

TDS – A Glance

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29th August 2015

Agenda

1. TDS Provisions in IT Act
2. Obligations of Deductor
3. Obligations of Deductee
4. Consequences of Non-compliance
5. TRACES
6. Q&A



Any Person

Sec	Payer	Type of Payment/Income	Type of Payee	Rate of TDS %
192	Any Person	Salary	Individual	As per the slab rates for Individual + EC + SHEC
194B	Any Person	Winnings from lottery or crossword (or) card game and other games > Rs. 10000	Any Person	30%
194BB	Book maker or person holding license for horse racing, wagering, betting in any race	Winnings > Rs. 5000	Any Person	30%
194EE	Any Person	Any sum of National Savings Scheme Account > Rs. 2500	Any Person	20%
194G	Any Person	Commission, remuneration or prize > Rs. 1000	Any person in Lottery ticket business	10%

Resident

Sec	Payer	Type of Payment/Income	Type of Payee	Rate of TDS %
193	Any Person	Interest on Securities (IS) > Rs. 5000	Resident	10%
194	Domestic Company	Dividend > Rs. 2500	Resident Shareholder	10%
194 A	Any person other than individual/HUF	Any Interest other than IS > Rs. 5000 (Rs. 10000 in case of banking company, co-operative society and deposit with PO)	Any Resident	10%
194C	Any Person	Single sum credited or paid > Rs. 30000 (or) Aggregate of sums credited or paid during the year > Rs. 75000	Any resident contractor for carrying out any work including supply of Labour	Individual/HUF – 1% Other Payees – 2%
194D	Any Person	Insurance Commission > Rs. 20K	Any resident person (e.g. insurance agents)	10%
194DA	Any Person	Life insurance policy including bonus > Rs. 100000	Any resident	2%

TDS on Transporter w.e.f 01.06.2015

1 Payment > Rs. 30K (or) Yearly > Rs.75K

1 payment < Rs. 30K AND yearly < Rs. 75K

NIL TDS

> 10 Vehicles

<=10 Vehicles

PAN Given

PAN Not Given

PAN Given

TDS @ 20%

Declaration not Given

Declaration Given

NIL TDS

Indl (or) HUF

TDS @ 1%

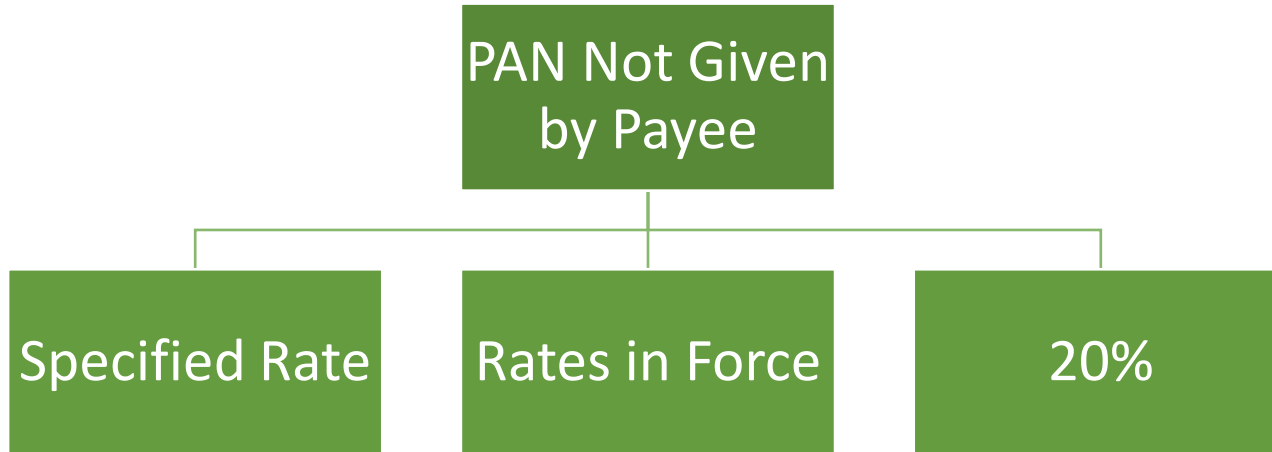
Other Case

TDS @ 2%

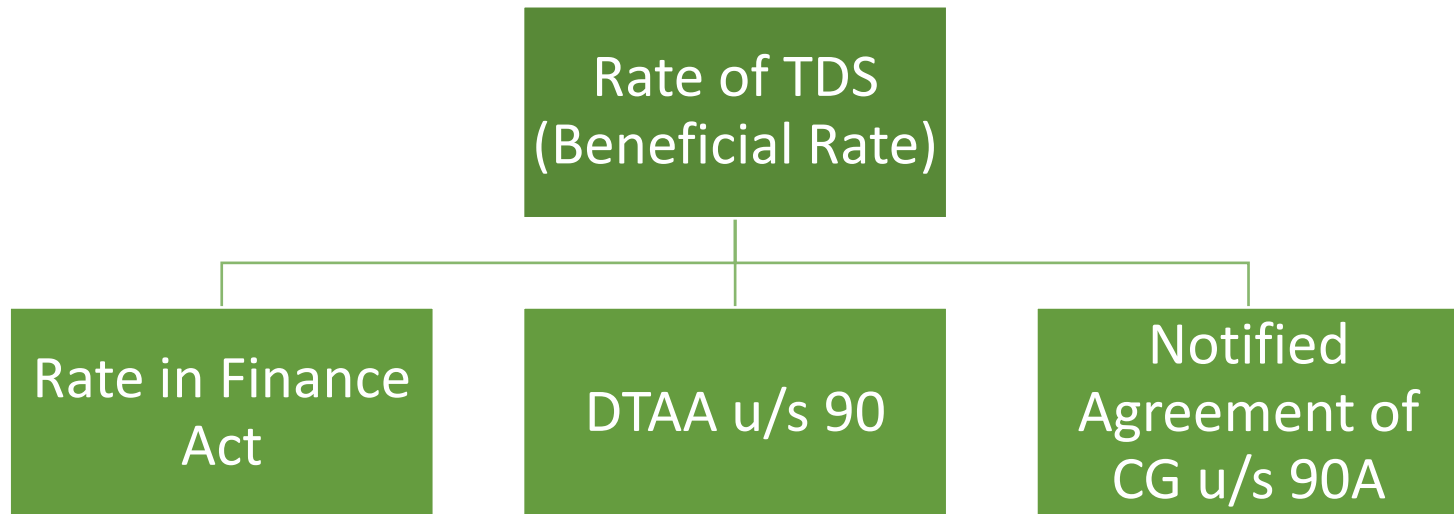
Resident Contd...

Sec	Payer	Type of Payment/Income	Type of Payee	Rate of TDS %
194H	Any Person	Commission > Rs. 5000	Any Resident	10%
194I	Any Person	Rent > Rs.180000 P.A	Any Resident	a) Rent for P/M – 2%
				b) Rent for L/B or both – 10%
194IA	Any Person	Consideration for transfer of immovable property > Rs. 50 Lakhs (other than compulsory acquisition)	Any Resident	1%
194J	Any Person	Fees for Professional or Technical services > Rs. 30000 EACH in a year	Any resident	10%
	Company	Any Remuneration, fees or commission to a director		
194LA	Any Person	Acquisition of certain immovable property other than agricultural land, where compensation > Rs. 2 Lakhs	Any resident	10%

High Rate of TDS



Non – Resident



Note:

- 1) Deductor can apply to AO to determine the rate of TDS on NRs
- 2) Deductor shall obtain FORM 15CB from a Chartered Accountant
- 3) Deductor shall electronically upload the remittance particulars to the Department in FORM 15CA

Non – Resident

Sec	Payer	Type of Payment/Income	Type of Payee	Rate of TDS %
194E	Any Person	Income for participation in any game or sport in India; Income by way of remuneration for articles on sports; Guaranteed sum in relation to any game or sport played in India	Any NR sportsman or entertainer who is not a citizen of India Any NR association or institution	20% EC+SHEC
194LB	Infrastructure Debt Fund referred to U/S 10(47)	Interest	Non-resident or foreign company	5% EC+SHEC
194LC	Indian Company/Business Trust	Income by way of Interest from Indian company/business trust	Non-resident or foreign company	5% EC+SHEC
194LD	Any Person	Income by way of Interest on certain bonds and Govt securities	FII (or) Qualified Foreign Investor	5% EC+SHEC
195	Any Person	Any Interest or any sum chargeable as income (Other than Salaries)	Any Non-Resident or any foreign company	As specified by Finance Act or under an agreement U/S 90 (or) 90A

Non – Resident Contd...

Type of Payment/Income	Non – Corporate Payee \$	Foreign Company Payee < INR 1 Crore	Foreign Company Payee > INR 1 Crore
Any Interest	30.9%	41.2%	42.23%
Interest Paid on Forex Loan from NR	20.6%	20.6%	21.115%
Deemed Dividend	30.9%	41.2%	42.23%
Payment to Contractor:			
a) Advertisement			
b) Other than Advertisement	30.9	41.2%	42.23%
c) Sub-Contractor			
d) Transporter			
Insurance Commission	30.9	41.2%	42.23%
Commission/Brokerage	30.9	41.2%	42.23%
Payment of Rent:			
a) Plant and Machinery (or) Equipment	10.3%	10.3%	10.5575%
b) Land, Building or furniture	30.9%	41.2%	42.23%
Professional or Technical fees/royalty	10.3%	10.3%	10.5575%

Obligations of Deductor

1) Obtain TAN and Get PAN from Payee

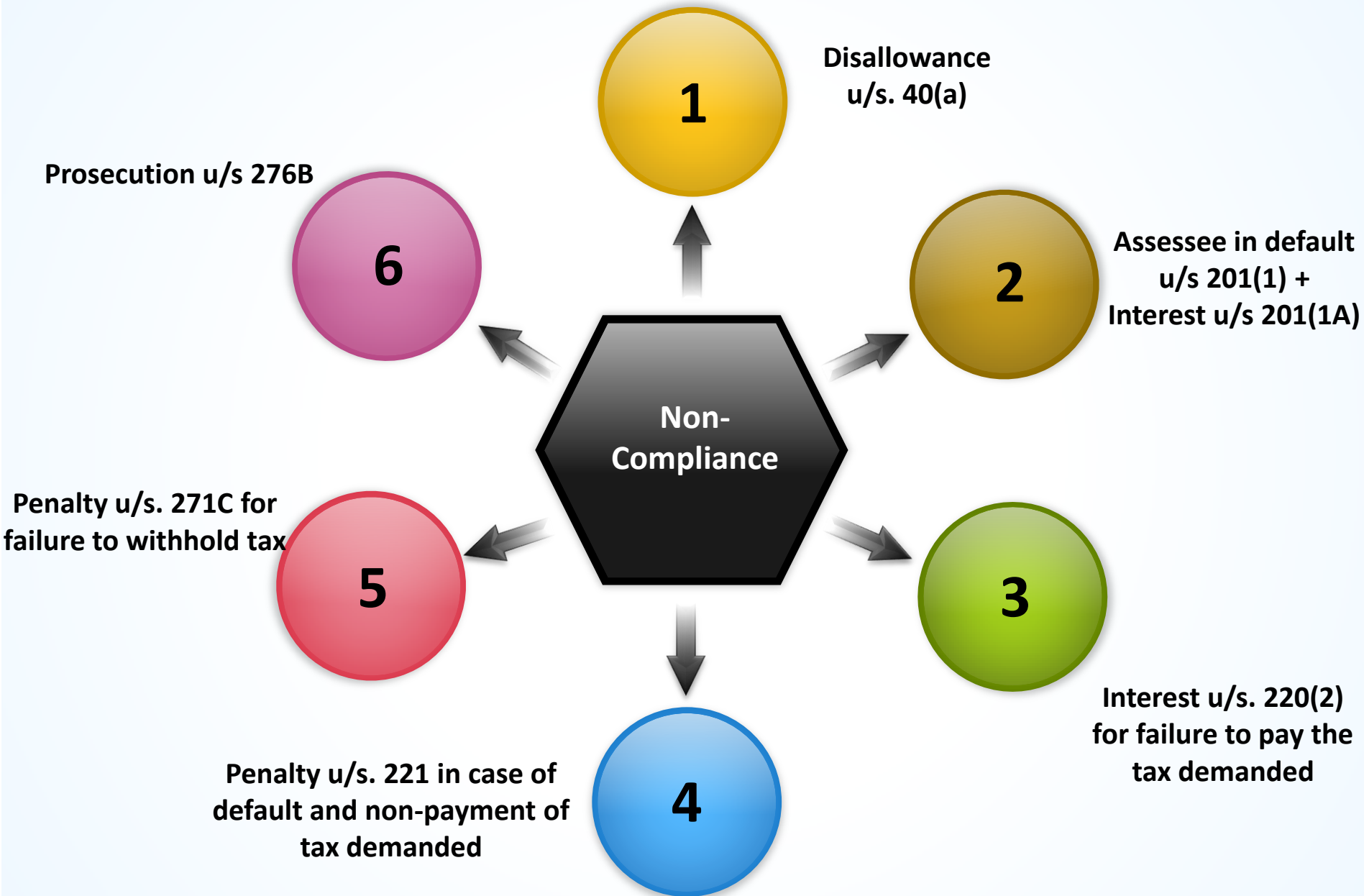
2) Deduct and Remit Taxes within the due date

Obligations of Deductor

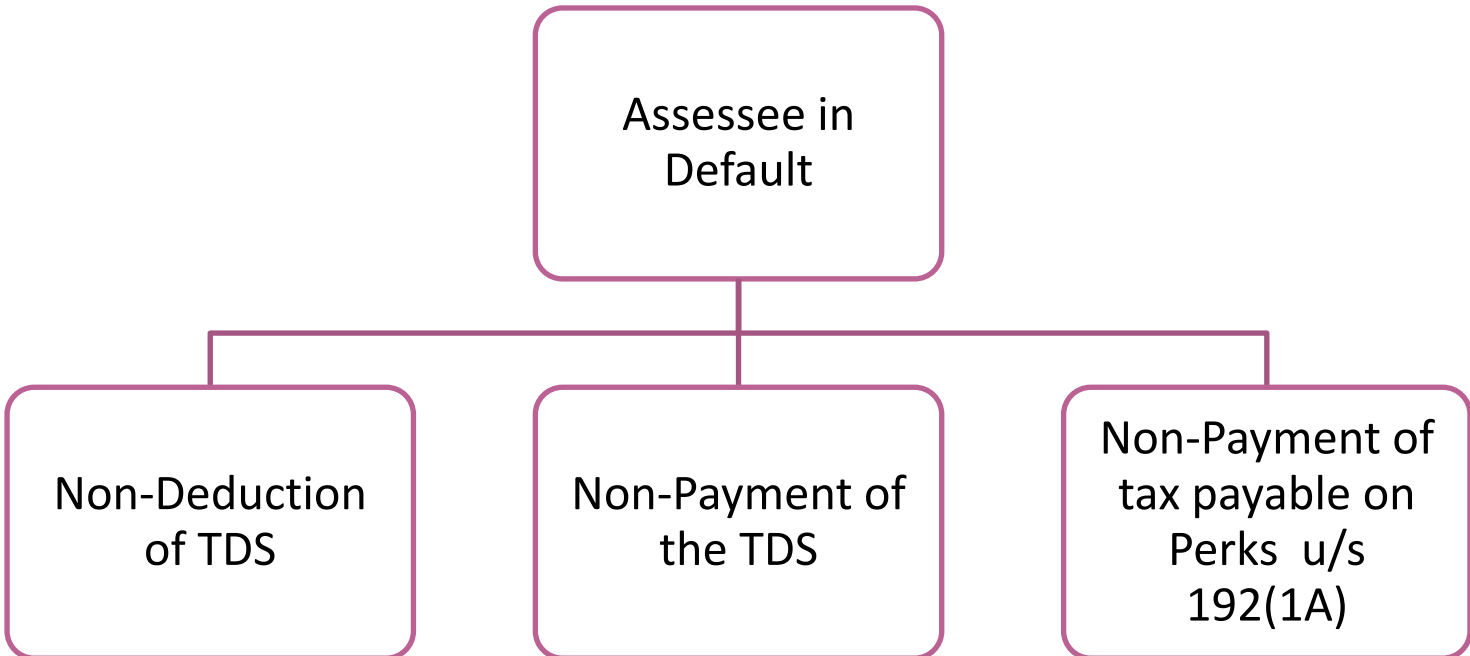
3) Quarterly filing of TDS Return

4) Issue of Tax Certificate

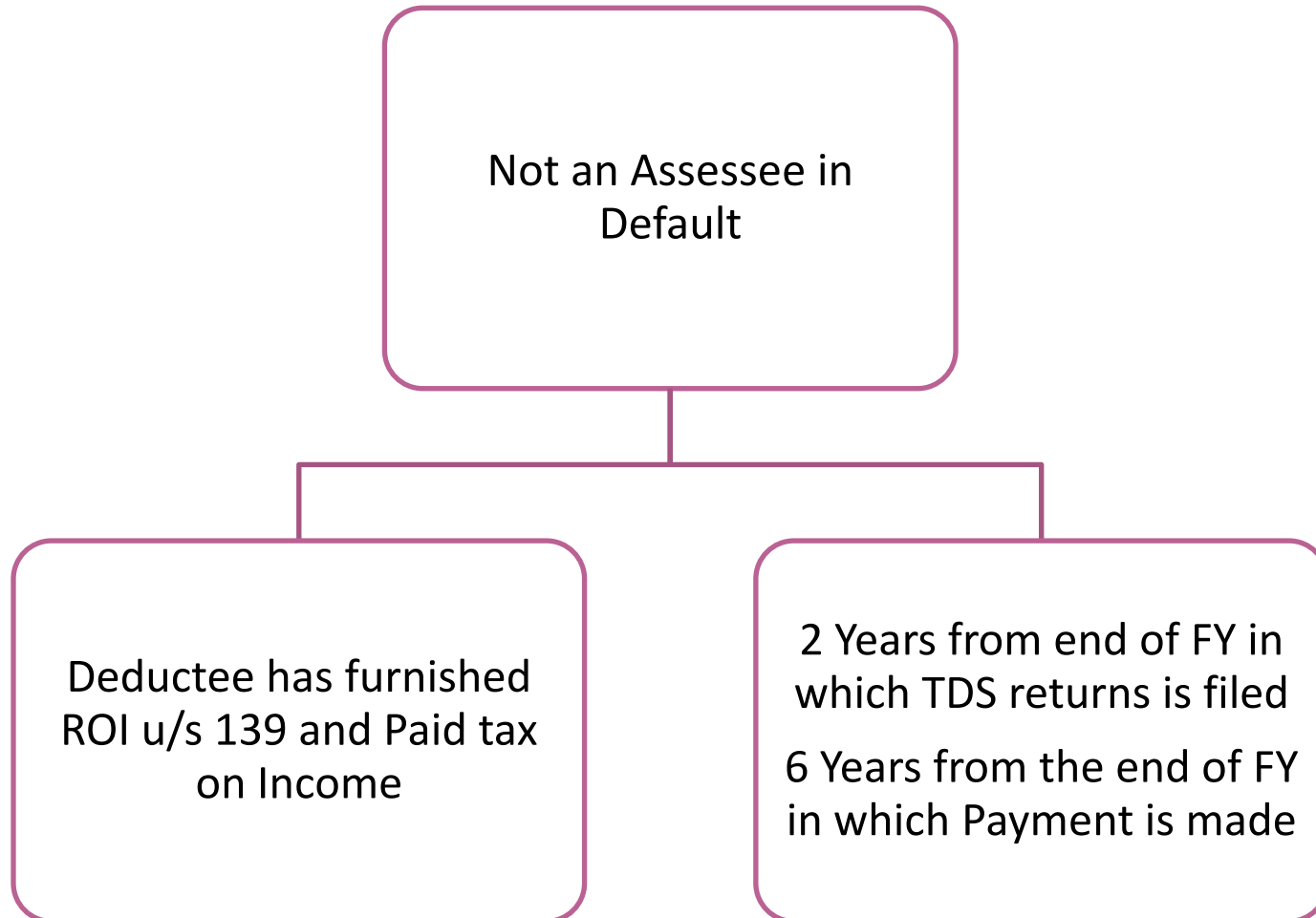
Consequences of Non-compliance



Assessee in Default



Not an Assessee in Default



Interest

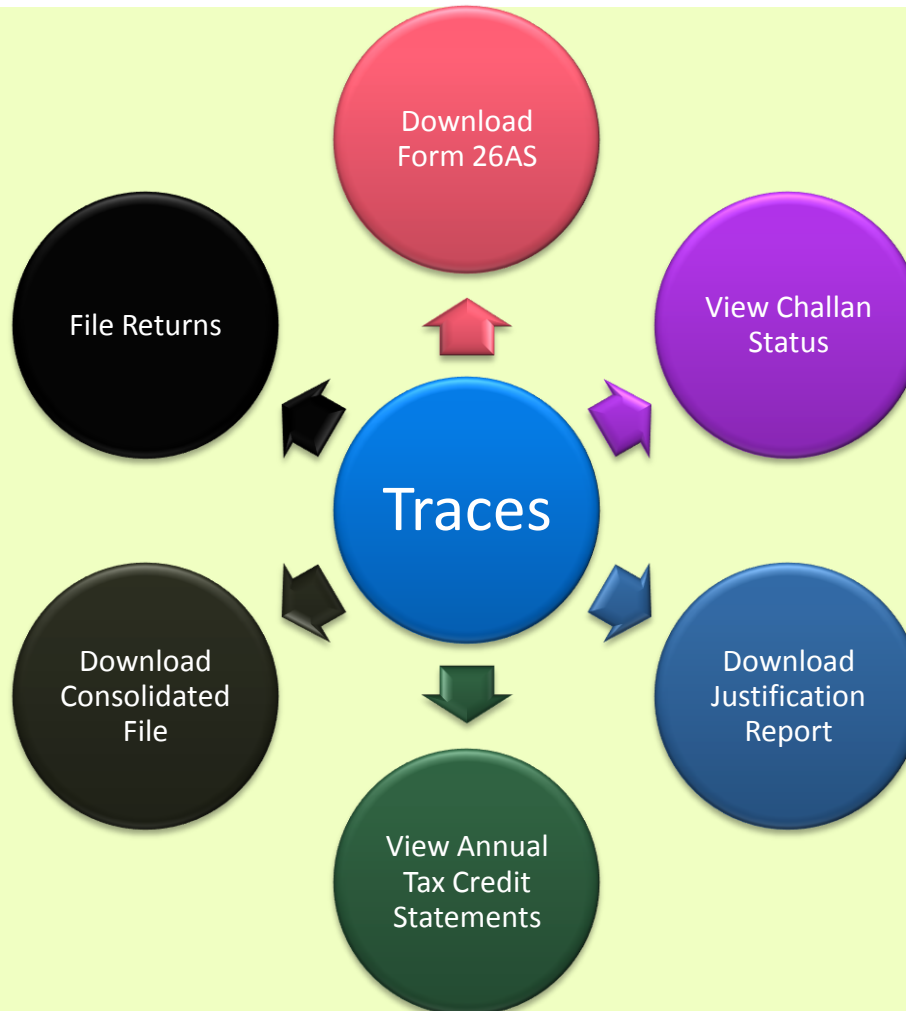
Sec	Default	Interest
201	Assessee in Default	1% p.m from deductible date till actual date of deduction 1.5% p.m from date of deduction till actual date of payment
	Assessee not in Default	1% p.m from the date on which tax was deductible to the date of furnishing of ROI by deductee
220 (2)	Failure to deduct or pay TDS	Interest @ 12% p.a on the amount of tax from the date on which tax is deductible till the date of actual payment

Other Punishment

Sec	Default	Punishment
234E	Delay in filing TDS returns	Rs. 200 per day of default
271H	Failure to file TDS return (or) furnishes incorrect information	Rs. 10000 to Rs. 100000. Penalty shall not be levied if returns filed within 1 year from due date
272A(2)	Failure to issue TDS Certificate	Rs. 100 per day but penalty cannot exceed amount of tax deductible
272A(2)	Failure to deliver declaration FORM 15G/H	Rs. 100 per day but penalty cannot exceed amount of tax deductible
276B	Failure to pay TDS	Punishable with imprisonment for Minimum – 3 months and Maximum – 7 Years

TRACES

A web-based application of the IT department to enable easy filing of TDS/TCS statements by deductors/collectors



Due Dates

Particulars	Triggering Point	Due Date
TDS Payment	End of the month March	7 days from end of the month 30 th April
TDS Return Filing Date	30 th Jun, 30 th Sep, 31 st Dec 31 st March	15 th July, 15 th Oct and 15 th Jan 15 th May
Issue of TDS Certificate	FORM 16 FORM 16A	31 st May of the FY 15days from the due date of TDS return

Q&A

1) X Ltd has deducted TDS of Rs. 10000 for AY 15-16 but while making payment, it is wrongly mentioned in challan as AY 16-17? What is the remedy available?

Type of Correction in Challan	Period for Correction request	Authority
PAN/TAN	Within 7 days from Challan deposit date	AO
AY	Within 7 days from Challan deposit date	AO
Total Amount	Within 7 days from Challan deposit date	Bank
Major Head	Within 3 months from Challan date	Bank/AO
Minor Head	within 3 months from Challan date	AO
Nature of Payment	Within 3 months from Challan date	AO
Name of Deductee	NO time limit	Bank

2) Rundown Ltd calculated tax u/s 115JB and filed return of income on 30.09.2014. AO verified the returns and disallowed Rs. 1.5 cr of advertisement expense due to non-deduction of TDS u/s. 40(a)(i)(a). Whether AO is justified ?

As per sec 115JB, a corporate assessee is liable to pay tax on book profits calculated as per Companies Act 2013. Therefore AO is not justified in disallowing of expenditure u/s 40(a)(i)(a) of IT Act

3) Slow going Ltd not deducted TDS on salary of Rs. 1800000 paid to a Director. AO issued a notice to the company demanding to pay TDS, Interest on non-payment of TDS. What are the alternatives available to the company ?

If the Director has filed his return of income showing salary from the company and paid tax on such income then Slow going Ltd cannot be deemed as "Assessee in Default". Hence it need not pay TDS. However, interest on non-deduction of TDS is compensatory and must be paid to the Dept.

4) Mac Inc. headquartered in USA paid a sum of Rs. 280000 as fees to Mr. X who is practicing as a Chartered Accountant in Madurai for getting an approval from RBI for a liaison office at Madurai. Whether TDS is deductible by Mac Inc. ?

Circular No. 726 dated 18.10.95 clarified that any payment to professionals such as Lawyer, Advocate, CA who is resident in India by a Non-resident who do not have a permanent establishment in India need not deduct TDS u/s. 194J

5) Vellai Ltd a recruitment agency is providing services to XYZ Ltd. Whether TDS is deductible u/s. 194C or 194J

194C shall apply to contract for carrying out any work including supply of labour for carrying out any "Work". Payments to recruitment agency is in the nature of services rendered. Therefore Sec. 194J shall apply and not 194C

6) Building Rent of Rs. 20000 p.m is paid by X Ltd to Mr. Lakshmi including service tax of Rs.2000. Whether TDS is deductible ? If so on what amount TDS needs to be deducted?

TDS is deductible u/s 194I since the amount of rent exceeds Rs. 180000 p.a. TDS shall be deducted only on the rent amount excluding service tax portion. Therefore, TDS @ 10% on Rs. 216000 only – Circular No. 4/2008 dt 28.04.2008

7) A software company has taken Rooms in South Gate Hotel at Kerala on monthly basis for its employees who visits Kerala. Sum of Rs. 380000 p.a is paid towards room rent. Whether TDS needs to be deducted

Rooms taken in hotel on regular basis, whether earmarked or not will attract TDS. Sec 194 I shall apply.

8) Cooling charges paid for cold storage by a company will attract 194I or 194C?

Cold storage is not covered by 194I. However amount paid is due to a contract between owner and user of cold storage. Therefore 194C shall apply

9) Genius Ltd an advertising agency made an advertisement and paid a sum of Rs. 50 lacs to Aishwarya Rai for acting in the add film. Whether TDS should be deducted u/s 194C or 194J?

Advertising agency is making payment to a film artiste (professional). Therefore TDS shall be deducted u/s 194C



Thank You

**Yours,
Selva**