

CHAPTER-1 (OVERVIEW OF TDS)

INTRODUCTION OF TAX DEDUCTED AT SOURCE

Assessee pays the tax in the assessment year on the income earned in previous year. Due to this rule the tax collection is delayed till the completion of the previous year. Even sometimes people conceal their income and the tax is not paid at all. In order to overcome these problems, government started deducted some amount of tax from the amount which is receivable by the assessee. The amount of tax so deducted is called as "TAX DEDUCTED AT SOURCE", i.e. TDS.

Tax is collected by Two models

**Deduction/collection of
Tax at source**

Advance Tax/Self-assessment tax

Duty of person Deducting Tax:

- Any person making payment shall be liable to deduct tax at source and deposit the same with government. The receipt of income gets the balance amount after deduction of tax.

No Deductions is to be made in certain cases:

- No tax is to be deducted from a certain incomes if a declaration is furnished by the payee that the tax on his estimated income of the relevant previous year would be NIL. Application to tax deduction on
 - I. Interest on securities
 - II. Dividend
 - III. Interest other than interest on securities
 - IV. National saving scheme

If the recipient gives a declaration in prescribed form to the Assessing officer that the tax on his current year income shall be nil. Any declaration under section 197A by the payee shall be valid only if it contains the PAN of the payee

Note:

- This declaration cannot be given by a company or firm.
- This declaration cannot be given by a person OTHER THAN A SENIOR CITIZEN if the aggregate of the interest incomes referred above exceeds the taxable limits even though the tax on his total income is nil.

Certificate for deduction at lower rate:

- Where tax is to be deducted at source u/s 192, 193, 194, 194A, 194C, 194D, 194G, 194H, 194I, 194J, 194LA and 195
- And if the Assessing officer, on an application made on this behalf, after being satisfied that the total income of the recipient justifies the deduction of income tax at lower rate/ or no deduction of tax, then the assessing officer shall give to him such certificate as may be appropriate.
- In such a case, the payer shall deduct income tax as per the rates specified in the certificate till such time the certificate is cancelled by assessing officer.

Requirement to Furnish Permanent Account Number:

- Any person entitled to receive any sum or amount, on which tax is deductible, shall furnish his PAN to the person responsible for deducting such tax (Deductor), failing which tax shall be deducted at the higher rates.
- Where the PAN provided to the deductor is invalid or does not belong to the deductee, it shall be deemed that the deductee has not furnished the PAN to the deductor.

Example:

Company pays rs. 10 lakhs on 10.10.2014 as professional fees to Mr. A. He has not given the PAN.

Answer:

TDS is required to be deducted @ 10% under section 194J when payment is made as a professional fee. However, since Mr. A does not furnish his PAN, then the deduction shall be @ 20%.

Time Limits For Payment of Tax :

TDS is required to be paid to the credit of the Central Government within the time limits given below:

Situation	Time limit for deposit of Tax	
When the Tax is Deducted by the Government.	TDS is deposited without Challan	Same Day
	TDS is Deposited with Challan	On or before 7 days from the end of the Month in which the deduction is made.
When tax is deducted by the person other than Government	Where the amount is credited or paid in the month of March	On or before 30th April
	In any other Case	On or before 7 days from the end of the Month in which the deduction is made.

Note:

- In the case of an office of the government, where tax has been paid to the credit of the central government without challan, the Pay & Accounts Officer or the Treasury Officer or the Drawing and Disbursing officer who is responsible for crediting such sum to the credit of the central government, shall-
 - I. Submit a statement in **Form no. 24G** within 10 Days from the end of the month to the agency authorised by the Director

General of Income Tax (Systems) in respect of Tax deducted by the deductors and reported to him for that month; and

- II. Intimate the Number (hereinafter referred to as the **BOOK IDENTIFICATION NUMBER**) generated by the agency to each of the deductors in respect to whom the sum deducted has been credited.

Time Limits For Furnishing Quarterly Returns of TDS/TCS:

The Quarterly returns of TDS and TCS have to be filled by following due date:

S.No	Date of ending of the quarter of the financial Year	Due Date for Government	Due date for other than Government Deductors
1.	30 th June	31 st July of the Financial year.	15 th July of the Financial year.
2.	30 th September	31 st October of the Financial year.	15 th October of the Financial year.
3.	31 st December	31 st January of the Financial year.	15 th January of the Financial year.
4.	31 st March	15 th May of the Financial year immediately following the financial year in which deduction is made.	15 th May of the Financial year immediately following the financial year in which deduction is made.

Time Limit for Issue of TDS Certificate:

The TDS certificate should be furnished by following due date:

Particulars	TDS on Salary	TDS on Non-Salary
Form	Form-16	Form-16A
Period	Annual	Quarterly

Due Date up to which TDS certificate should be issued	31 st May of the following Financial Year	15 Days from the due date of furnishing of TDS return i.e., 30 th July, 30 th October, 30 th January, 30 th May
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Note:

- Failure to issue TDS certificate within the time allowed attracts a penalty of Rs. 100/- per day of default. However penalty will not exceed the amount of Tax deductible.

Failure To Deduct or pay TDS:

If any person who is liable to deduct TDS does not deduct the whole or any part of the tax or after deducting fails to pay the whole or any part of the tax, then he shall be deemed to be an assessee in default in respect of the tax not so deducted or not so paid. Consequently he shall be liable to pay interest for being an assessee in default. The interest is charged as under:

- I. At 1% for every month or part of a month on the amount of such tax from the date on which tax was deductible to the date on which such tax is deducted; and
 - II. At 1.5% for every month or part of a month on the amount of such tax from the date on which such tax was deducted to the date on which such tax is actually paid,
- and such interest shall be paid before furnishing the quarterly return of TDS.

Examples:

Suppose TDS was required to be deducted on 10.10.2014 and was to be paid on 7.11.2014:

Case-1:

Assessee deducts the TDS on 10.10.2014 but pays TDS on 31.12.2014.

Answer:

Now interest shall be charged from 10.10.2014 to 31.12.2014 @ 1.5% per month i.e. for 3 months.

Case-2:

Assessee fails to deduct the TDS and deducts TDS on 31.12.2014. Assessee Pays TDS on 17.1.2015.

Answer:

- I. Interest shall be charged for 3 months @ 1% for the period 10.10.2014 to 31.12.2014, also;
- II. Interest shall be charged @ 1.5% for 1 month from 31.12.2014 to 17.1.2015.

Note:

If an assessee fails to deduct TDS; or after deduction, fails to pay the TDS, then he shall be deemed to be an assessee in default under section 200 & 221. Consequently he is liable to pay

- I. Penalty under section 221 which can be upto the amount of TDS not deducted/not paid.
- II. Interest under section 220 @ 1% p.m. from the date the tax was deductible/payable till the date of passing of an order under section 201(1).

Penalty in Respect of Quarterly Return of TDS/TCS :

1. SECTION 234E: Fee for default in Furnishing quarterly returns of TDS/TCS:

- Section 234E provides that where a person fails to deliver the quarterly returns of TDS/TCS with in the time prescribed, then he shall be liable to pay fees of Rs. 200/- for every day during which the failure continues.
- However, such fees shall not exceed the amount of TDS/TCS deductible/collectible in the quarterly returns.
- The fees under section 234E shall be paid before furnishing the quarterly returns of TDS/TCS.

2. SECTION 271H: Penalty for incorrect information or failure to furnish statements, etc.

- This section levies a penalty for delay in filing quarterly returns of TDS/TCS or furnishing incorrect information in the said returns.

- The penalty shall be a minimum amount of Rs. 10,000 and it can extend upto Rs. 100,000.
- The above penalty is mandatory and cannot be waived.