

# **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

# Person Responsible for Advance tax

- 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/Amt credit etc.



# Due dates of installments

- Company Assessee

- By 15<sup>th</sup> of June 15% of Adv. tax
- By 15<sup>th</sup> of Sept 45% of Adv. tax
- By 15<sup>th</sup> of Dec. 75% of Adv. tax
- By 15<sup>th</sup> of March 100% of Adv. Tax

- Non-corporate Assessee

- By 15<sup>th</sup> of Sept 30% of Adv. tax
- By 15<sup>th</sup> of Dec. 60% of Adv. tax
- By 15<sup>th</sup> 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.

# Less Estimates of Advance Tax

- 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 with in 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<sup>th</sup> of June 15% of Adv. Tax 3 Months
  - By 15<sup>th</sup> of Sept 45% of Adv. Tax 3 Months
  - By 15<sup>th</sup> of Dec. 75% of Adv. Tax 3 Months
  - By 15<sup>th</sup> of March 100% of Adv. Tax 1month
- Non-corporate Assessee
  - By 15<sup>th</sup> of Sept 30% of Adv. Tax 3 Months
  - By 15<sup>th</sup> of Dec. 60% of Adv. Tax 3 Months
  - By 15<sup>th</sup> of March 100% of Adv. Tax 1month

# Assessed Tax

- Tax on total income XXXX
  - Less:- TDS/TCS XXXX
  - Less:Relief 90/91/90A XXXX
  - Mat/AMT credit 115JD/115JAAxxx
- Assessed tax XXXX

# No interest

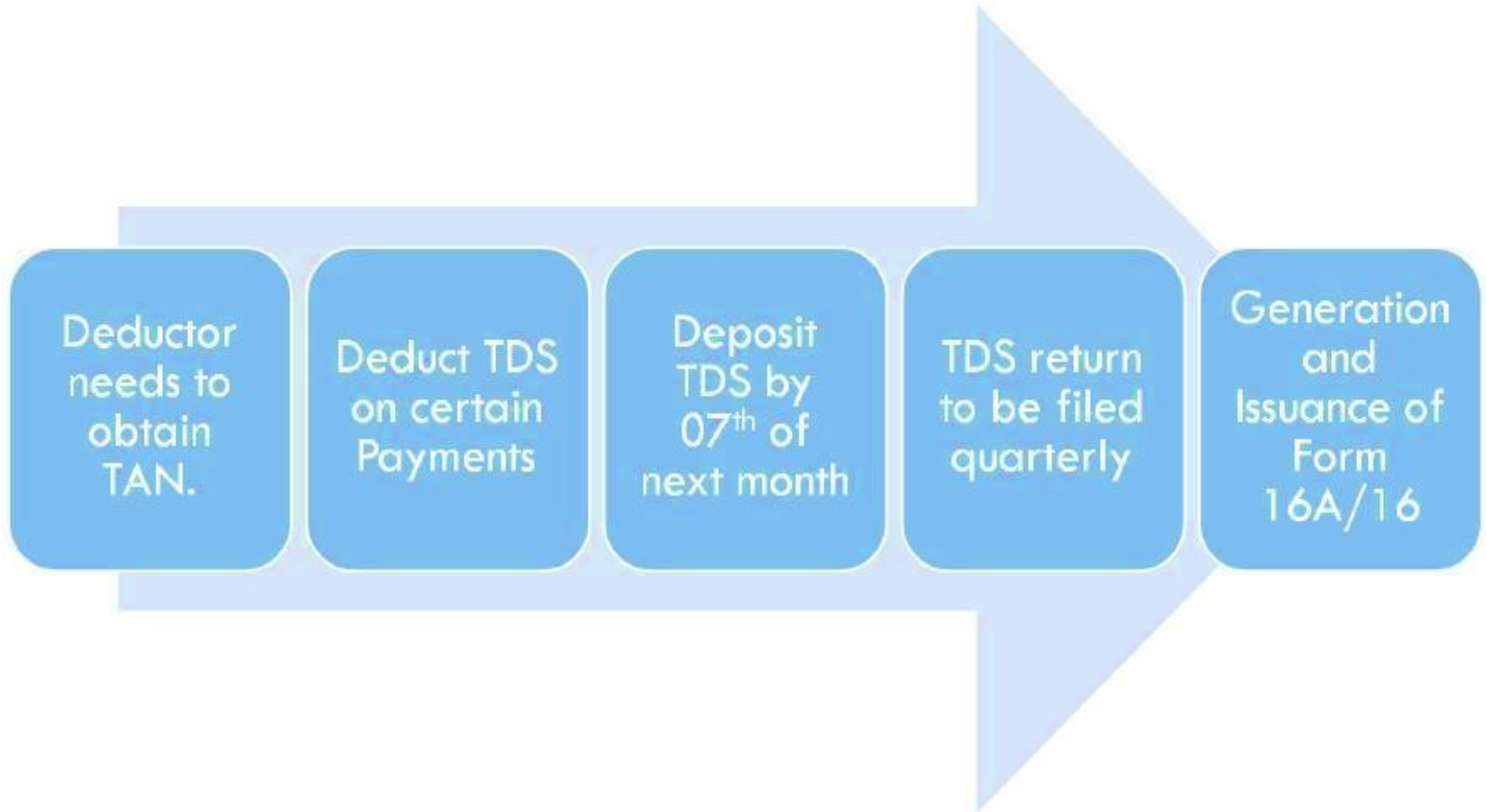
- If there is a short payment of tax due to casual income like lottery/Gambling income and capital gain but tax has paid before end of the financial year ,no int u/s 234C
- If due date is a public holiday ,tax can be paid on the next working day
- Tax payer can make e-payment through net banking facility 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



# CONSEQUENCES FOR NON-DEDUCTION

- **Disallowance u/s. 40(a)(ia) of Income Tax Act, 1961 (Act).**
- **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.**

# Cont....

- **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 1<sup>st</sup> July 2012)**
- **From 1<sup>st</sup> 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)

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

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

# Tax Deduction/Collection Account number -203A

- Assessee is required to make application within 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

Type of Payment	Section	Exemption limit	Rate (%)
Salary	192	As per IT Slabs for AY	Average Rate of Tax
Interest on Securities	193	5,000	10
Dividend	194	2,500	10
Interest other than Interest on Securities	194A	Banks : 10,000 Others : 5,000	10
Winnings from Lottery or Crossword Puzzles	194B	10,000	30

# Payments covered under TDS (Cont....)

Type of Payment	Section	Exemption limit		Rate (%)	
Winnings from Horse Race	194BB	5,000		30	
Payments to Contractors and sub-contractors	194C	Per payment	30,000 75,000	Individuals/ HUF Others	1 2
Insurance Commision	194D	20,000		10	
Payment of ins.policy	194DA	100000		2%	

# Payments covered under TDS (Cont....)

Type of Payment	Section	Exemption limit	Rate (%)
Payments to Non-resident Sportsmen or Sports Associations	194E	-	20
Payments in respect of Deposits under National Savings Scheme etc.	194EE	2,500	20
Repurchase of units by Mutual Fund	194F	-	20
Commission on sale of Lottery Tickets	194G	1,000	10
Commission or Brokerage	194H	5,000	10

# Payments covered under TDS (Cont....)

Type of Payment	Section	Exemption limit	Rate (%)		
Rent	194-I	1,80,000	Plant & Machinery	2	
			Land Building	10	
Purchase of Property	194-IA	Less than 50 lacs	1%		
Fees for Professional or Technical Services	194J	30,000	10		
Payment of Compensation on Compulsory Acquisition of Immovable Property	194LA	2,00,000	10		
Interest from Infrastructure Debt Fund to Non-residents	194LB	-	5		

# Payments covered under TDS (Cont....)

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

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

Type of Payment	Surcharge	Education
		Cess (3%)
Salary (exceeding 1 cr)	12%	Yes
Other Payments to Residents	No	No
Other Payments to Foreign Co. (Payment up to 1 cr.)	No	Yes
Other Payments to Foreign Co. -Payment exceeds 1 cr.	2%	Yes
-Payment exceeds 10 cr.	5%	
Payments to Other Non-residents (Payment exceeds 1 cr.)	12%	Yes

# 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)

Deposit TDS by

due dates.

File Quarterly TDS

Statements.





# 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 with out challan. If accompanied with challan on or before 7days from the end of the month in which it is deducted
- Non-govt office:-with in 7days 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 30<sup>th</sup> April
- Tds U/S 194IA to be deposited with in 7<sup>th</sup> from last date of the month
- With the Approval of Joint Commissioner, TDS can be deposited quarterly for 192,194A,194D,194H

# TDS at lower rate /No deduction- u/s197

- 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.

# Form 15G or 15H. (Section 197A)

- 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<sup>st</sup> may
- Form no 16A/27D :- Payment of other than salary ,on or before 30<sup>th</sup> july,30<sup>th</sup> oct,30<sup>th</sup> 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 with in 30days from close of F.Y. or with in 1 month from the date of deduction
- Tax deducted by other than Govt
- In case of salary June 15, Sept15, Dec.15 & March 15 certificate to be issued with in 14 days from date of payment.
- Payments covered under sec.194A,194D &194H, by July 15,oct.15,Jan15 and April 15 certificate to be issued with in 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

# Filing 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*