ADVANCE - TAX, TDS & TCS

By

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TDS OR TEDIOUS
SOLUTION..
Scope of presentation

- Scope of Adv.Tax & TDS provisions
- Rates of TDS
- Due-dates
- Issues
- Consequences of default
- Circulars Case laws
Objectives

• Faster Recovery of Tax Dues
• Prevention of Tax Evasion
• Regular Cash Inflow
• Widening of Tax Base
• Pay as you Earn
• Easy collection
section 208, every person (whether corporate/Non-corporate assessee) whose estimated tax liability for the year is Rs. 10,000 or more, shall pay his tax in advance, in the form of “advance tax”.

The incomes includes all the incomes expected during the financial year including the lottery, winning from horse race etc.
Not Liable for Adv.tax

- Presumptive taxation scheme of section 44AD will not be liable to pay advance tax in respect of business
- A resident senior citizen (i.e., an individual of the age of 60 years or above during the relevant financial year) not having any income from business or profession
How to calculate Advance Tax

• Take all the Estimated income to be earned during the relevant P.Y. and calculate the tax as per the rate Applicable AY including surcharge and edu.cess

• Deduct TDS /TCS if any

• Allow all the exemption, rebate, relief u/s 90/91/90A, MAT/Amnt credit etc.
Due dates of installments

- **Company Assessee**
  - By 15\textsuperscript{th} of June 15\% of Adv. tax
  - By 15\textsuperscript{th} of Sept. 45\% of Adv. tax
  - By 15\textsuperscript{th} of Dec. 75\% of Adv. tax
  - By 15\textsuperscript{th} of March 100\% of Adv. Tax

- **Non-corporate Assessee**
  - By 15\textsuperscript{th} of Sept. 30\% of Adv. tax
  - By 15\textsuperscript{th} of Dec. 60\% of Adv. tax
  - By 15\textsuperscript{th} of March 100\% of Adv. Tax
Change of estimated Tax

- After making payment of first/second installment of advance tax, if there is a change in the tax liability, then the taxpayer can revise the quantum of advance tax in the remaining installment(s) and pay the tax as per revised estimates.
• Assessing Officer shall send notice to pay advance tax, if the taxpayer’s estimate is lower than the estimate of the Assessing Officer, The taxpayer can submit intimation in Form No. 28A to the Assessing Officer his own estimate of current income/advance tax and pay tax accordingly.
Consequence for Non-payment of Advance tax

• Interest U/s 234B if not paid at least 90% of the assessed tax
• Interest U/s 234C if different installments are not paid within due dates
Interest u/s 234B

• If Assessee has not paid at least 90% of the assessed tax/not paid at all during the py
• Interest @1% simple interest on the defaulting amount
• Period of Int. to be calculated from 1st april of AY till date of determination of Total income u/s 143(1)/Regular Asst.
Interest u/s 234C

• Non-payment of Different Installment as per % for diff. qtr and interest @1% for pm or part of the month on the defaulting amount and tax to be calculated ignoring fraction

• Company Assessee
  – By 15\textsuperscript{th} of June 15\% of Adv. Tax 3 Months
  – By 15\textsuperscript{th} of Sept 45\% of Adv. Tax 3 Months
  – By 15\textsuperscript{th} of Dec. 75\% of Adv. Tax 3 Months
  – By 15\textsuperscript{th} of March 100\% of Adv. Tax 1 month

• Non-corporate Assessee
  – By 15\textsuperscript{th} of Sept 30\% of Adv. Tax 3 Months
  – By 15\textsuperscript{th} of Dec. 60\% of Adv. Tax 3 Months
  – By 15\textsuperscript{th} of March 100\% of Adv. Tax 1 month
<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Tax on total income</td>
<td>xxxx</td>
</tr>
<tr>
<td>Less:- TDS/TCS</td>
<td>xxxx</td>
</tr>
<tr>
<td>Less: Relief 90/91/90A</td>
<td>xxxx</td>
</tr>
<tr>
<td>Mat/AMT credit 115JD/115JAA</td>
<td>xxxx</td>
</tr>
<tr>
<td>Assessed tax</td>
<td>xxxx</td>
</tr>
</tbody>
</table>
No interest

• If there is a short payment of tax due to casual income like lottery/Gambling income and capital gain but tax has paid before end of the financial year, no int u/s 234C

• If due date is a public holiday, tax can be paid on the next working day

• Tax payer can make e-payment through net banking facility or credit/debit card

• Tax can be paid from other person Account stating his PAN
Theme of TDS

• Responsibility is upon the payer to deduct certain amount while making certain payments or giving credit to the account of payee.

• Various payment covered under sec.192 to 196 of the Income Tax Act.

• Rate of tax has been prescribed in every finance Act for different nature of payment.
STEPS FOR TDS

1. Deductor needs to obtain TAN.
2. Deduct TDS on certain Payments.
3. Deposit TDS by 07th of next month.
4. TDS return to be filed quarterly.
5. Generation and Issuance of Form 16A/16.
CONSEQUENCES FOR NON-DEDUCTION

- Raising of demand u/s. 201(1) of the Act.
- Charging of Interest u/s. 201(1A) of the Act.
- Levying penalty u/s. 271C of the Act upto the amount of tax in default
- Levying of penalty u/s. 221 of the Act for non payment of demand raised.
- Prosecution u/s.276B of the Act involving rigorous imprisonment upto years with fine.
Penalty u/s. 272BB of the Act for failure to apply for TAN or non-quoting thereof.

Penalty u/s. 272A (2)(k) of the Act for late / non filing of TDS returns. (Not applicable from 1st July 2012)

From 1st July, 2012

Fee U/s 234E for late filing of TDS Statement:

Penalty u/s. 271H for late filing or non- filing TDS statement
## Effects of Evasion of TDS (Sec 201)

<table>
<thead>
<tr>
<th>Sr. No.</th>
<th>Reasons</th>
<th>Effects</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Non deduction of TDS</td>
<td>The expenditure for which TDS to be deducted gets</td>
</tr>
<tr>
<td></td>
<td></td>
<td>DISALLOWED &amp; penal interest @1% for every month or part of month from</td>
</tr>
<tr>
<td></td>
<td></td>
<td>the date on which such tax was deductible to the date of deduction</td>
</tr>
<tr>
<td>2</td>
<td>Non payment of TDS</td>
<td>The expenditure for which TDS deducted but not paid gets disallowed</td>
</tr>
<tr>
<td>3</td>
<td>Less deduction of TDS</td>
<td>The amount less deducted is required to be paid by the deduct or along</td>
</tr>
<tr>
<td></td>
<td>with penalty</td>
<td></td>
</tr>
<tr>
<td>4</td>
<td>Late Payment of TDS</td>
<td>The deductors should have to pay penal interest @1.5% for every month</td>
</tr>
<tr>
<td></td>
<td></td>
<td>or part of month from date of deduction to the date of payment.</td>
</tr>
</tbody>
</table>

After deducting not paying also leads to a charge being credited on the assets of the payer.
Role of the PAN/TAN in TDS

• If tax payer don't furnish PAN to the deducter, TDS rate is Normal rate or 20% w.e. is higher as per 206AA. However incase of premature withdrawal of Pf, TDS rate is MMR(34.608%)
• Higher rate is not Applicable even if no PAN is furnished under DTAA and payment of int.on long term Bond to the non-resident
• Assesse is required to make application with in 1 month from the date of deduction of Tds/Tcs in form no 49B
• TAN (Tax Deduction/Collection Account number) shall be allotted by the department
• TAN is required to quote in all challan at the time of payment, filling of Return and all other documents.
Rate of TDS

- The rate of TDS is depend upon nature of payments covered u/s 192 to 194LD as the case subject to submission of valid PAN
- The payment may be made to the resident or Non-resident
- Payment to resident is without S/c & Edu.cess
- Payment to Non-resident and foreign Co,TDS rate is with surcharge if payment exceeds 1cr,plus education cess
## Payments covered under TDS

<table>
<thead>
<tr>
<th>Type of Payment</th>
<th>Section</th>
<th>Exemption limit</th>
<th>Rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>Salary</td>
<td>192</td>
<td>As per IT</td>
<td>Average Rate of Tax</td>
</tr>
<tr>
<td>Interest on Securities</td>
<td>193</td>
<td>5,000</td>
<td>10</td>
</tr>
<tr>
<td>Dividend</td>
<td>194</td>
<td>2,500</td>
<td>10</td>
</tr>
<tr>
<td>Interest other than Interest on Securities</td>
<td>194A</td>
<td>Banks : 10,000</td>
<td>10</td>
</tr>
<tr>
<td>Winnings from Lottery or Crossword Puzzles</td>
<td>194B</td>
<td>10,000</td>
<td>30</td>
</tr>
</tbody>
</table>
## Payments covered under TDS (Cont....)

<table>
<thead>
<tr>
<th>Type of Payment</th>
<th>Section</th>
<th>Exemption limit</th>
<th>Rate (%)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Winnings from Horse Race</td>
<td>194BB</td>
<td>5,000</td>
<td>30</td>
</tr>
<tr>
<td>Payments to Contractors and sub-contractors</td>
<td>194C</td>
<td>Per 30,000 Individuals/ 75,000 HUF</td>
<td>1</td>
</tr>
<tr>
<td>Insurance Commission</td>
<td>194D</td>
<td>20,000</td>
<td>10</td>
</tr>
<tr>
<td>Payment of ins.policy</td>
<td>194DA</td>
<td>100000</td>
<td>2%</td>
</tr>
</tbody>
</table>
## Payments covered under TDS (Cont....)

<table>
<thead>
<tr>
<th>Type of Payment</th>
<th>Section</th>
<th>Exemption</th>
<th>Rate (%)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Payments to Non-resident Sportsmen or Sports Associations</td>
<td>194E</td>
<td>-</td>
<td>20</td>
</tr>
<tr>
<td>Payments in respect of Deposits under National Savings Scheme etc.</td>
<td>194EE</td>
<td>2,500</td>
<td>20</td>
</tr>
<tr>
<td>Repurchase of units by Mutual Fund</td>
<td>194F</td>
<td>-</td>
<td>20</td>
</tr>
<tr>
<td>Commission on sale of Lottery Tickets</td>
<td>194G</td>
<td>1,000</td>
<td>10</td>
</tr>
<tr>
<td>Commission or Brokerage</td>
<td>194H</td>
<td>5,000</td>
<td>10</td>
</tr>
</tbody>
</table>
## Payments covered under TDS (Cont....)

<table>
<thead>
<tr>
<th>Type of Payment</th>
<th>Section</th>
<th>Exemption</th>
<th>Rate (%)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Rent</td>
<td></td>
<td></td>
<td>limit</td>
</tr>
<tr>
<td></td>
<td>194-I</td>
<td>1,80,000</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Plant &amp;</td>
<td>2</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Machinery</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Land Building</td>
<td>10</td>
<td></td>
</tr>
<tr>
<td>Purchase of Property</td>
<td>194-IA</td>
<td>Less than 50 lacs</td>
<td>1%</td>
</tr>
<tr>
<td>Fees for Professional or Technical Services</td>
<td>194J</td>
<td>30,000</td>
<td>10</td>
</tr>
<tr>
<td>Payment of Compensation on Compulsory Acquisition of Immovable Property</td>
<td>194LA</td>
<td>2,00,000</td>
<td>10</td>
</tr>
<tr>
<td>Interest from Infrastructure</td>
<td>194LB</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Debt Fund to Non-residents</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
## Payments covered under TDS (Cont....)

<table>
<thead>
<tr>
<th>Type of Payment</th>
<th>Section</th>
<th>Exemption limit</th>
<th>Rate (%)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Interest from Indian Company to Non-residents</td>
<td>194LC</td>
<td>-</td>
<td>5</td>
</tr>
<tr>
<td>for foreign currency approved loans/long term bonds</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Other Payments to Non-residents</td>
<td>195</td>
<td>-</td>
<td>Different rates for different payments</td>
</tr>
</tbody>
</table>

# Surcharge & Cess on TDS (AY 2016-17)

<table>
<thead>
<tr>
<th>Type of Payment</th>
<th>Surcharge</th>
<th>Education Cess (3%)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Salary (exceeding 1 cr)</td>
<td>12%</td>
<td>Yes</td>
</tr>
<tr>
<td>Other Payments to Residents</td>
<td>No</td>
<td>No</td>
</tr>
<tr>
<td>Other Payments to Foreign Co.</td>
<td>No</td>
<td>Yes</td>
</tr>
<tr>
<td>(Payment up to 1 cr.)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Other Payments to Foreign Co.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>- Payment exceeds 1 cr.</td>
<td>2%</td>
<td>Yes</td>
</tr>
<tr>
<td>- Payment exceeds 10 cr.</td>
<td>5%</td>
<td></td>
</tr>
<tr>
<td>Payments to Other Non-residents</td>
<td>12%</td>
<td>Yes</td>
</tr>
<tr>
<td>(Payment exceeds 1 cr.)</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
Basic Principles of TDS

• Deducted on Payment or Credit.
• Credit to Suspense etc.
• Applicable on Full Amount. (Circular 715 of 8-8-95)
• Excluding Service Tax in bill.
• Circular 4/28-4-08 & 1/13-1-14.
• Different Sections : Different Rates.
## Duties of Deductor (Sec 200)

<table>
<thead>
<tr>
<th>Deposit TDS by</th>
<th>File Quarterly TDS</th>
</tr>
</thead>
<tbody>
<tr>
<td>due dates.</td>
<td>Statements.</td>
</tr>
</tbody>
</table>
Procedure of deposit

- Government Deductors:
  - Transfer Voucher / **Challan**.
- Others: **Challan**.
- Challan 281 for all types of TDS.
- Separate challan: Cos & other parties.
- **E-payment Mandatory**:
- Cos & Tax Audit cases. (Rule 125)
Due dates of Deposit

- Govt: - On the same day of deduction without challan. If accompanied with challan on or before 7 days from the end of the month in which it is deducted.
- Non-govt office: - within 7 days from the end of the month in which it is deducted except March. If paid or credited in the month of March to be deposited by 30th April.
- Tds U/S 194IA to be deposited within 7 days from the last date of the month.
- With the Approval of Joint Commissioner, TDS can be deposited quarterly for 192, 194A, 194D, 194H
The payer will not deduct tax if payee furnishes a certificate from ITO for non-deduction of tax or deduction at reduced rate then the appropriate rate.

The recipient must have valid PAN.

The payee shall request to the ITO in specific form to get the certificate.

In case of certain payments like interest, dividend, rent, professional fees etc. up to certain amount no TDS is required to be deducted.
The declaration by the recipient u/s 197A can be furnished if total income does not exceed the basic exemption limit, in 15G and the senior citizen can furnish declaration 15H.

It is applicable to the resident individual only and total income is nil u/s 192A, 193, 194, 194A, 194DA and 194EE.
No TDS IF PAID TO Govt./RBI /Certain Corporation

- Central Govt./State Govt
- Reserve Bank of India
- A statutory corporation whose income is exempted from tax
- A mutual fund
Issue of certificate to recipient

- Form no 16 :- Salary Employees by 31\textsuperscript{st} may
- Form no 16A/27D :- Payment of other than salary ,on or before 30\textsuperscript{th} july,30\textsuperscript{th} oct,30\textsuperscript{th} Jan and may 30 for last quarter.
- Form no 16B-For TDS under 194-IAwith in 15days of furnishing challan
Time limit for payment of TDS with Govt.

- When payee is Govt-Tax to be deposited on the same day & certificate is to be issued within 30 days from close of F.Y. or within 1 month from the date of deduction.
- Tax deducted by other than Govt.
- In case of salary June 15, Sept 15, Dec 15 & March 15 certificate to be issued within 14 days from date of payment.
- Payments covered under sec.194A, 194D & 194H, by July 15, Oct 15, Jan 15 and April 15 certificate to be issued within 14 days from the date of payment.
- Tds on other than salary credited at the end of the Year
- With in 2 months and one week from last date of accounting year.
Filling of Quarterly Return

- Salary – form 24Q with in 15 days from end of quarter except march quarter wh
- 26Q :- payment other than with in 15 days from end of quarter
- 26QB:- Tax deduction under 194-IA
- 27Q :-Payment to Non-resident with in 14 days from end of quarter
Penalty for quoting wrong TAN/Non-deduction of TDS

- **271C** failure to deduct TDS – Penalty to the extent of tax not deducted by the payer
- **271CA**: Failure to collect at sources - 100% of tax not so collected
- **272BB(1)**-Non compliance with the provision of TAN- Min. Rs10000
- **272BB(1A)**-Failure to quote TAN/TCAN- Min. Rs 10000
THANK YOU