

TDS Seminar for Residents Welfare Associations



27th July 2018

What is TDS?

- Mode of quick and efficient collection of taxes
- Tax deducted at the point of generation of income
- Tax deducted by the payer & remitted to Government on behalf of the payee
- Provisions of TDS are applicable to payments such as:
 - Salary,
 - Interest,
 - Commission,
 - Brokerage,
 - Professional fees,
 - Royalty,
 - Contract payments, etc.

TDS Provisions in the Income Tax Act



- Chapter XVII of the Income Tax Act
- Sections 190 to 206CA : laws & procedures for TDS & TCS

Payments where TDS is applicable (illustrative)

- Salary (Section 192)
- Payments to contractors and sub-contractors (Section 194C)
- Rent (Section 194I)
- Payment of rent by certain individuals and HUF (Section 194IB)
- Fee for professional or technical services (Section 194J)

Salary (S. 192)

Who is the payer	Employer
Who is the recipient	Employee
Payment covered	Taxable salary of the employee
At what time TDS to be deducted	At the time of payment
Maximum amount which can be paid without tax deduction	As per slabs - Rs. 2.5 lakhs or Rs. 3 lakhs or Rs. 5 lakhs, as the case may be
Rate at which TDS to be deducted	Slab rates as applicable
How to get the payment without tax deduction or with lower tax deduction	The employee can make application to the Assessing Officer in Form No. 13 to get certificate of lower deduction/ no deduction

What is “salary”

- Remuneration received by or accruing to an individual for service rendered as a result of an express or implied contract
- Inclusive, but not exhaustive definition of salary

What is “salary”

As per sec. 17(1), salary includes therein

1. Wages
2. Annuity or pension
3. Gratuity
4. Fees, commission, perquisites or profits in lieu of salary
5. Advance salary
6. Receipt from provident fund
7. Contribution of employer to a recognised provident fund in excess of prescribed limit
8. Leave encashment
9. Compensation as a result of variation of service contract etc.
10. Government contribution to a pension scheme

Payments to Contractors (S. 194C)

Who is the payer	Specified person making contractual payment
Who is the recipient	A resident person
Rate of TDS	<ul style="list-style-type: none">•1% if payee is individual or HUF•2% if payee is not Individual or HUF
Payment Covered	Consideration for any Work Contract
At what time TDS has to be deducted	At the time of payment or at the time of credit , whichever is earlier
Maximum amount payable without tax deduction	If a single payment exceeds Rs. 30,000/- or if the aggregate payment exceed Rs. 1 lakh p.a.
How to get the payment without tax deduction or with lower tax deduction	The recipient can make application to the Assessing Officer in Form No. 13

Meaning of “Work”

- advertising;
- broadcasting and telecasting including production of programmes for such broadcasting or telecasting;
- carriage of goods or passengers by any mode of transport other than by railways;
- catering;
- manufacturing or supplying a product according to the requirement or specification of a customer by using material purchased from such customer, but does not include manufacturing or supplying a product according to the requirement or specification of a customer by using material purchased from a person, other than such customer

Rent (S. 194I)

Who is the payer	Any person paying rent (not being indiv./HUF whose books of A/c are not required to be audited u/s 44AB in the immediate P.Y.)
Who is the recipient	A resident person
Payment covered	Rent
At what time TDS to be deducted	At the time of payment or credit, whichever is earlier
Maximum amount payable without tax deduction	Rs. 1.8 lakhs (aggregate rent paid during FY) No TDS if payee is govt or local authority, or business trust being a Real Estate Investment Trust (REIT)
Rate at which TDS to be deducted	10% (rent of land, building or furniture) 2% (rent of plant, machinery or equipment) (if no PAN @ 20%)
How to get the payment without tax deduction or with lower tax deduction	The recipient can make application to the Assessing Officer in Form No. 13

Meaning of “Rent”

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 (incl. factory building); or
- (d) machinery; or
- (e) plant; or
- (f) equipment or
- (g) furniture; or
- (h) fittings,

Payment of rent by certain individuals and HUF (S. 194IB) (w.e.f 1.6.2017)

Who is the payer	Any person being an individual or HUF (other than those covered u/s 44AB)
Who is the recipient	Any person resident in India
Payment covered	Rent for the use of any land or building or both
At what time TDS to be deducted	At the time of payment or at the time of credit, whichever is earlier
Maximum amount which can be paid without tax deduction	Rs.50,000 (amount of rent paid for a month or part of a month)
Rate at which TDS to be deducted	5%

Fee for Professional or Technical Services (S. 194J)

Who is the payer	Any person paying professional charges (not being indiv/HUF whose books of A/c are not required to be audited u/s 44AB in the immediate P.Y.)
Who is the recipient	A resident person
Payment covered	Professional services, technical services, Royalty
At what time TDS to be deducted	At the time of payment or credit, whichever is earlier
Maximum amount which can be paid without tax deduction	Rs.30,000 (aggregate in a FY)
Rate at which TDS to be deducted	2% (if payee engaged exclusively in call centre business) 10% (others)
Is it possible to get the payment without tax deduction or with lower tax deduction	The recipient can make application to the Assessing Officer in Form No. 13

Meaning of “Professional Services”

- services rendered by a person in the course of carrying on legal, medical, engineering or architectural profession or accountancy or technical consultancy or interior decoration or advertising or such other profession

Meaning of Fees for Technical Services

- any consideration (including any lump sum consideration) for rendering of any managerial, technical or consultancy services (including services of technical or other personnel)
- but does not include consideration for any construction, assembly, mining or like project undertaken by the recipient

When TDS to be deposited in the Govt. account

In case of Government deductors	<ul style="list-style-type: none">•On the same day when tax is paid without production of IT challan•Govt. deductors shall transfer the TDS through book adjustment
In case of others	Within 7 days from end of the month, when tax paid is accompanied by an IT Challan

TDS Defaults

1. **Failure to deduct** the whole or part of the Tax at source (non-deduction, short deduction or delay in deduction)
2. **Failure to deposit** whole or part of the TDS (non-deposit, short deposit or late deposit)
3. **Failure to apply for TAN** within the prescribed time limit **or failure to quote TAN** on allotment as required under section 203A.
4. **Failure to furnish TDS returns or TDS certificates** or to deliver or cause to be delivered a copy of declaration in form no. 15H/15G/27C/copy of quarterly statement, in due time
5. **Failure to mention the PAN of the deductee** in all quarterly statements & certificates furnished

Consequences of TDS Defaults

An assessee shall be deemed to be in default in respect of :

- Non deduction of tax at source
- Non payment, in whole or in part, of the tax deducted

Consequences:

- Passing Order u/s 201(1)
- Charging Interest u/s 201(1A)
- Levy of penalty u/s 271C

Interest

Section	Nature of Default	Interest
201 (1A)	Non-deduction of tax at source, either in whole or part. After deduction, non payment of tax, either in whole or part. Non-payment of tax u/s 192(1A).	<ul style="list-style-type: none">• simple interest @ 1% per month from the date on which tax was deductible to the date on which tax is actually deducted• @1.5% per month from the date on which tax was deducted to the date on which tax is actually paid

Penalty

Section	Nature of Default	Penalty
271C	Failure to deduct the whole or any part of tax at source	Sum equal to the amount of tax which was failed to be deducted
272B	Failure to quote PAN u/s 139A	Rs. 10,000
272BB	Failure to apply for TAN or not quoting TAN	Rs. 10,000
271H	Failure to file TDS/TCS returns incl. quarterly statements or furnishes incorrect information	Rs. 10,000 to Rs. 1 lakh
272A(2)(c)	Failure/Delay in filing of TDS returns	Rs.100 per day during which the failure continues, not exceeding amount of tax deductible
272A(2)(g)	Failure to issue TDS certificates	Rs. 100 per day of default, not exceeding amount of tax deductible
272A(2)	Failure to deliver declaration in form 15G/H	Rs. 100 for every day of default, not exceeding amount of tax deductible
271 CA	Failure to collect the whole or any part of tax at source (TCS)	Sum equal to the amount of tax which he failed to collect

Prosecution

Section	Nature of Default	Prosecution
276B	Failure to pay TDS	Punishable with rigorous imprisonment for minimum 3 months , maximum 7 years and with fine (3-7)
276BB	Failure to pay TCS	Punishable with rigorous imprisonment for minimum 3 months , maximum 7 years and with fine (3-7)

Levy of fee u/S. 234E

- Failure to file TDS/TCS quarterly statements shall be liable for a fee of **Rs.200 per day** of default and shall not exceed the amount of tax deductible or collectible. The fee shall be paid before delivering the quarterly statements

Thank you

