

Tax deduction at Source (TDS) as per provision of section 194LA of the I.T. Act. 1961- Advance payment regarding

The Income Tax Department has written and asked the Uttar Pradesh Real Estate Regulatory Authority (UP-RERA) to instruct the Promoters of the real estate projects in Uttar Pradesh to advise their buyers of the immovable property of the value of Rupees Fifty lacs (Rs. 50,00,000/-) and above to deduct and deposit TDS @ 1% on each payment (including advance payment) made by the buyers to the seller/developers/builders.

The Section 194LA of the Income Tax Act, 1961 is reproduced herein for your ready reference:

Payment of compensation on acquisition of certain immovable property.

194LA. Any person responsible for paying to a resident any sum, being in the nature of compensation or the enhanced compensation or the consideration or the enhanced consideration on account of compulsory acquisition, under any law for the time being in force, of any immovable property (other than agricultural land), shall, at the time of payment of such sum in cash or by issue of a cheque or draft or by any other mode, whichever is earlier, deduct an amount equal to ten per cent of such sum as income-tax thereon:

Provided that no deduction shall be made under this section where the amount of such payment or, as the case may be, the aggregate amount of such payments to a resident during the financial year does not exceed two lakh and fifty thousand rupees:

Provided further that no deduction shall be made under this section where such payment is made in respect of any award or agreement which has been exempted from levy of income-tax under section 96 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (30 of 2013).

In the light of the abovementioned, the UP-RERA has issued a letter to all the Promoters bearing no. 13297/U.P. RERA/2022-23 dated 14.11.2022 advising to follow the abovementioned provision in all their transactions. Hence, it is advised to all our clients to follow the aforesaid.

The copy of the UP-RERA letter bearing no. 13297/U.P. RERA/2022-23 dated 14.11.2022 is attached herewith for your reference.



उ.प्र. भू-सम्पदा विनियामक प्राधिकरण

राज्य नियोजन संस्थान, कालाकांकर भवन,
ओल्ड हैदराबाद, लखनऊ

Email- contactuprera@up-rera.in

Letter no.: 13297 /U.P. RERA/ 2022-23

Dt. 14 November, 2022

To.

✓ All the Promoters


Sub: Tax Deduction at source (TDS) as per the provision of section 194LA of the I.T. Act, 1961 – Advance payment regarding.

The Income Tax Department has requested U.P. RERA to instruct all the promoters of real estate projects registered in U.P. RERA to advise their buyers of the immovable property of the value of Rs. 50.00 lac and above to deduct and deposit TDS @ 1% on each payment (including advance payment) made by the buyers to the seller/developers/builders. The TDS amount is to be deposited into the Central Government account as per provisions of 194 LA which is as follows:

- (1) Any person, being a transferee, responsible for paying (other than the person referred to in section 194LA) to a resident transferor any sum by way of consideration for transfer of any immovable property (other than agricultural land), shall, at the time of credit of such sum to the account of the transferor or at the time of payment of such sum in cash or by issue of a cheque or draft or by any other mode, whichever is earlier, deduct an amount equal to one percent of such sum as income-tax thereon.
- (2) No deduction under sub-section (1) shall be made where the consideration for the transfer of an immovable property and the stamp duty value of such property, both, is less than fifty lakh rupees."

The copy of the letter no.: CIT(TDS)/KNP/Misc./Rera/2022-23/854 of Commissioner of Income Tax (TDS), Kanpur in this context is enclosed for ready reference.

Enclosure- As above


(Rajesh Kumar Tyagi)
Secretary

Copy forwarded to the following for information and necessary action:

- 1 Ms. Shumana Sen, Commissioner of Income Tax (TDS), 7/119, Radiance Town, Swaroop Nagar, Kanpur – 208002
- ✓ Assistant Director (IT), U.P. RERA for uploading the above instructions alongwith the enclosure on the webportal of U.P. RERA and on promoters' dashboard.


(Rajesh Kumar Tyagi)
Secretary

भारत सरकार
वित्त मंत्रालय
कार्यालय आयकर आयुक्त (टी. डी. एस.)
7/119, रेडियंस टाउन, स्वरूप नगर,
कानपुर - 208002



GOVERNMENT OF INDIA
MINISTRY OF FINANCE
OFFICE OF THE
COMMISSIONER OF INCOME TAX
[TDS]
7/119, RADIANCE TOWN,
SWAROOP NAGAR, KANPUR - 208002
Date: 12.07.2022

F. No. CIT (TDS)/KNP/Misc./Rera/2022-23/854

To,
The Secretary,
Uttar Pradesh Real Estate Regulatory Authority,
Navcen Bhavan, Rajya Niyojan Sansthan,
Kala Kankar House, Old Hyderabad,
Lucknow - 226007

Sir,

Sub: Tax Deduction at Source (TDS) as per the provisions of section 194IA of the I.T. Act, 1961- Advance payment regarding-

Kindly refer to the above mentioned subject.

2. In this regard, it is noticed by the undersigned that most of the buyers of the immovable property of the value of Rs. 50 Lakhs and above do not deduct TDS against the advance payment made to the developers/Builders, as required under the provisions of section 194IA of the I.T. Act, 1961.

The provisions of section 194 IA is reproduced below for ready reference :-

- (1) Any person, being a transferee, responsible for paying (other than the person referred to in section 194LA) to a resident transferor any sum by way of consideration for transfer of any immovable property (other than agricultural land), shall, at the time of credit of such sum to the account of the transferor or at the time of payment of such sum in cash or by issue of a cheque or draft or by any other mode, whichever is earlier, deduct an amount equal to one per cent of such sum as income-tax thereon.
- (2) No deduction under sub-section (1) shall be made where the consideration for the transfer of an immovable property and the stamp duty value of such property, both, is less than fifty lakh rupees."

F. c.

In view of the above, it is evident that if the value of the property exceeds Rs. 50 lakhs, then TDS @ 1% as per the provisions of section 194IA, is required to be deducted and deposited in the Central Govt. account by the buyer on each payment (including advance payment) made to the Sellers/Developers/Builders as the case may be. Therefore, you are requested to direct all the Sellers/Developers/Builders under your charge that they may advise the buyers of the immovable property to deduct and deposit TDS into the Central Govt. Account on each payment (including advance payment) made to Sellers/Developers/Builders as per the provisions of section 194IA of the Income Tax Act, 1961.

Submitted for kind consideration please.

Yours Sincerely,
(Shumana Sen)
Commissioner of Income Tax (TDS)
Kanpur

Copy to the Pr. Chief Commissioner of Income Tax, Kanpur for information.

(Shumana Sen)
Commissioner of Income Tax (TDS)
Kanpur

राजेश कुमार त्यागी
1-7 सीधे रूप
25/07/22

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