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TDS on Buying Property



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What is this new provision about?

- From **1st of June 2013**, if you are buying a property you need to deduct tax at **1%** of the consideration which you pay to seller at the time of making the payment.





Q2: When the tax is to be deducted – at the time of credit of consideration or payment of consideration?

- Tax has to be deducted either at the time of credit or payment of consideration, whichever is earlier.
- Effectively in cases involving individuals TDS would be required to be deducted at the time of payment of consideration.





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Q3: Is there any minimum payment amount prescribed for this provision to apply?

Answer:

- Yes. If and only if the Sale Value for the transfer of an immovable property is **Equal to** or **More than** 50 lakh rupees.





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Q4:When will I need to pay the tax to income tax department after deducting ?

Answer:



- Tax has to be deducted at the time of making the payment.
- But it is required to be remitted to Income tax department within **7 days of the following month in which TDS is deducted** along with statement in **Form 26QB**.



Q5:What is the penalty for delayed payment?

Answer:



- In case of delay, Buyers should pay interest @ **1.5% per month** / part of the month to the department along with TDS amount.



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Q6: Does the buyer then need to apply for TAN
(Tax deduction Account Number)?

Answer:

- The individual buyer need not apply for **TAN**.





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Q7: Does the purchaser need to file a TDS return or to issue a TDS certificate?



Answer:

- Return is not required.
- TDS certificate in Form 16B has to be issued to the seller.



Q8:How will the seller get credit for the TDS?

Answer:

- The seller would get credit for the TDS on the basis of his PAN, which is required to be mentioned in the online form.





Q9:If the seller does not have a PAN, what will happen?

Answer:

- If the seller does not have a PAN, the rate of TDS would be 20%.





Q10:What are the different types of properties that come under the definition of immovable property?

Answer:

The immovable property may be in the nature of :

- **Land**
- **Buildings**
- **Flats**





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Q11: Will TDS be applicable in case of purchase of agricultural land?

Answer:

- **No.** The deduction does not apply to purchase of agricultural land as long it is not located within municipal limits or within the specified distance from municipal limits.



Q12: If I buy a new property from a builder, will this tax still to be paid?



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Answer:

- Whether the seller is a builder or a flat owner making a subsequent sale this tax would have to be paid.





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Q13: Does this tax has anything to do with resultant capital gains?

Answer:

- This deduction has nothing to do with the quantum of capital gains.



Q14:What will happen in case the seller of the property is a non-resident?



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Answer:

- When the seller is a non-resident, these provisions would not apply, and the earlier TDS provisions applicable to purchase of property from non-residents would continue to be applicable.





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Q15: Suppose in Jan 2013 I agreed to purchase a property for Rs. 75 lakh. I made my first payment of Rs. 30 lakhs towards that in April 2013. The rest payment of Rs. 45 lakh I am going to make in July 2013. In this case will I still need to pay 1% TDS?

Answer:

- **Yes.** Though you need not to pay any tax on payments made before 1st June 2013, but for the purposes of computation of the limit of Rs. 50 lakh i.e. the total consideration, all payments including payments made before 1st June 2013 would have to be considered.



Q16: The applicability of TDS would depend on actual consideration or stamp duty valuation?

Answer:

- The applicability of TDS is only to the actual consideration specified in the transfer documents, and is not on the basis of a notional fair market value, such as a stamp duty valuation, even though such valuation may be higher.





Q17: Does the actual consideration include any other payments other than the property valuation?

- **Yes.** The consideration would include various incidental payments required to be made to the seller, such as **legal fees, contribution towards shares, payment for parking spaces** etc.





Q18:Would Stamp duty, Registration Fees or Transfer Fees be subjected to TDS?

Answer:

- **No.** Stamp duty, registration fees or transfer fees which are to borne by the purchaser would not be regarded as payments being made to the seller as consideration and hence would not be subjected to TDS.



Q19:What is the position regarding joint purchasers or joint sellers?



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Is the limit of Rs. 50 lakh to be seen vis-à-vis payment made by each purchaser to each seller, or is it a composite limit of the total price of the property?

Answer:

- Clarity is awaited here.



- Though to be on the safer side, it is advisable to deduct TDS wherever the consideration under a single agreement exceeds Rs. 50 lakh, irrespective of the number of transferors or transferees.



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Q20:How the TDS would be paid if I buy the property taking finance from a bank or housing finance company?

Answer:

- In such case you need to request the bank/finance company to pay the seller the loan amount net of TDS.
- You then pay the TDS to the government, and claim reimbursement of the TDS from the bank/finance company.



HOPE THIS WAS HELPFUL...!!!

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