

FSIA E-circular dt April 22, 2007



Dear Friends,

Some good TDS information for you.

1. TDS on Rent - pls note , it includes the Rent on Machines, Furniture

- a. It came out from a query from a FSIA member recently, --- whether I can do some tax planning on the TDS front, by bisecting the rent into 2 parts – rent on Building/Flat and the rent on the furnishings.
- b. It was interesting to advise that now the Income Tax definition of Rent includes the rents on furnishings, whether in one single contract, or in multiple
- c. Let us see the “legal language of the Act”.

[Section 194-I of the Income Tax Act. (law as amended in year 2006)

Explanation .For the purposes of this section,

[(i) Rent means any payment, by whatever name called, under any lease, sub-lease, tenancy or any other agreement or arrangement for the use of (either separately or together) any,

- (a) land; or
 - (b) building (including factory building); or
 - (c) land appurtenant to a building (including factory building); or
 - (d) machinery; or
 - (e) plant; or
 - (f) equipment; or
 - (g) furniture; or
 - (h) fittings,
- whether or not any or all of the above are owned by the payee;]

.... Thus, the rent for the fittings etc are RENT and

- 1) you have to deduct TDS on them as TDS-Rent and not as TDS-Contractor.
- 2) You cannot dissect the Rent into two parts , to avoid the TDS
- 3) Example .
 - a. Deal is for Rs. 16000 p.m. for factory shed.
 - b. Landlord asks the Rent-Factory be fixed at Rs. 9500 p.m., and balance Rs. 6500 p.m. be made as Rent-Machines, or Rent-Furniture etc. He thinks that this way, the TDS-Rent will be nil, since it is lower than the Rs.120000 p.a. ceiling, and there will be a TDS of 2% on this 6500 p.m. only.
 - c. Is he right ? NO. He is 100% wrong.

- d. The Income Tax law on this matter, was recently amended in October 2006.
 e. As per the law, irrespective whether you break them into two contracts or not, your rental is over Rs. 120000 p.a. ceiling and you have to deduct the TDS.

2. The New TDS certificates Formats

- a. **Form 16 for TDS – Salary has changed (copy attached)**
 b. **Form 16-A for TDS-all other varieties like contractor, professional, interest etc has changed (copy attached)**
 c. **Form 27-D for TCS has changed (copy attached)**

3. New TDS Rates are (for Financial Yr 2007-08)

TDS Rent – Land and Buildings

	Basic rate	Surcharge	Cess	Total
Individuals/HUF				
Less than 10 lac	15.00		0.45	15.45
more than 10 lac	15.00	1.50	0.50	17.00

Firm/Company

	Basic rate	Surcharge	Cess	Total
Less than 1 Cr	20.00		0.60	20.60
more than 1 Cr	20.00	2.00	0.66	22.66

TDS Rent – Furniture, Plant and Machinery / Cars etc (April-May 07)

	Basic rate	Surcharge	Cess	Total
		10%	3%	
Individuals/HUF				
Less than 10 lac	15.00		0.45	15.45
more than 10 lac	15.00	1.50	0.50	17.00

Firm/Company

	Basic rate	Surcharge	Cess	Total
		10%	3%	
Less than 1 Cr	20.00		0.60	20.60
more than 1 Cr	20.00	2.00	0.66	22.66

TDS Rent – Furniture, Plant & Machinery / Cars etc (Jun 07 – Mar 08)



	Basic rate	Surcharge	Cess	Total
Individuals/HUF				
Less than 10 lac	10.00		0.30	10.30
more than 10 lac	10.00	1.00	0.33	11.33

Firm/Company

Less than 1 Cr	10.00		0.30	10.30
more than 1 Cr	10.00	1.00	0.33	11.33

- a. So, all of you have to charge this new rate of TDS on future TDS deductions.
- b. Change your ERP software to charge the new Rate of TDS / TCS

For queries, suggestions and feedback , you can e-mail us at :

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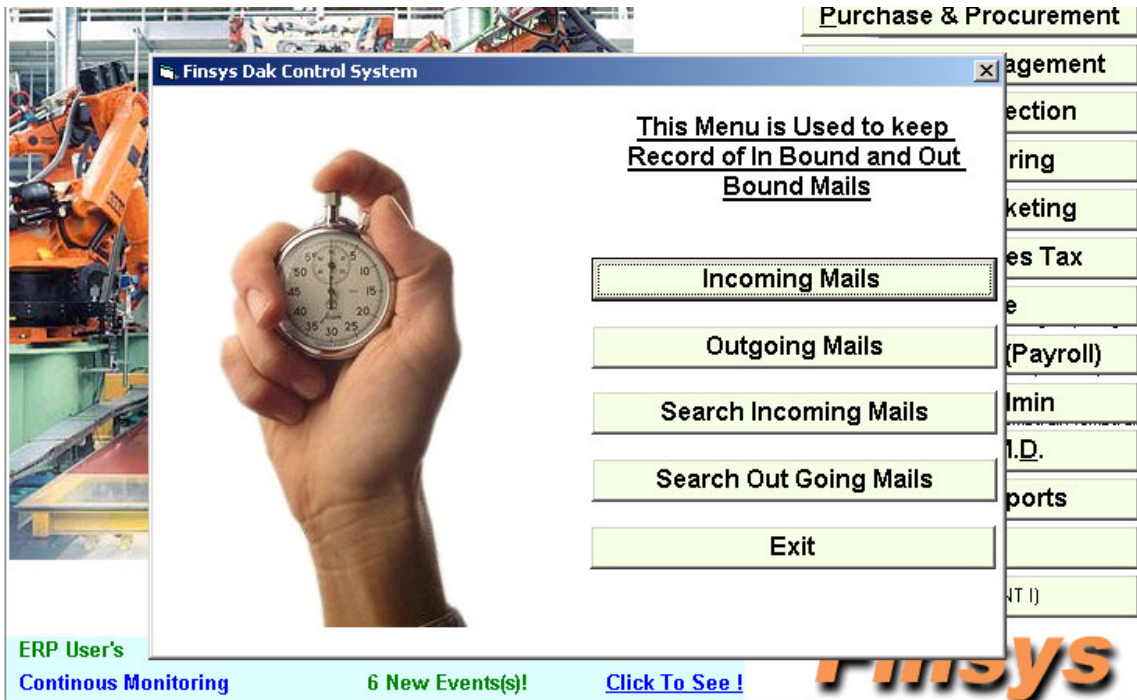
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