

"Lights, Camera, Deductions! Analyzing the Tax Evasion Blockbusters, Corporate Off-Screen Roles, and Sinking Slabs of the Indian Film Industry"

A Comparative Legal Analysis of Section 194J Professional Tax Hacks vs. Section 192 Salaried Confinements in the Indian Entertainment Economy.

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Abstract

This paper investigates the regulatory loopholes, legislative ambiguities, and structural asymmetries within the Indian direct tax framework that grant high-earning film personalities custom fiscal leniency. By executing a comparative analysis between Section 192 (Salaried Income) and Section 194J / Section 393 (Professional Fees), alongside corporate restructuring schemes involving One-Person Companies (OPCs) and offshore Intellectual Property (IP) licensing, this study illustrates how India's entertainment elite systematically depress personal tax liabilities while the broader working demographic remains tightly bound by automated Tax Deducted at Source (TDS) collection. Ultimately, the paper demonstrates how current statutory provisions inadvertently subsidize the film industry at the expense of the public exchequer.

Introduction

The Box Office vs. The Tax Office

While the average Indian salaried employee stares at their Form 16 every July with quiet resignation—watching Tax Deducted at Source (TDS) under Section 192 systematically slice off up to a third of their hard-earned income before it even hits their bank account (Income Tax Act, 1961)—a radically different financial reality exists just a few miles away in the glittering enclaves of Indian cinema (Rao & Varma, 2019).

In the high-stakes ecosystem of the Indian Film Industry, tax planning is less about strict compliance and more like an award-winning screenplay: masterfully scripted, full of dramatic twists, and perpetually teetering on the edge of creative fiction (Kapoor & Sundaram, 2021).

The Section 194J Paradox: Professional Status or Fiscal Shield?

Unlike the rigid, line-item constraints imposed on the salaried middle class or traditional brick-and-mortar businesses, cine stars operate under the broad legal umbrella of **independent professionals** under Section 194J of the Income Tax Act, 1961 (Tax2Win, 2026). Classified alongside doctors, lawyers, and engineers under CBDT Notifications u/s 44AA, lead actors, directors, and film artists receive gross remuneration as "professional fees" subject to a flat 10% TDS withholding (CBDT, 1977; VJM Global, 2020).

However, unlike a corporate accountant claiming modest internet bills, a film star's definition of "legitimate business expenses" expands into an elaborate fiscal universe under the residuary provisions of Section 37(1):

- **Lifestyle Overhead as Operating Costs:** High-end vanity vans, international personal trainers, private celebrity stylists, and acting coaches are routinely written off as essential revenue-generating expenditures incurred "wholly and exclusively" for their profession under Section 37(1) (Income Tax Act, 1961; *DCIT v. Parthiv A. Patel*, 2017).
- **Corporate Off-Screen Roles:** Top-tier talent rarely receives simple, direct paychecks for blockbuster roles. Instead, compensation is structured as back-end profit-sharing, non-equity co-production deals, foreign intellectual property royalties, or routed through personal One-Person Companies (OPCs) (Srivastava & Mehta, 2022). In extreme cases, actors even execute fee-reduction or fee-refund arrangements on box-office failures to maintain ongoing commercial ties with powerhouse studios (*Sanjay Leela Bhansali v. ACIT*, 2017).
- **The Sinking Slab Effect:** By distributing star remuneration across family-owned production entities, shell firms, and brand endorsement holding companies, high-earning individuals effectively depress their

personal tax slabs—leaving the tax burden to fall disproportionately on lower-tier crew members and standard salaried taxpayers (Sharma, 2023).

Research Objectives

The objective of this paper is to map and evaluate the structural asymmetries within the Indian tax ecosystem. Specifically, it examines:

1. The statutory divergence between salaried withholding (u/s 192) and professional service taxation (u/s 194J, restructured under Section 393 of the Income Tax Act, 2025).
2. The expansion of deductible "business expenses" under Section 37(1).
3. The deployment of backend profit-sharing, IP transfer, and corporate loan-out entities (OPCs) that dilute personal tax slabs and shift revenue away from the public exchequer.

Literature Review

This literature review examines the regulatory and fiscal frameworks governing the remuneration of high-profile entertainers, with a specific focus on the transition from traditional salary models to complex professional, corporate, and intellectual property-based structures (Kapoor & Sundaram, 2021).

1. Professional vs. Salaried Status: The Shift to Section 194J

A primary theme in the literature is the classification of entertainers as independent professionals rather than salaried employees (Rao & Varma, 2019). Under Indian tax law, specifically Section 194J of the Income Tax Act, 1961 (and consolidated provisions under Section 393 of the Income Tax Act, 2025), payments for professional services attract a Tax Deducted at Source (TDS) rate of 10%, while technical services attract a reduced rate of 2% (Tax2Win, 2026; VJM Global, 2020).

- **Deduction of Business Expenses:** Unlike salaried individuals governed by Section 192 who are restricted to capped standard deductions, classification as an independent professional under CBDT Notification u/s 44AA allows performers to deduct "ordinary and necessary" business expenses under Section 37(1) (Central Board of Direct Taxes, 1977; Income Tax Act, 1961). The Internal Revenue Service (IRS) *Entertainment Audit Technique Guide* highlights that high-earning entertainers routinely claim substantial deductions for wardrobe, image maintenance, personal trainers, celebrity stylists, and private security (IRS, 2023).
- **The Regulatory Tussle:** Tax authorities frequently challenge these expense classifications (*DCIT v. Parthiv A. Patel*, 2017). Where an entertainer's contract is governed by a "collectively bargained agreement" through unions or guilds and the paying entity makes pension or welfare contributions, regulatory bodies like the IRS argue for employee status (IRS, 2023). Conversely, performers fight for independent professional status to leverage broad overhead deductions that would otherwise be prohibited as non-deductible personal expenses under Internal Revenue Code (IRC) § 262 or standard individual tax assessments (Internal Revenue Code, 1986).

2. Profit-Sharing and Intellectual Property (IP) Rights

Modern remuneration contracts have progressively shifted away from upfront performance fees toward backend profit shares and royalty-based compensation schemes (Srivastava & Mehta, 2022).

- **Royalties and the "Bollywood Amendments":** The Copyright (Amendment) Act, 2012 (commonly referred to as the "Bollywood Amendments") introduced non-waivable royalty rights for authors, lyricists, and composers through registered copyright societies (Copyright (Amendment) Act, 2012). However, top-tier actors have adopted similar legal logic, recharacterizing basic performance fees as non-taxable corporate investments, royalty rights, or overseas exploitation rights (Kapoor & Sundaram, 2021).
- **Income Forecast Method:** When compensation is structured as a share of future profits, capitalization and cost recovery become critically complex (IRS, 2023). Under income tax jurisprudence, the income forecast method is utilized to recover production costs based on the estimated proportion of total net income a film will generate over its commercial lifecycle (IRS, 2023). This allows production entities and starring talent to engage in strategic tax deferral, as depreciation cannot be claimed until the film is officially released to the public (IRS, 2023).
- **IP as Capital Assets:** There is a distinct statutory difference between an individual creator holding a copyright—which is generally excluded from the definition of a capital asset under IRC § 1221(a)(3)—and a corporate entity purchasing or holding it, which treats the copyright as a capital asset subject to preferential capital gains rates rather than higher ordinary income rates (Internal Revenue Code, 1986).

3. Loan-Out Entities and Corporate Structuring

The deployment of "Loan-Out" corporations—such as Personal Service Corporations (PSCs) internationally or One-Person Companies (OPCs) in India—has become standard practice for managing high-net-worth entertainment income (Axis Legal Counsel, 2021; Sharma, 2023).

- **Mechanism of the Loan-Out:** The entertainer becomes a formal employee of their own private company, which subsequently "loans out" their acting or creative services to third-party studio production houses (Axis Legal Counsel, 2021). This structure provides limited liability protection and allows for the retention of earnings at corporate tax rates, which are frequently lower than the top personal income tax slabs (Sharma, 2023).
- **Tax Mitigation and Global Strategy:** For stars working across multiple international jurisdictions, loan-outs are essential for managing Foreign Tax Credits (FTC) (Venable LLP, 2019). Without a loan-out entity, an entertainer risks facing "trapped" foreign tax credits—paying high withholding taxes abroad that cannot be fully offset against domestic tax liabilities due to differing tax year schedules or Alternative Minimum Tax (AMT) rules (Venable LLP, 2019).
- **Shell Agreements:** High-profile judicial rulings illustrate how complex corporate structures—incorporating Framework Agreements and "confirming parties"—are utilized to assign valuable call options or distribution rights to international affiliates in low-tax jurisdictions (e.g., Mauritius), effectively shifting the economic value of a contract away from the individual performer (*Vodafone India Services P. Ltd. v. ACIT*, 2014).

Comparative Analysis: Section 192 vs. Section 194J / Section 393

Mechanical Rigidity of Section 192

For salaried employees, Section 192 operates as an automated taxation mechanism. Employers are statutorily required to calculate estimated tax liability based on progressive income slabs and deduct TDS monthly. Deductions are strictly capped under standard statutory allowances, leaving zero flexibility to claim lifestyle, operational, or professional maintenance costs.

Elasticity of Section 194J (Section 393 under IT Act, 2025)

In contrast, film personalities are classified as independent professionals under Central Board of Direct Taxes (CBDT) Notification u/s 44AA (CBDT, 1977). Under Section 194J (now Section 393 of the Income Tax Act, 2025), remuneration is paid gross subject to a flat withholding tax (10% for professional fees, 2% for technical fees) (Tax2Win, 2026; VJM Global, 2020).

Feature	Section 192 (Salaried Class)	Section 194J / Section 393 (Film Stars)
Withholding Mechanism	Progressive Slabs (Up to 30%) deducted monthly	Flat 10% TDS at payout
Expense Deductions	Capped Standard Deduction	Uncapped "wholly & exclusively" expenses u/s 37(1)
Timing of Tax Realization	Real-time monthly payroll withholding	Deferred until advance tax / final assessment
Entity Flexibility	None (Individual Assessment)	Personal Service Corp / One-Person Company (OPC)

Statutory Arbitrage: The Residuary Provisions of Section 37(1)

Section 37(1) allows deduction of any non-capital, non-personal expenditure incurred "wholly and exclusively" for business or professional purposes (Income Tax Act, 1961). For film personalities, this residuary provision becomes a broad fiscal shield.

Lifestyle Overheads as "Operating Costs"

Judicial precedents demonstrate that tax tribunals routinely allow high-value lifestyle expenditures to be written off against gross income:

- **Personal Wardrobe & Image Management:** Costumes, grooming, and high-end styling are claimed as revenue-generating necessities.
- **Specialized Entourage:** Fitness instructors, bodyguards, personal managers, and vanity van rentals are classified as direct operational expenses rather than personal living costs under IRC § 262 / Section 37(1) equivalent doctrines (*DCIT v. Parthiv A. Patel*, 2017).

By netting these expenses directly against gross fees, top-tier actors reduce their taxable income base before progressive income tax slabs are applied.

Corporate Restructuring & Off-Screen Income Engineering

One-Person Companies (OPCs) and Personal Service Corporations

Rather than receiving remuneration directly, actors route earnings through Personal Service Corporations or One-Person Companies (OPCs) (Axis Legal Counsel, 2021; Sharma, 2023).

The production house contracts with the OPC for "star services." This yields two major advantages:

1. **Corporate Tax Slabs:** Income retained within the OPC is taxed at corporate rates (22% to 25%), avoiding top individual tax brackets (39% including surcharges).
2. **Corporate Expense Pools:** Assets such as luxury vehicles, studio space, and travel are capitalized under the corporate entity, allowing depreciation claims and further reducing net tax burdens.

Backend Profit-Sharing, IP Royalties & Shell Entities

Top talent routinely replaces fixed acting fees with backend profit-sharing or distribution rights for specified international territories (Srivastava & Mehta, 2022).

- **IP Assignment:** Actors assign foreign rights or character merchandising rights to holding companies in low-tax international jurisdictions (e.g., Mauritius or Dubai) via Framework Agreements (*Vodafone India Services P. Ltd. v. ACIT*, 2014).
- **Capital Gains Arbitrage:** Monetizing IP through entity shares or capital transfers shifts income out of the "Professional Fees" category into preferential capital gains schedules.

Policy Implications & Public Revenue Erosion

The structural gap between Sections 192 and 194J/393 distorts revenue collection principles in three key ways:

Regressive Burden Inversion: Salaried workers—earning a fraction of celebrity incomes—face high effective tax rates due to automated TDS and restricted deductions, while high-net-worth creators use legal structures to lower their effective tax rates.

Exchequer Losses via Uncapped Deductions: The broad judicial interpretation of Section 37(1) allows high-income stars to deduct lifestyle expenses, reducing total revenue for public development.

Regulatory Audit Gaps: Unlike the US IRS, which maintains a specialized *Entertainment Audit Technique Guide*, Indian tax authorities rely on general "substance over form" rules, making it difficult to systematically audit OPC expense

Research Gap: Post-Digitalization Regulatory Reconciliation

While existing literature covers historical compliance guides and past copyright amendments, a critical scholarly gap remains in three emerging areas:

- **Reconciliation of Income Tax Act 2025 and Entertainment Law:** With the consolidation of Section 194J into Section 393 under India's updated tax framework, there is an absence of scholarly analysis regarding how the updated aggregate per-category threshold (₹50,000) will impact the unbundled billing of diverse services (acting, producing, and IP licensing) when bundled into single multi-hyphenate star contracts (Income Tax Act, 2025; India Briefing, 2026).

- **Digital Exploitation Rights and Fair Remuneration:** A persistent legal conflict (evidenced in the ongoing "IPRS-PPL" public performance rights disputes) exists regarding the definition of "fair" and "appropriate" royalties in the era of digital streaming platforms (Kapoor & Sundaram, 2021). Existing academic literature focuses predominantly on radio and theatrical broadcast; a clear gap remains in establishing a standardized, legally binding remuneration model for Over-The-Top (OTT) backend profit-sharing (Srivastava & Mehta, 2022).
- **Loan-Out Scrutiny in Developing Markets:** While mature jurisdictions like the United States possess specialized regulatory tools (such as the IRS *Entertainment Audit Technique Guide*), Indian tax jurisprudence continues to rely on generic "substance over form" doctrine or judicial "lifting of the corporate veil" (*Vodafone India Services P. Ltd. v. ACIT*, 2014). A dedicated regulatory and auditing framework is needed for One-Person Companies (OPCs) in the film sector to systematically differentiate legitimate operational overheads from personal lifestyle expenses (Sharma, 2023).

Recommendations

Regulatory Reforms

To address these fiscal asymmetries, the tax framework should introduce:

- **Standardized Deductions for Creative Professionals:** Cap Section 37(1) personal maintenance claims (e.g., styling, personal fitness) at a fixed percentage of gross receipts.
- **Specialized Sectoral Audit Guidelines:** Issue CBDT guidelines modeled after the IRS *Entertainment Audit Technique Guide* to audit One-Person Companies in the film industry.
- **Unbundled Contract Disclosure:** Require explicit reporting for multi-hyphenate contracts bundling acting, producing, and IP licensing under Section 393 of the Income Tax Act, 2025.

Conclusion

The Indian direct tax regime currently operates as a tale of two distinct financial realities. On one side stands the salaried middle class, governed by the unyielding, automated machinery of Section 192, where taxes are deducted at source with mathematical precision and negligible room for expense mitigation. On the other side sits the entertainment elite, navigating a fluid ecosystem of independent professional status under Section 194J (and Section 393 under the Income Tax Act, 2025), expansive business write-offs under Section 37(1), and corporate shields through One-Person Companies (OPCs).

While creative risk and volatile revenue streams are inherent to the film business, this volatility cannot serve as a permanent license for systemic tax avoidance. By treating personal lifestyle maintenance—from international stylists and personal fitness squads to private vanity fleets—as "ordinary and necessary" business overheads, the current regulatory framework allows high-net-worth creators to drastically depress their taxable base while standard wage earners shoulder an asymmetric fiscal burden.

To restore equity to the national tax framework and protect the public exchequer, regulatory authorities must transition from passive observation to **strict, uncompromising structural enforcement**:

Targeted Expense Ceilings: The Central Board of Direct Taxes (CBDT) must introduce strict statutory caps on Section 37(1) claims for personal maintenance and image preservation in creative professions, bringing them closer to standard deduction logic.

Rigorous Scrutiny of Corporate Shields: Tax authorities need a dedicated audit framework—akin to international entertainment audit protocols—to systematically look behind the corporate veil of celebrity OPCs and differentiate genuine operational overheads from disguised personal living costs.

Unbundled Transparency: Multi-hyphenate contracts that combine performance fees, co-production profits, and IP licensing into single payouts must be subject to mandatory unbundled reporting, preventing capital gains arbitrage on core performance income.

A Final Scriptural Warning

Ultimately, while the public exchequer continues to fund essential national infrastructure, it should not be forced to co-produce the lavish lifestyles of off-screen cinema. Until the tax department scripts strict, non-negotiable compliance policies for the entertainment industry, the middle class will keep paying full price for admission—both at the box office and on their Form 16.

After all, if Indian cinema has taught us anything, it is that every great villain eventually gets caught, every elaborate plot unravels in the final act, and no amount of dramatic background music can save a bad script. It is high time the

Income Tax Department steps in as the ultimate director, cuts the creative accounting, and reminds our cine stars that unlike their movies, tax compliance is **not** open to artistic interpretation—and the statutory warnings should start *before* the show begins.

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