# TAX DEDUCTED AT SOURCE

## BASICS

## UPDATE

## &

## PRACTICAL ISSUES

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# What is Tax Deducted at source i.e TDS?

- TDS is one of the modes of collection of taxes, by which a certain percentage of amounts are deducted by a person at the time of making/crediting certain specific nature of payment to the other person and deducted amount is remitted to the Government account. It is similar to "pay as you earn" scheme also known as Withholding Tax in many other countries. It facilitates sharing of responsibility of tax collection between the deductor and the tax administration. It ensures regular inflow of cash resources to the Government. It acts as a powerful instrument to prevent tax evasion as well as expands the tax net.

# Objective of deduction of tax at source is to collect tax in advance.

- The main object of deduction of at source was to collect tax at the time the income like salaries, interest on securities or dividend are paid, so that the Government could have a regular inflow of cash resources, collect tax in advance, prevent evasion of tax and also place the responsibility of deducting and depositing tax on the shoulders of persons other than the payees.

# Presentation

- Basics
- Penalties
- T D S / T C S Filings and Penalty for non filing
- Annual Tax Statement
- Lower Deduction of Tax
- Conclusion

# Basics

- Status of Deductor/Payer
  - Any Person …….
  - Tax Payer
  - Agriculturist
  - Charitable/ Educational Institutions

# Basics

- Individual / HUF
  - Whose total sales, gross receipts or turnover
  - Exceed the monetary limits specified under clause (a) or clause (b) of Section 44AB
  - During the financial year immediately preceding financial year

# Basics

- Status of Recipient/Payee
  - Rate of Deduction
  - Applicability of Surcharge

# Basics

- Residential status of Recipient/Payee
  - Resident
  - Non resident

# Basics

- Nature of expenditure
  - In the hands of the deductor – payment / Debit may be towards
    - Capital Expenditure
    - Revenue Expenditure
    - Personal Expenditure

# Basics

- When to deduct
  - o Payment
  - o Credit

# Basics

- Rate of Deduction
  - Tax rate
  - Surcharge
  - Education Cess

# Non deduction, late deduction and late deposit of TDS may lead you to face following consequences:

- Interest on late deduction /deposit of Tax at source.
- Dis-allowance of Expenses, on which tax has not been deducted /deposited u/s 40(a)(ia)
- Penalty and prosecution.(271C and 276B)

# Interest on late deduction /deposit of Tax at source.

- As per income-tax , interest is payable under the following two circumstances:
- Tax is not deducted , when it was deductible
- Tax once deducted, is not paid on or before due date

# Interest on late deduction /deposit of Tax at source.

- Interest is to be calculated for every month or part of a month comprised in a period,
- Any fraction of a month shall be deemed to be a full month
- The amount of tax, penalty or other sum in respect of which such interest is to be calculated shall be rounded off to the nearest multiple of one hundred rupees and
- for this purpose any fraction of one hundred rupees shall be ignored and the amount so rounded off shall be deemed to be the amount in respect of which the interest is to be calculated.

# Rate of interest

- Non Deduction 1%
- For delayed deposit, from date of deduction till actual date of payment, rate of interest is 1.5% p.m
- One Day delay may charge you Interest @ 3 %

## Dis-allowance of Expenses, on which tax has not been deducted /deposited u/s 40(a)(ia)

- Exp not allowed if TDS is Not paid.
- Expense allowed if tax deposit before the due date of deposit Income Tax return.
- Expenses will be allowed in actual year of TDS deposit.

# Penalty for failure to deduct tax at source. 271 C

- **Section 271C.** If any person fails to deduct the whole or any part of the tax as required by or under the provisions of Chapter XVII-B then, such person shall be liable to pay, by way of penalty, **a sum equal to the amount of tax which such person failed to deduct or pay** as afore said.This penalty is imposable by Joint Commissioner.

# Prosecution for failure to deduct /deposit tax at source 276B

- **Section 276B.** If any person fails to deduct the whole or any part of the tax as required by or under the provisions of Chapter XVII-B then, such person he shall be punishable with rigorous imprisonment for a term which s**hall not be less than three months but which may extend to seven years** and with fine. This penalty is imposable by Joint Commissioner.

# Quarterly filing

- Quarterly Statement of Deductions of Tax or Collection of Tax
  - Form No. 24Q – Salaries
  - Form No. 27Q – Other Cases – Deductees other than company being non-residents or a foreign company
  - Form No. 26Q – Other Cases – others
  - Form No. 27EQ – Collection of Taxes

# Form 16, Form 16A and Form 27D to be issued

Form 16 To be issued Yearly.

Form 16 A & 27 D Quarterly.

# ANNUAL TAX STATEMENT

- Form No. 26AS
- Statement issued on behalf of Income Tax Department
- Details of Tax indicated based on the data submitted by the deductor.
- Form 26AS consists of:
  - General Information
  - Part A : Details of TDS
  - Part B : Details of TCS
  - Part C : Details of Tax Paid, other than TDS/TCS

# Four Imp T D S Section

| S No | IT Section | Threshold Limit* | TDS Rate |
|---|---|---|---|
| 1 | Section 192 | As per prevailing income slab | As per prevailing income slab |
| 2 | Section 194C | Rs.30,000 which is for each contract, whereas ₹100,000 is for p.a | Proceeds from any contracts / sub contracts Individuals or HUF @ 1% Non Individual/corporate @ 2% |
| 3 | Section 194H | Rs.15,000 | 10% of the brokerage earnings |
| 4 | Section 194I | | 2% on rental amount of plant & machinery/ 10% on the rent of land & building |
| 5 | Section 194J | Rs. 30,000 p.a | 10% on the technical/professional services |

# T D S On What Value

- Basic Value
- Excluding All Taxes

# Lower Deduction

- **Section 197** of the Income Tax Act, 1961 provides for the facility of **NIL or Lower** tax rate deduction of TDS (or TDS exemption). This section strikes a delicate balance between the requirement of cash flow to the taxpayer and realizing the government dues at the earliest. We all know that, TDS is a method of collection of tax where a certain percentage (1%-30%) of the total amount is payable by the payee.

# procedure

- Apply to Income tax department/Assessing Officer (AO) in **Form 13** for granting the permission.
- Assessing Officer has to dispose of the applications within a time frame of **30 days** from the end of the month in which application.
- Taxpayers are advised to file complete details required for processing the application (in Form 13) in the first instance itself. If the assessing officer is satisfied then, will expedite the issuance of certificate u/s 197.
- The copy of this certificate can be attached to the invoice raised to the client in order to claim the exemption.
- This certificate is valid until the assessing officer does not cancel it.

# Conclusion

- Method of accounting
  - Cash Basis
  - Mercantile Basis

# Conclusion

GOLDEN PRINCIPLES

- Applicability
- Rate
- Deduction & Remittance
- Planning

# Finally

| | |
|---|---|
| Deduct and remit | Without failure |
| Avoid – interest, penalty, prosecution and disallowance | With due care |
| File TDS returns & Issue the forms | Within time |

# Then…

THE

DEDUCTOR

DEDUCTEE

WILL

SMILE FOREVER

# *Thank You*

Vishwanath Bhat