

# Taxation On The Interest On Debentures In India



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**BRIEF OF THE INTEREST ON DEBENTURES:** When the businesses need to raise funds for a/several specific objectives, they issue debentures like Convertible and Non-Convertible debentures with a fixed coupon rate and a fixed maturity period. It is a financial instrument or financial asset where the investors invest their funds to get a fixed rate of interest. Investors can purchase NCD through Public Offerings or Private Placement. NCDs are initially issued by the listed entities in the Stock Exchange and later, the same will be traded in the Secondary Market.

**IMPORTANT FEATURES OF NCD:** A. Investors can purchase debentures through Public Offerings or Private Placement.

B. Debentures may be Secured or Unsecured. Secured NCD issues are backed by the company's assets and if the company fails to make payments on time, investors are entitled to recover their money by selling off the assets of the company. But, in case of Un-Secured NCD issues, this option is not eligible.

C. Interest receivable from Debentures is taxable under the head of "Income from other sources".

## Taxation On The Interest On Debentures In India For Resident Investors-Before And After The Finance Act,2023

### *Before The Finance Act, 2023*

1. As per the clause (ix) of the Proviso to Section 193 of the Income Tax Act, 1961, no tax shall be deducted

on interest payable on any security issued by a company to a resident payee where such security is in Demat Form and is listed on a recognized stock exchange in India in accordance with the Securities Contracts (Regulation)Act,1956.

2. No TDS was deducted on interest payable to the resident payee.

### *After The Finance Act, 2023*

1. As per the amendment issued by the Finance Act,2023, the clause(ix) of the Proviso to Section 193 of the Income Tax Act,1961 is omitted with effect from 01-04-2023 and TDS is to be deducted w.e.f. 1st April, 2023 on interest payable to the resident payee.
2. TDS @10% is deducted on interest payable to the resident payee.

Note- For the following cases, TDS will be deducted @20% instead of 10%-

A. Investors who do not have a valid PAN/ have not registered their valid PAN details in their Demat account/with the company/ Registrar and Transfer Agent/ Depository Participant.

B. Investors who are classified as Specified Persons under Section 206AB.



**NO TDS FOR THE FOLLOWING CASES-**

No tax shall be deducted in the following cases where the Residential Investors (individual, HUF, Trust, Mutual Funds etc.) will fall under the following categories:

1. Individual/HUF has submitted the valid Form 15G/ Form 15H.
2. Any interest payable to the LIC established under the Life Insurance Corporation Act, 1956-refer Section 193(vi) in respect of any securities owned by it or in which it has full beneficial interest.
3. Any interest payable to the General Insurance Corporation of India-refer Section 193(vii).
4. Any interest payable to any other insurer in respect

of any securities owned by it or in which it has full beneficial interest-refer Section 193(viii).

5. Any interest payable to a business trust –refer to Section 193(ix)substituted by the Finance Act, 2023.
6. Any income received by the Board of Trustee constituted under the Employees’ Provident Funds and Miscellaneous Provisions Act,1948-refer to Section 10(25)(v)(a).
7. Any income of ESI Fund set up under the Provision of ESI Act, 1948.
8. Any income received by any person for or on behalf of the New Pension System Trust established under the Provision of the Indian Trusts Act, 1882 etc.

**Format For Exemption From Tds On Interest Or Lower Tds Deduction**

Date:

TO WHOMSOEVER IT MAY CONCERN

Dear Sir/Madam,

Sub: Declaration with regards to the Exemption from TDS or Lower TDS on Interest Income of NCDs for FY 2023-2024.

For the purpose of determination of Income-tax TDS liability under Income Tax Act 1961, we hereby certify as follows:

Nature of information	Details
Name of the Bond/Debenture holder with ISIN	
Status (Mutual Fund/Insurance/ Others)	
Contact number	
PAN	
Registration number of the certificate obtained from IRDA /SEBI /Other Regulator as a supporting document for exemption from TDS on interest income on NCDs.	
Specified Person(Y/N) under Section 206AB of the Income Tax Act	
Nature of Business (Mutual Fund/Insurance/Others)	

In this regard, we have enclosed the certificate of registration with IRDA / SEBI /Any other Regulatory Body as applicable



for TDS Exemption from the Interest Income from NCDs.

In this connection, we also certify that the above made declarations applies to all DP ID & Client ID linked with PAN.....

The declaration furnished herewith, will be valid for the current financial year i.e., F.Y. 2023-2024 and all the financial years henceforth, till further communicated or till any further amendments in the Finance Act, 2023.

In case, the above declaration turns out to be in-accurate or untrue, we undertake to reimburse the applicable tax, interest and consequential penalty charged or levied to the company in respect of non-deduction of TDS.

For: (Name of Bondholders)

Authorized Signatory

Name and Designation:

**Mandatory Documents enclosed-1. PAN and 2. Relevant Certificate for exemption from TDS OR Lower Deduction of TDS.**

### Taxation On The Interest On Debentures In India For Non-Resident Investors-Before And After The Finance Act,2023

- Section 115A of the Income Tax Act,1961(the Act) is for the taxability of the interest income earned by the non-residents (including interest income on securities). The interest income on securities can be earned by the Foreign Portfolio Investors (FPIs) or Foreign Institutional Investors (FIIs) or Qualified Foreign Investors (QFIs) and Section 115AD of the Income Tax Act,1961 deals with the taxability of the interest earned by FPIs, FIIs and QFIs.
- A concessional rate of tax was introduced in Section 115A and 115AD and withholding taxes were effective under Section 194LC and Section 194LD of the Act.
- Section 194LC of the Act allowed the concessional rate of TDS@5% on certain interest income receivable by the non-resident including interest on rupee-denominated bonds.

- Section 194LD of the Act allowed the concessional rate of TDS@5% when FPIs, FIIs and QFIs earn interest income on rupee-denominated bonds of the Indian company and government securities.

Here, Section 194LC and Section 194LD are very important Sections of the Income Tax Act, 1961 and both sections are summarized hereunder:

Particulars	Section 194LC	Section 194LD
Section For	Interest on Foreign Currency Loan including Rupee denominated bond paid by Indian Company.	Interest on Rupee Denominated Bond or Government Security payable to FIIs/FPIs or QFIs.
Inserted date	01.07.2012	01.06.2013
Payer	Specified Company (means Indian Company), Business Trust	Any Person

Particulars	Section 194LC	Section 194LD
Payee	Non-Resident not being a company or Foreign Company	FII's/FPIs or QFIs
Income covered	1. Interest on moneys borrowed in foreign currency from a source outside India under a Loan Agreement.	1. Interest on moneys borrowed through rupee-denominated bonds.
	2. Interest on moneys borrowed in foreign currency from a source outside India in form of issue of long-term bonds including long-term infrastructure bonds.	2. Interest income on investment made in government securities.
	3. Interest on moneys borrowed in foreign currency from a source outside India in form of issue of rupee-denominated bonds.	3. Interest income on investment made in municipal debt securities.
	4. Interest on bonds listed on a recognized in International Financial Services Centre	
Before the Finance Act, 2023	The concessional withholding tax rate was 5%	The concessional withholding tax rate was 5%
After the Finance Act, 2023	The concessional rate of 5% is available on interest income arising out of moneys borrowed before 01.07.2023	The concessional rate of 5% is available on interest payable to FII's/FPIs on or before 01.07.2023. Afterwards, the rate is 20% instead of 5%.

**Important Points:**

1. Interest on securities earned by FII's/FPIs is covered by Section 115AD of the Act and this section excludes interest income under Section 194LD w.e.f. 01.07.2023 and the same is covered under Section 196D with the TDS rate of 20%.
2. The FII's/FPIs can avail the benefits of the Double Tax Avoidance Agreement (DTAA) if the tax rates are more beneficial than the provision of the Act. Here, Surcharge and Education Cess will not be charged.

3. Section 206AA shall not be applicable (*refer Sub-Section 7 of the Section 206AA*) and Section 206AB shall not be applicable (*refer Sub-Section 3(i) of Section 206AB*).
4. Form 15CA (declaration form of the foreign remittance made outside India before paying to a non-resident) and 15CB (a certificate for payment to be made to a Non-Resident (not being a company) or to a Foreign Company which is taxable and if the payment/sum total of such payments exceed Rs.5 lakh in the Financial Year) are important forms.

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