



Office of the Income Tax Officer

Ward-14-(1), 4-B, Income tax Towers, A.C.Guards, Hyderabad – 500004

TELEPHONE NO:040-23425361

No.ITO.WD-14-(1)/TDS-State Govt/2013-14

Date : 21-01-2014

To

Smt. Kanakavalli,
Director Treasury & Accounts,
Hyderabad.

Madam,

Sub.: Request for co-operation in the matter of enforcing of TDS provisions of the
Income-tax Act, 1961 in the State Government Departments – Reg.

ooOoo

The revenue generated by government of India is the life line of all developmental and welfare activities. Taxes collected are mostly paid to respective states for meeting the social security and welfare measures.

Tax deduction at source (TDS) is an important and vital tool for collection of government revenue. TDS contributes about 40% of the total direct tax collections. Each year the base is widened and new areas are being brought under the TDS net. It is noticed that there are several instances of non-compliance /wrong compliance on the part of DDOs/ deductors

During the course of examination of deduction and remittance of tax deducted at source (TDS) by various State Government Departments, it is noticed that the TDS provisions of the Income-tax Act, 1961 are not being adhered to by various Government Departments. A few instances of defaults identified are brought to your notice for consideration and immediate remedial action for the current Financial Year.

1. TDS on salary not being deducted every month:

While tax has to be deducted at source every month on an average basis, it is noticed that TDS on salary is being deducted only in the last few months of the financial year. This practice is incorrect and is in violation of the TDS provisions of the Income tax Act, 1961. Due to claims being made in the last months, certain claims which are not allowable, are also being allowed by the respective DDOs.

It has come to the notice of the Undersigned that the employees of state government who have been in strike for the last 6 months (13 Districts) or so have not drawn their pay & allowances for the said period.

HI(2)
Pl. communicate
this to all DDOs
JD(PH)
JD(SP)
21/01/14

Apparently, the employees were as strike on "No work No pay" basis, this has apparently been regularized the period of absence to be treated as earned leave period by the state govt.

However, it is noticed that they are being paid salary for the said period under the nomenclature "Advance". Therefore, whatever may be the nature of such payment (Advance) (or salary) paid to the employees is liable for Tax Deducted at Source.

You are requested to issue necessary instructions to all the DDO's in your district for strict compliances of the TDS provisions. You are also requested to upload this letter in your intranet site called FTP so that the content of the letter will reach all the DDO's.

It is therefore requested to ensure that the entire balance tax liability for the current financial year 2013-14 should be deducted out of the respective salaries to be paid for the month of February'2014. This is mandatory as per the provisions of the Income tax Act, 1961, and should be complied with without fail.

2. Deduction u/s 80DDB in respect of medical treatment etc., cannot be taken into account by the DDO:

The deduction u/s 80DDB in respect of medical treatment etc., can be claimed by any person only in the Return of Income filed by him/her before the Assessing Officer by fulfilling all the conditions laid down in that Section. Therefore, **the DDO cannot consider the claim of the employee for the deduction under this section while calculating the Income-tax for the purpose of TDS remittances.**

3. Wrong claim of HRA exemption:

As per the provisions of Section 10(13A) of the Income-tax Act, 1961, read with Rule 2A of the Income-tax Rules, 1962, HRA exemption is to be restricted to the least of the following:

- Actual amount of HRA received.
- Actual Rent paid minus 10% of Basic salary.
- 40% of Basic salary (50% of Basic salary in case of places for Bombay, Calcutta, Delhi or Chennai).

Also note that –

- HRA granted to an employee who is residing in a house/flat owned by self is not exempt from Income-tax.
- The DDO should satisfy himself regarding the fulfillment of conditions by insisting on production of evidence of actual payment of rent (Rent receipt) before excluding HRA from the Total Income.
- Salaried employees drawing HRA up to Rs. 3,000/- per month will be exempted from production of rent receipt.

4. Improper claims u/s 80C:

Many DDOs are allowing the claims of the employees' u/s 80C towards savings in PF, Life Insurance Premium, NSCs, PPF, Specified Bonds etc., without obtaining any **documentary evidence of such investments being actually made**. In this connection, the DDOs may be advised to satisfy themselves about the actual deposits / subscriptions / payments made by the employees, by calling for such particulars / information as they deem necessary before allowing the deductions claimed.

5. Treatment of arrears directly credited to the Provident Fund account:

Even if the arrears of salary is credited to the **Provident Fund Account** of the employee, this arrear amount has to be taken into account as **part of salary** received during the year and Income-tax has to be calculated on it also for the purpose of TDS remittances.

6. Deduction u/s 80G towards donations:

It is noticed that some of the DDOs are allowing this deduction u/s 80G towards any donation made by the employees for charitable purposes. But, as per the Circular issued by the Central Board of Direct Taxes, generally no deduction should be allowed by the DDO from the salary income in respect of any donations made for charitable purpose. The tax relief on such donations as admissible under section 80G should be claimed by the tax payer in the return of income. However, in cases where employees make donations to the Prime Minister's National Relief Fund, the Chief Minister's Relief Fund or Lieutenant Governor's Relief Fund through their respective employers, such donations will be admissible under section 80G on the basis of certificate issued by the DDO in this behalf.

You are requested to issue necessary instructions to all the DDOs in your district for strict compliance of the TDS provisions. You are also requested to **upload this letter** in your intranet site called **FTP** so that the content of the letter will reach all the DDO's.

For any further queries in this regard, you may email us at tds14hyd@gmail.com or contact the Nodal Officer(s) on 040-2342 5361 /8985970409-ITO/89859 70735-ITI./ 89859 70521-ITI

With regards,



Yours sincerely,

(M. Madhusudhana Rao)
Income-tax Officer,
Ward-14(1), Hyderabad.

(M. MADHUSUDHANA RAO)
आयकर अधिकारी
Income Tax Officer
वार्ड-14 (1), हैदराबाद Ward-14 (1), Hyderabad

D.T.A. A.P. HYD.

Endt. No. M2/6417 /2013 Dt 21/01/2014

Copy Communicated for Information
and Necessary Action.

To,
All The Deputy Directors of
District Treasuries in the State

21/01/2014
for DTA
21/01/2014



Income Tax Department

Government of India

List of benefits available to Salaried Persons

[AY 2016-17]

S. N.	Section	Particulars	Benefits
A.	Allowances		
1.	<u>10(13A)</u>	House Rent Allowance (Sec. <u>10(13A)</u> & <u>Rule 2A</u>)	<p>Least of the following is exempt:</p> <p>a) Actual HRA Received ✓</p> <p>b) 40% of Salary (50%, if house situated in Mumbai, Calcutta, Delhi or Madras) ✓</p> <p>c) <u>Rent paid minus 10% of salary</u> ✓</p> <p>* <u>Salary = Basic + DA (if part of retirement benefit) + Turnover based Commission</u> ✓</p> <p>Note:</p> <p>i. Fully Taxable, if HRA is received by an employee who is living in his own house or if he does not pay any rent</p> <p>ii. It is mandatory for employee to report PAN of the landlord to the employer if rent paid is more than Rs. 1,00,000 [Circular No. 08 /2013 dated 10th October, 2013]. ✓</p>
2.	<u>10(14)</u>	Children Education Allowance	Up to Rs. 100 per month per child up to a maximum of 2 children is exempt
3.	<u>10(14)</u>	Hostel Expenditure Allowance	Up to Rs. 300 per month per child up to a maximum of 2 children is exempt
4.	<u>10(14)</u>	Transport Allowance granted to an employee to meet expenditure on commuting between place of residence and place of duty	Up to Rs. 1,600 per month (Rs. 3,200 per month for blind and handicapped employees) is exempt
5.	<u>Sec. 10(14)</u>	Transport Allowance to an employee working in any transport business to meet his personal expenditure during his duty performed in the course of running of such transport from one place to	<p>Amount of exemption shall be lower of following:</p> <p>a) 70% of such allowance; or</p> <p>b) Rs. 10,000 per month.</p>

HOUSE RENT ALLOWANCE Sec.10 (13A)

Objective: To claim exemption for House Rent Allowance under Sec.10 (13A).

Definition as per Income Tax Act, 1961:

any special allowance specifically granted to an assessee by his employer to meet expenditure actually incurred on payment of rent (by whatever name called) in respect of residential accommodation occupied by the assessee, to such extent as may be prescribed having regard to the area or place in which such accommodation is situate and other relevant considerations.]

[*Explanation.*—for the removal of doubts, it is hereby declared that nothing contained in this clause shall apply in a case where—

- (a) The residential accommodation occupied by the assessee is owned by him; or
- (b) The assessee has not actually incurred expenditure on payment of rent (by whatever name called) in respect of the residential accommodation occupied by him]

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Rule: Under Sec. 10(13A), an employee who is in receipt of House Rent Allowance (HRA) can claim exemption, if he does not live in his own house, and pays rent in excess of 10% of his salary for his residential accommodation.

The assessee is not entitled to receive HRA in the following cases:

- a) When the assessee stays in his own house, i.e. the property is in Assessee name.
- b) When the assessee does not pay any rent or incur any expenditure towards rent,
- c) When the assessee rent paid is less than 10% of salary.

→The exemption shall be calculated on the basis of where the accommodation is **situated**.

→If place of employment is the same for the whole year, then exemption shall be calculated for the **whole year**.

→If there is a **change in place** during the previous year, then it shall be calculated on **monthly basis**.

→Exemption should be calculated in respect of the **period** during which rental accommodation is occupied by the employee during the previous year.

Computation of taxable HRA:

Step 1: - Salary= Basic Salary + DA considered for Retirement Benefits + Commission forming part of Salary as a Fixed Percentage of Turnover of the Employee.

Step 2: - Taxable HRA:

Amount received during the financial year towards HRA

Less: Exemption u/s 10(13A) is the **least** of the following

1. Actual amount of **HRA received**
2. 50% (for Chennai, Mumbai, Kolkata and Delhi)/40% (for other places) of the Salary for the **relevant period**
3. Rent paid **Less** 10% of Salary for the relevant period.

FAQ's on HRA:

1. How to calculate HRA exemption, monthly or yearly?

HRA exemption calculation is depended on four variables as House rent allowance received, house rent paid, salary and location of the house. If all of these remains same in a year then you can calculate it on yearly basis otherwise for each set of variable, you have to do separate calculation. Suppose DA is changed then you have to calculate separate calculation.

2. I have received salary arrears of last years. For HRA exemption arrears is to be Included or not?

For HRA exemption, salary of the relevant period for which we are calculating exemption is to be taken. So arrears are not being included for HRA purposes. Salary on due basis is to be taken.

3. I have paid rent to my wife/Father. Can I claim HRA exemption?

If this is actual payment then yes you can claim rent exemption even if the rent is being paid to your family members. But remember House must be on their name or he/she must be authorized to receive rent on the property. Though the above point have no relation with HRA exemption but tax planning should be done carefully and remain within limit.

4. Whether PAN no. of landlord needs to be mentioned on rent receipt?

No, there is no such requirement under the tax law.

5. How Much Tax Exemption Do I get if I live in my own House?

NIL. If you live in your own house than HRA Exemption is not for you. HRA Tax Deduction under Section 10 (13A) is only for those who live in the rental house.

6. I am living with my parents and home is in my mother's name. How can I get tax benefits? Is there any legal way?

You can show that you are living in your parents' house as the tenant and pay them the monthly rental. In this way you can get the HRA benefit.

7. Can someone, who is working onsite India for few months every year, avail HRA against rent paid in the country other than India?

No, the HRA Exemption is applicable only if you are living on rent in India.

8. How to determine of the 40% of salary or 50% of salary whether based on family residing city or office premises located city?

What is you are working in Metro city and your family is not living in the Metro city? In this case, whether we should consider 40% of salary or 50% of salary?

You have to calculate the **HRA** based on your residing city where your office is located and where you are living in the rental house. For example if you are working in Bangalore, then **HRA** will be calculated for Bangalore only. Not in Ahmedabad where your parents are located.

9. Can HRA and housing loan both be claimed if I purchased house in one city and staying in rented house in other city?

Yes, this is possible.

10. I have my own house in Bangalore, but my office is far away from that house. If I take another house on rent near to my office & stay there & rent out my own house; will I be able to get the HRA exemption on the rent paid to my landlord. Whether the rent received will be added in my income.

Yes, you can do this legally. You can give your own house on rent and live in another rental house and get the HRA Exemption.

11.No HRA is mentioned in my salary slip, in this case what amount can I claim as HRA exemption.

Ask your HR about HRA allowance. Then and only you can claim it. There is no other loophole here.

12.For HRA Exemption what is definition of salary? Is only Basic or Basic plus DA?

It is Basic Salary and not the Basic plus DA.

13.Is exemption of HRA come under 1 lakh slot section 80C?

No. HRA is different than 1 Lakh slot of Section 80C. HRA comes under Section 10 (13A) of the Income Tax Act.

If an employee owned a house through Loan and he is also paying interest for the housing Loan. The house and office both are located in the same place. Can he/she get the following benefits

a) Housing loan principle amount

b) House Loan interest amount

c) HRA

Yes, you can claim all of the above 3 benefits. This is because you own your own house but living in the rental house so you can get all of the above 3 Income Tax Exemptions. It's really a smart move.

14.Is there any expenses are allowable for notional rent income?

Yes, 30% of the income you can deduct as the expenses

15.I have a house property, which is co-owned by me, my mom and dad. I had a home loan which i have prepaid it and closed it. Now, if i want to claim HRA in my salary, do i need to transfer my ownership or i can still claim HRA on the same house?

You are the one of the owner of the house so you are not eligible for the HRA Exemption.