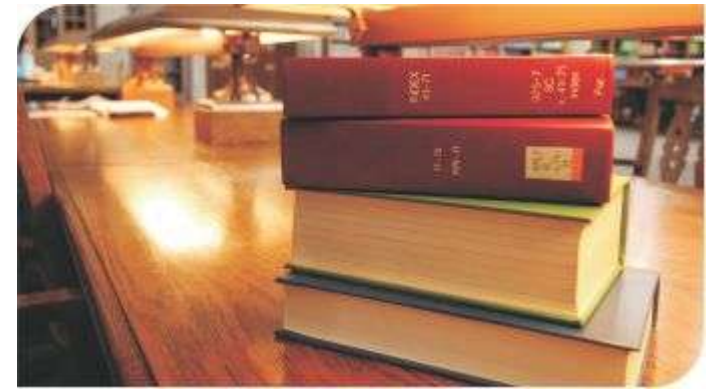


NANGIA NOW!



“Tax Regime for multi-level deduction of tax at source on Software abolished”



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In a major reprieve for the software industry, the Ministry of Finance, Government of India has done away with the complex multi-level system of Tax Deduction at Source [‘TDS’]. It was a long standing demand of the software sector which argued that the TDS regime was leading to an unsustainable model for software distributors who were already operating on very low margins. Under the existing law, TDS of 10% is levied at every level of software distribution chain right from master distributor to retailer and then to the final consumer.

The Finance Minister, Mr. Pranab Mukherjee had earlier announced that Section 194J of the Income Tax Act, 1961, which deals with fees for professional and technical services as well as royalty and non-compete fees, would be amended so as to eliminate multi-level TDS on the information technology sector. The same has now been incorporated in law via notification by the Central Board of Direct Taxes.

The Notification [No. 21/2012 dated June 13, 2012] states that no deduction of tax shall be made on payments by a person [‘the transferee’] for acquisition of software from another person, being a resident [‘the transferor’] where:

- ❖ The software is acquired in a subsequent transfer and the transferor has transferred the software without any modification; and
- ❖ Tax has been deducted under section 194J on payment for any previous transfer of such software or under section 195 on payment for any previous transfer of such software from a non-resident, and the transferee obtains a declaration from the transferor that the tax has been deducted along with the Permanent Account Number of the transferor.

The provisions shall come into effect from July 01, 2012 and is a welcome change that shall boost the consumer software product ecosystem in India.

