The Amendment Rules have six amendments in the principal **rule 31A(4)**, which are being reflected hereunder in *blue colour*:

Rule 31A(4)

(4) The deductor at the time of preparing statements of tax deducted shall,—

- (i) quote his tax deduction and collection account number (TAN) in the statement;
- (ii) quote his permanent account number (PAN) in the statement except in the case where the deductor is an office of the Government;
- (iii) quote the permanent account number of all deductees;
- (iv) furnish particulars of the tax paid to the Central Government including book identification number or challan identification number, as the case may be;
- (v) furnish particulars of amount paid or credited on which tax was **not deducted** in view of the issue of certificate of no deduction of tax under **section 197** by the Assessing Officer of the payee;

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- (vi) furnish particulars of amount paid or credited on which tax was **not deducted** in view of the compliance of provisions of sub-section (6) of section 194C by the payee;
- (vii) furnish particulars of amount paid or credited on which tax was **not deducted** in view of the furnishing of declaration under sub-section (1) or sub-section (1A) or sub-section (1C) of section 197A by the payee;
- (viii) furnish particulars of amount paid or credited on which tax was **not deducted** *“or deducted at lower rate”* in view of the notification issued under sub-section (1F) of section 197A
- (ix) furnish particulars of amount paid or credited on which tax was not deducted in view of the exemption provided in clause (iii) or clause (iv) of the proviso to section 194N or in view of the notification issued under clause (v) of the proviso to section 194N. *{substituted by following clause (ix)}*
- (ix) *furnish particulars of amount paid or credited on which tax was not deducted or deducted at lower rate in view of the notification issued under second proviso to section 194N or in view of the exemption provided in third proviso to section 194N or in view of the notification issued under fourth proviso to section 194N”;*
- (x) *furnish particulars of amount paid or credited on which tax was not deducted or deducted at lower rate in view of the notification issued under sub-section (5) of section 194A.*
- (xi) *furnish particulars of amount paid or credited on which tax was not deducted under sub-section (2A) of section 194LBA.*
- (xii) *furnish particulars of amount paid or credited on which tax was not deducted in view of clause (a) or clause (b) of sub-section (1D) of section 197A.*
- (xiii) *furnish particulars of amount paid or credited on which tax was not deducted in view of the exemption provided to persons referred to in Board Circular No. 3 of 2002 dated 28th June 2002 or Board Circular No. 11 of 2002 dated 22nd November 2002 or Board Circular No. 18 of 2017 dated 29th May 2017.”*

Amendment in clause (viii) of Rule 31A(4)

7. The Finance Act, 2020 has substituted following sub-section in **section 197A** of the Act

“(1F) Notwithstanding anything contained in this Chapter, no deduction of tax shall be made, **or deduction of tax shall be made at such lower rate**, from such payment to such person or class of persons, including institution, association or body or class of institutions, associations or bodies, as may be notified by the Central Government in the Official Gazette, in this behalf.”

8. Accordingly clause (viii) of Rule 31A(4) has been amended to insert “**or deducted at lower rate**” vide the Amendment Rules.
9. Therefore, not only the payments in relation to no deduction, but in relation to lower deduction as are notified **u/s 197A(1F)** are to be furnished.
10. The Board has already issued Notification No. 46 and 47/2016 dated 17.6.2016 **u/s 197A(1F)** of the Act, which is as follows:

**MINISTRY OF FINANCE
(DEPARTMENT OF REVENUE)
(CENTRAL BOARD OF DIRECT TAXES)
NOTIFICATION**

New Delhi, the 17th June, 2016

**No.46 /2016
INCOME-TAX**

S.O. (E).-In exercise of the powers conferred by sub-section (1F) of section 197A of the Income-tax Act, 1961 (43 of 1961) (hereinafter referred to as the said ‘Act’), the Central Government hereby notifies that **no deduction** of tax under Chapter XVII of the said Act shall be made on the payments of the nature specified in clause (23DA) of section 10 of the said Act received by any securitisation trust as defined in clause (d) of the *Explanation* to section 115TC of the said Act.

2. This notification shall come into force from the date of its publication in the Official Gazette.

[Notification No.46 /2016 F.No. 275/16/2016-IT(B)]
(Sandeep Singh)

**MINISTRY OF FINANCE
(DEPARTMENT OF REVENUE)
(CENTRAL BOARD OF DIRECT TAXES)
NOTIFICATION**

New Delhi, the 17th June, 2016

No. 47/2016

INCOME TAX

S.O. (E).- In exercise of the powers conferred by sub-section (1F) of section 197A of

the Income-tax Act, 1961 (43 of 1961) **and in supersession** of the notification of the Government of India, Ministry of Finance (Department of Revenue) number S.O. 3069 (E) dated 31st December, 2012, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (ii), the Central Government hereby notifies that **no deduction** of tax under Chapter XVII of the said Act shall be made on the payments of the nature specified below, in case such payment is made by a person to a bank listed in the Second Schedule to the Reserve Bank of India Act, 1934 (2 of 1934), excluding a foreign bank, **or** to any payment systems company authorised by the Reserve Bank of India under Sub-section (2) of Section 4 of the Payment and Settlement Systems Act, 2007 (51 of 2007), namely :-

(i) bank guarantee commission;

(ii) cash management service charges;

(iii) depository charges on maintenance of DEMAT accounts;

(iv) charges for warehousing services for commodities;

(v) underwriting service charges;

(vi) clearing charges (MICR charges) including interchange fee or any other similar charges by whatever name called charged at the time of settlement or for clearing activities under the Payment and Settlement Systems Act, 2007;

(vii) credit card or debit card commission for transaction between merchant establishment and acquirer bank.

2. This notification shall come into force from the date of its publication in the Official Gazette.

[Notification No. 47/2016/ F. No. 275/53/2012 – IT(B)]
(Sandeep Singh)
Under Secretary to the Govt. of India

Substitution of clause (ix) in Rule 31A(4)

11. **Clause (ix)** of Rule 31A(4) provided as follows:

“furnish particulars of amount paid or credited on which tax was not deducted in view of the exemption provided in clause (iii) or clause (iv) of the proviso to section 194N or in view of the notification issued under clause (v) of the proviso to section 194N. “

12. **Clause (ix)** of Rule 31A(4) has been **substituted** by the Amendment Act w.e.f 1.7.2020 by the following new clause (ix):

*“furnish particulars of amount paid or credited on which tax was **not deducted or deducted at lower rate** in view of the notification issued under second proviso to section 194N **or** in view of the exemption provided in third proviso to section 194N **or** in view of the notification issued under fourth proviso to section 194N”;*”

13. As per the above substitution, now deductor shall be obliged to furnish following additional details in the statement of TDS in **Form 26Q or Form 27Q**, as the case may be, besides the details required to be furnished under other clauses of Rule 31A(4) in respect of TDS **u/s 194N** tax, as detailed above:

(i) *furnish particulars of amount paid or credited on which tax was **not deducted or deducted at lower rate** in view of the notification issued under **second proviso** to section 194N **or***

(ii) *furnish particulars of amount paid or credited on which tax was **not deducted or deducted at lower rate** in view of the exemption provided in **third proviso** to section 194N **or***

(iii) *furnish particulars of amount paid or credited on which tax was **not deducted or deducted at lower rate** in view of the in view of the notification issued under **fourth proviso** to section 194N*

14. To capture the details required to be furnished under other clauses of Rule 31A(4) in respect of TDS **u/s 194N** tax, in **Form 26Q and Form 27Q** following columns have been **inserted**:

(i) Amount of cash withdrawal in excess of Rs. 1 crore as referred to in section 194N (in cases **not** covered by the **first proviso** to **section 194N**)

(ii) Amount of cash withdrawal which is in excess of Rs. 20 lakhs but does not exceed Rs. 1 crore for cases covered by sub-clause (a) of clause (ii) of **first proviso** to **section 194N**

(iii) Amount of cash withdrawal which is in excess of Rs. 1 crore for cases covered by sub-clause (b) of clause (ii) of **first proviso** to **section 194N**

TDS under the main provision of Section 194N

15. As per the main provision of **section 194N**, a person who is responsible for paying **any sum**, being the amount **or** the aggregate of amounts, as the case may be, in **cash exceeding Rs. 1 crore during the previous year**, to any person (herein referred to as the **recipient**) from one **or** more accounts **maintained by the recipient** with it shall, at the time of payment of such sum, deduct an amount equal to **2%** of **such sum**, as income-tax.

16. Therefore, in column requiring the details mentioned at serial No. 10(i) above, the details as per above provisions is required to be furnished.

TDS under the clause (ii)(a) of 1st proviso of Section 194N

17. As per the clause (ii)(a) of 1st proviso of section 194N, in case of a recipient who has **not** filed the returns of income for **all** of the **three assessment years** relevant to the three previous years, for which the time limit of file return of income under sub-section (1) of section 139 has expired, **immediately preceding the previous year** in which the payment of the sum is made to him, **the sum** shall be the amount **or** the aggregate of amounts, as the case may be, in **cash exceeding Rs. 20 Lakh** during the previous year **and** the **deduction** shall be an amount equal to **2%** of **the sum** where the amount **or** aggregate of amounts, as the case may be, being paid in **cash exceeding Rs. 20 Lakh** during the previous year **but does not exceed** Rs.1 crore.
18. Therefore, in column requiring the details mentioned at serial No. 10(ii) above, the details as per above provisions is required to be furnished.

TDS under the clause (ii)(a) of 1st proviso of Section 194N

19. As per the clause (ii)(b) of 1st proviso of section 194N, in case of a recipient who has **not** filed the returns of income for **all** of the **three assessment years** relevant to the three previous years, for which the time limit of file return of income under sub-section (1) of section 139 has expired, **immediately preceding the previous year** in which the payment of the sum is made to him, **the sum** shall be the amount **or** the aggregate of amounts, as the case may be, in **cash exceeding Rs. 20 Lakh** during the previous year **and** the **deduction** shall be an amount equal to **5%** of **the sum** where the amount or aggregate of amounts, as the case may be, being paid in **cash exceeding Rs. 1 crore** during the previous year:
20. Therefore, in column requiring the details mentioned at serial No. 10(iii) above, the details as per above provisions is required to be furnished.

Insertion of clause (x) in Rule 31A(4)

21. **Clause (x)** has been **inserted** in Rule 31A(4) by the Amendment Act w.e.f 3.7.2020, which is as follows:
- “(x) furnish particulars of amount paid or credited on which tax was **not deducted or deducted at lower rate** in view of the **notification issued under sub-section (5) of section 194A.**”*
22. The Finance Act, 2020 has inserted **sub-section (5) in section 194A** of the Act, which provides as follows:
- “(5) The Central Government may, by notification in the Official Gazette, provide that the deduction of tax shall **not** be made **or** shall be made at such **lower rate**, from such payment to such person or class of persons, as may be specified in the said notification.”*

23. As per Note No. 4 below Form 26Q, if no deduction or lower deduction is on account of payment made to a person or class of person on account of notification issued under **sub-section (5) of section 194A**, then details of such payments are required to be furnished in Annexure of **Form 26Q, and** in column No. 424 under the heading “Reason for non-deduction / lower deduction / Higher Deduction / Threshold / Transporter etc. (See notes 1 to 11)” – code “**D**” is to be mentioned.

Insertion of clause (xi) in Rule 31A(4)

24. **Clause (xi)** has been **inserted** in Rule 31A(4) by the Amendment Act w.e.f 3.7.2020, which is as follows:

*“(xi) furnish particulars of amount paid or credited on which tax was **not** deducted under sub-section (2A) of section 194LBA.”*

25. The Finance Act, 2020 has inserted **sub-section (2A) in section 194LBA** of the Act, which provides as follows:

“(2A) Nothing contained in sub-sections (1) and (2) shall apply in respect of income of the nature referred to in sub-clause (b) of clause (23FC) of section 10, if the special purpose vehicle referred to in the said clause has not exercised the option under section 115BAA.”

26. As per Note No. 11 below Form 26Q, if no deduction is made due to application of sub-section (2A) of section 194LBA of the Act, then details of such payments are required to be furnished in Annexure of **Form 26Q and** in column No. 424 under the heading “Reason for non-deduction / lower deduction / Higher Deduction / Threshold / Transporter etc. (See notes 1 to 11)” – code “**O**” is to be mentioned.

Insertion of clause (xii) in Rule 31A(4)

27. **Clause (xii)** has been **inserted** in Rule 31A(4) by the Amendment Act w.e.f 3.7.2020, which is as follows:

*“(xii) furnish particulars of amount paid or credited on which tax was **not** deducted in view of **clause (a) or clause (b) of sub-section (1D) of section 197A.**”*

28. **Clause (a) sub-section (1D) of section 197A** provides as follows:

*“ Notwithstanding anything contained in this section, no deduction of tax shall be made by the **Offshore Banking Unit** {as defined in section 21(u) of the Special Economic Zones Act, 2005} from the interest paid —*

(a) **on deposit** made on or after the 1st day of April, 2005, by a non-resident or a person not ordinarily resident in India; or”

29. **Clause (b) sub-section (1D) of section 197A** provides as follows:

“ Notwithstanding anything contained in this section, no deduction of tax shall be made by the **Offshore Banking Unit** {as defined in section 21(u) of the Special Economic Zones Act, 2005} from the interest paid —

(b) **on borrowing**, on or after the 1st day of April, 2005, from a non-resident or a person not ordinarily resident in India.

30. As per Note No. 7 below Form 27Q, if no deduction is made in view of clause (a) or (b) sub-section (1D) of section 197A the Act, then details of such payments are required to be furnished in Annexure of **Form 27Q and** in column No. 729 under the heading “Reason for non-deduction / lower deduction / Higher Deduction / Threshold / Transporter etc. (See notes 1 to 8)” – code “**G**” is to be mentioned.

Insertion of clause (xiii) in Rule 31A(4)

31. **Clause (xiii)** has been **inserted** in Rule 31A(4) by the Amendment Act w.e.f 3.7.2020, which is as follows:

*(xiii) furnish particulars of amount paid or credited on which tax was **not** deducted in view of the exemption provided to persons referred to in Board Circular No. 3 of 2002 dated 28th June 2002 **or** Board Circular No. 11 of 2002 dated 22nd November 2002 **or** Board Circular No. 18 of 2017 dated 29th May 2017.”*

32. As per above insertion no tax is required to be deducted from payments covered under following CBDT Circulars.

- (i) Circular No. 3 of 2002 dated 28th June 2002;
- (ii) Circular No. 11 of 2002 dated 22nd November 2002;
- (iii) Circular No. 18 of 2017 dated 29th May 2017.

33. However, by virtue of clause (xiii), the details of such payments are now required to be furnished in **Form 26Q**.

34. As per Note No. 8 below **Form 26Q**, if no deduction is made in view of above three Circulars, then details of such payments are required to be furnished in Annexure of **Form 26Q and** in column No. 424 under the heading “Reason for non-deduction / lower deduction / Higher Deduction / Threshold / Transporter etc. (See notes 1 to 11)” – code “**E**” is to be mentioned.

Codes for no deduction or lower deduction of tax at source etc.

35. In **Form 26Q** details of payment are required to be furnished from which tax is **not** deducted **or** tax is deducted at lower rate **or** tax is deducted at higher rate **or** tax is not deducted due to threshold **or** payments made to transports without deduction of tax **etc.**
36. In such cases the person responsible is further required to mention column No. 424 a **code** which is designated for reason for such action. These codes are mentioned in Notes below the **Form 26Q**, which are as follows:
1. Write "A" if "lower deduction" or "no deduction" is on account of a certificate under **section 197**.
 2. Write "B" if no deduction is on account of declaration under **section 197A** other than the cases mentioned in **sub-section (1F)** of **section 197A**.
 3. Write "C" if deduction is on **higher rate** on account of non-furnishing of PAN by the deductee / payee.
 4. Write "D" if **no** deduction or **lower** deduction is on account of payment made to a person or class of person on account of notification issued under **sub-section (5) of section 194A**.
 5. Write "E" if **no** deduction is on account of payment being made to a person referred to in Board Circular no. 3 of 2002 dated 28th June, 2002 **or** Board Circular no. 11 of 2002 dated 22nd November, 2002 **or** Board Circular no. 18 of 2017 dated 28th May, 2017.
 6. Write "Y" if **no** deduction is on account of payment below **threshold** limit specified in the Income-tax Act, 1961.
 7. Write "T" if **no** deduction is on account of deductee / payee being transporter. PAN of deductee/payee is mandatory {**section 194C (6)**}
 8. Write "Z" if **no** deduction or lower deduction is on account of payment being notified under **section 197A (1F)**.
 9. Write "M" if **no** deduction or lower deduction is on account of notification issued under **second proviso** to **section 194N**.
 10. Write "N" if **no** deduction or lower deduction is on account of payment made to a person referred to in **the third proviso** to **section 194N** or on account of notification issued under the **fourth proviso** to **section 194N**.

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11. Write “O” if no deduction is as per the provisions of **sub-section (2A) of section 194LBA**.
12. Section codes.....
37. In **Form 27Q** details of payment are required to be furnished from which tax is **not** deducted **or** tax is deducted at lower rate **or** tax is deducted at higher rate **or** tax is not deducted due to threshold **or** payments made to transports without deduction of tax **etc.**
38. In such cases the person responsible is further required to mention column No. 729 a **code** which is designated for reason for such action. These codes are mentioned in Notes below the **Form 27Q**, which are as follows:
 1. Write “A” if “lower deduction” **or** “no deduction” is on account of a certificate under **section 197**.
 2. Write “C” if **grossing up** has been done.
 3. Write “D” if deduction is on **higher rate** on account of non-furnishing of (*Permanent Account Number or Aadhaar Number*) by the deductee.
 4. Write “O” if no deduction is in view of sub-section (2A) of **section 194LBA**.
 5. Write “M” if no deduction or lower deduction is on account of notification issued under **second proviso** to **section 194N**.*
 6. Write “N” if no deduction or lower deduction is on account of payment made to a person referred to in the **third proviso** to **section 194N** or on account of notification issued under the **fourth proviso** to **section 194N**.*
 7. Write “G” if no deduction is in view of clause (a) or clause (b) of sub-section (1D) of **section 197A**.
 8. Section codes.....
 9. In case of deductees covered under rule 37BC {Section 239AA}, “Permanent Account Number **or** Aadhaar Number NOT AVAILABLE” should be mentioned
39. Changes in the Forms in relation to section 194N shall come into effect from 1st July, 2020.
40. Changes in the forms in relation to section 194-O shall come into effect from 1st October, 2020.

Disclaimer

This document has been prepared for academic use only to share with fellow professionals and all concerned the scope of Income-tax (16th Amendment) Rules, 2020 dated 3.7.2020 and the amended Rule 31A and Form 26Q and 27Q. Though every effort has been made to avoid errors or omissions in this document yet any error or omission may creep in. Therefore, it is notified that I shall not be responsible for any damage or loss to any one, of any kind, in any manner there from. I shall also not be liable or responsible for any loss or damage to any one in any matter due to difference of opinion or interpretation in respect of the text. On the contrary it is suggested that to avoid any doubt the user should cross check the correct law and the contents with the said Notification and related gazetted materials.



By CA. Rajiv Kumar Jain
9810288997
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