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CERTIFICATE COURSE ON TDS

Today's Content – Basic Overview and other related aspects of TDS

TDS (Tax Deducted at Source) and **TCS (Tax Collected at Source)** are mechanisms of tax collection governed by the Income Tax Act of India. Both ensure the timely collection of taxes and reduce tax evasion by requiring certain payments to be taxed at the source itself.

Objectives of Tax deducted at source (TDS)



It helps to prevent tax evasion.



As TDS deductions take place throughout the financial year, it's an effective mode of revenue inflow to the government.



It widens the tax collection base.



It is a way to share the responsibility of tax collection between the government and the deductors.

I. Tax Deducted at Source (TDS)

Definition:

TDS is a system where a payer deducts tax before making specific payments to a payee and deposits it with the government.

Key Features:

- Applicable on payments such as salaries, interest, rent, commission, and professional fees.
- Deduction rates depend on the nature of the payment and the applicable section of the Income Tax Act.
- Deductor issues a TDS certificate (Form 16/16A) to the deductee.

Compliance Requirements:

1. **TAN (Tax Deduction and Collection Account Number):** Required for deductors.
 2. **Timely Deposit:** Deducted TDS must be deposited with the government within specified deadlines.
 3. **Filing TDS Returns:** Quarterly returns must be filed (Forms 24Q, 26Q, 27Q, etc.).
 4. **Issuance of Certificates:** Provide TDS certificates to payees for claiming credit.
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II. Tax Collected at Source (TCS)

Definition:

TCS is a system where a seller collects tax from the buyer at the time of sale of specified goods or services.

Key Features:

- Applicable on goods like liquor, scrap, minerals, and forest produce, among others.
- Recently expanded to include certain e-commerce transactions and remittances.
- The rates depend on the type of goods or transactions.

Compliance Requirements:

1. **TAN Registration:** Required for collectors.
2. **Deposit of TCS:** The collected tax must be remitted to the government.
3. **Filing TCS Returns:** Filed quarterly using Form 27EQ.

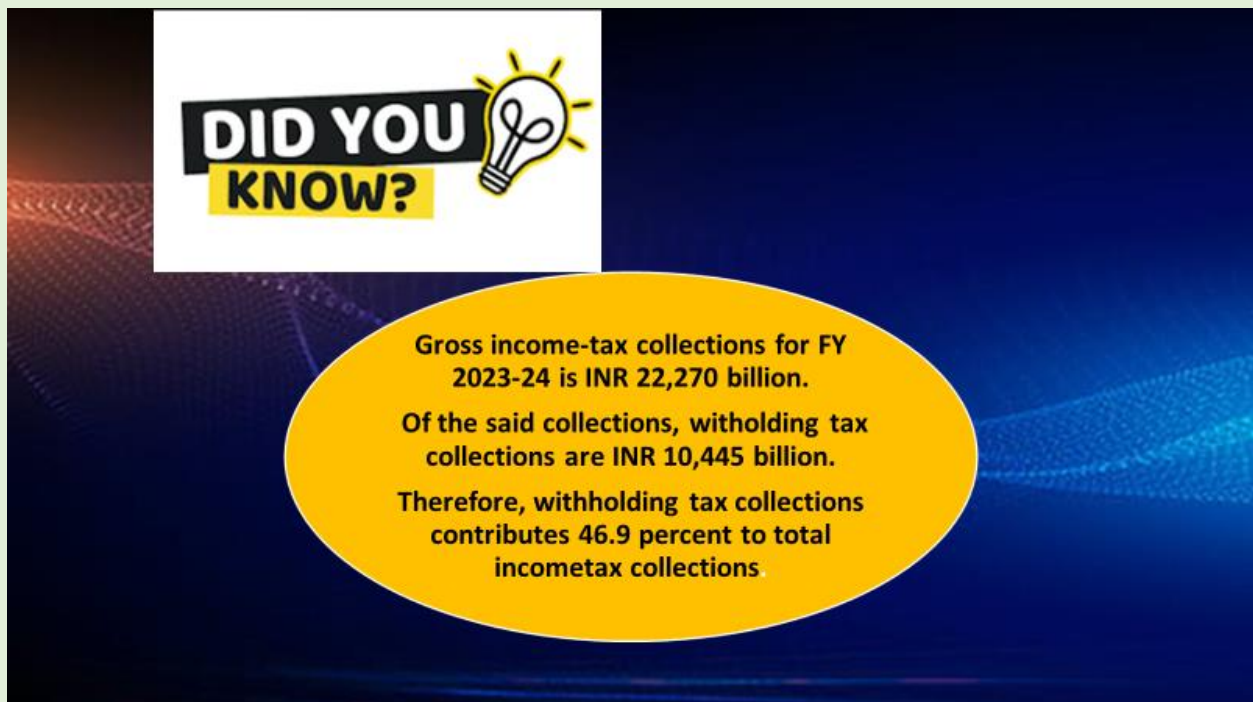
4. **Issuance of Certificates:** Collectors must issue TCS certificates (Form 27D) to buyers.

Differences between TDS and TCS

Aspect	TDS	TCS
Who collects?	Deductor (payer)	Collector (seller)
Who pays?	Payee (recipient of payment)	Buyer (purchaser of goods/services)
Applicability	Payments like salaries, interest, rent	Sale of specified goods or services
Objective	Tax deducted before payment	Tax collected during sale

Common Benefits of TDS and TCS

1. **Prevents Tax Evasion:** Taxes are collected at the source, ensuring compliance.
2. **Steady Revenue:** Government receives taxes throughout the year.
3. **Ease of Compliance:** Transparency and accountability in tax administration.



III. Person responsible for deduction of tax at source (TDS)

The **person responsible for deduction of tax at source (TDS)** is the individual or entity making the payment that falls under the purview of TDS provisions. This person is legally obligated to deduct the applicable tax at the time of payment or credit, whichever is earlier, and deposit it with the government.

Who is Responsible for Deduction?

1. Employers

- Responsible for deducting TDS on salaries paid to employees as per Section 192 of the Income Tax Act.
- TDS is calculated based on the employee's applicable income tax slab.

2. Other Payers

- Includes companies, individuals, HUFs, partnerships, or other entities making specific payments like:
 - Interest (Section 194A)
 - Rent (Section 194I)
 - Professional fees (Section 194J)
 - Commission or brokerage (Section 194H)
 - Contractual payments (Section 194C)

3. Thresholds for Individuals and HUFs

- Individuals and HUFs who are not required to undergo tax audits are generally **not responsible for deducting TDS**, except in cases like:
 - Purchase of immovable property (Section 194IA).
 - Rent exceeding **₹50,000** per month (Section 194IB).

4. E-commerce Operators

- Responsible under Section 1940 for deducting TDS on payments made to e-commerce participants.

5. Banks and Financial Institutions

- Deduct TDS on interest payments (e.g., fixed deposits) under Section 194A.
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Responsibilities of the Deductor

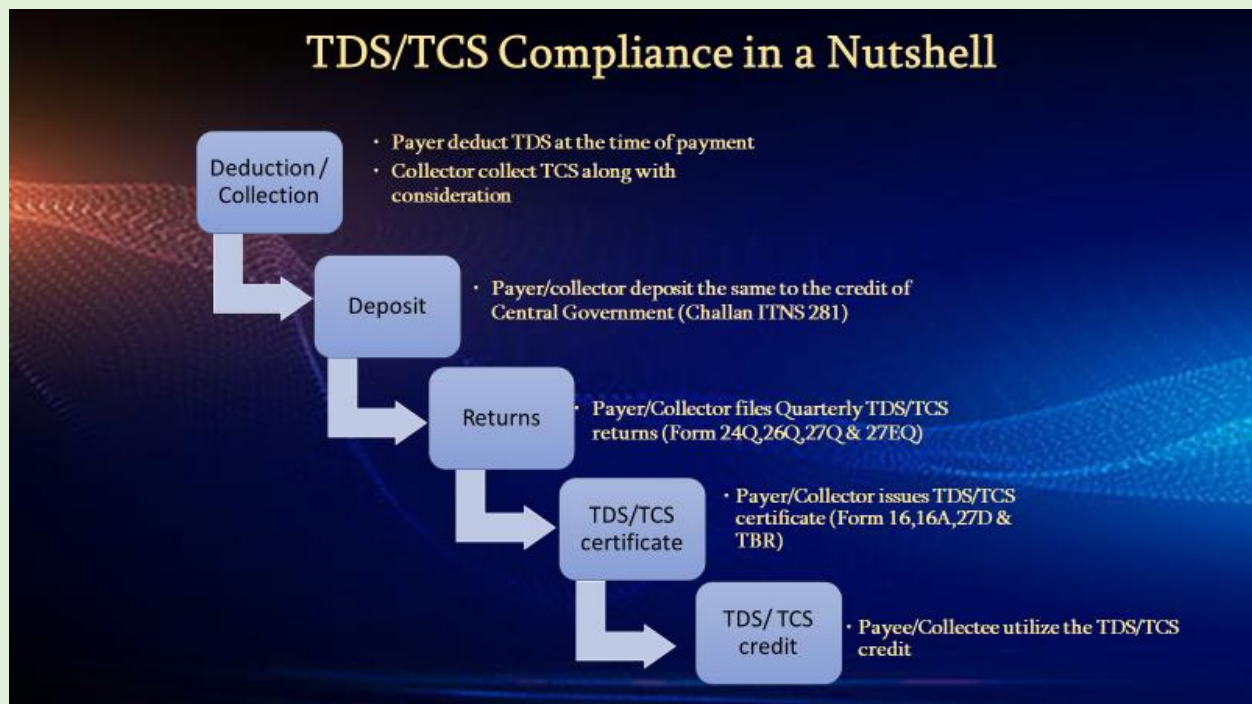
1. **Obtain a TAN (Tax Deduction and Collection Account Number):**
Mandatory for deductors except in specific cases like TDS on property purchase (Section 194IA).
 2. **Deduct Tax at the Correct Rate:**
Deduct TDS as per the rates prescribed under the relevant sections of the Income Tax Act.
 3. **Deposit the Deducted Amount with the Government:**
 - Within the due dates (e.g., by the 7th of the following month for most cases).
 4. **File TDS Returns:**
File quarterly returns using appropriate forms (e.g., Form 24Q for salaries, 26Q for non-salary payments).
 5. **Issue TDS Certificates:**
Provide Form 16 (for salary payments) or Form 16A (for other payments) to the deductee for claiming credit.
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*Failure to deduct or deposit TDS correctly can lead to **interest, penalties, and disallowance of expenses** under the Income Tax Act.*

Key Responsibilities of the Deductee

1. **Provide Accurate PAN**
 - Ensure the correct **Permanent Account Number (PAN)** is provided to the deductor.
 - Failure to provide a valid PAN may result in TDS deduction at a higher rate (20% as per Section 206AA).
2. **Verify TDS Deduction**
 - Confirm that the deductor has deducted TDS correctly as per applicable rates.
 - Check whether the deductor has deposited the deducted TDS with the government.
3. **Obtain TDS Certificate**
 - Collect the TDS certificate (Form 16 for salary income and Form 16A for non-salary income) from the deductor.
 - Verify the details in the TDS certificate for correctness (e.g., amount deducted, PAN, TAN, etc.).
4. **Check TDS in Form 26AS**
 - Regularly review the TDS entries in **Form 26AS** or the Annual Information Statement (AIS) available on the income tax portal.

- Report discrepancies, if any, to the deductor immediately.
- 5. **File Income Tax Returns (ITR)**
 - Report the income on which TDS was deducted in the appropriate income tax return.
 - Claim the credit for the TDS amount in the ITR under the applicable sections.
 - Ensure the TDS credit claimed matches the amount reflected in Form 26AS.
- 6. **Submit Forms for Lower/Nil Deduction (If Applicable)**
 - If eligible, submit the relevant forms to the deductor:
 - **Form 15G/15H** for nil deduction (for individuals meeting certain conditions).
 - Application under **Section 197** for a certificate of lower/nil TDS.
- 7. **Reconcile Discrepancies**
 - If there is any mismatch between TDS claimed and TDS deposited, follow up with the deductor for correction.
 - File a grievance or rectification request with the Income Tax Department if the issue persists.
- 8. **Maintain Records**
 - Keep copies of TDS certificates, Form 26AS, and other related documents for future reference and audits.



IV. Legal Requirement:

The **Income Tax Act, 1961** specifies who is legally required to deduct **Tax Deducted at Source (TDS)**. This responsibility is imposed on individuals or entities making certain payments where TDS provisions apply. Below is a detailed explanation:

Persons Legally Required to Deduct TDS

1. Specified Entities

The following are generally required to deduct TDS:

- Companies (public and private)
- Partnership firms (including LLPs)
- Sole proprietors (if subject to tax audit under Section 44AB)
- Hindu Undivided Families (HUFs) subject to tax audit
- Trusts and associations of persons (AOPs)
- Cooperative societies (in specific cases)
- Government bodies

2. Individuals and HUFs

- **Tax Audit Applicability:**

- Individuals or HUFs who are required to have their accounts audited under Section 44AB are legally required to deduct TDS.
- Example: A sole proprietor whose turnover exceeds ₹1 crore (for businesses) or ₹50 lakhs (for professions) in the preceding financial year.

- **Special Cases:**

- **Section 194IA:** Individuals or HUFs purchasing immovable property worth ₹50 lakhs or more must deduct TDS, even if not subject to tax audit.
- **Section 194IB:** Individuals or HUFs paying rent exceeding ₹50,000 per month must deduct TDS, irrespective of audit status.

3. E-commerce Operators

- Under **Section 1940**, e-commerce operators are required to deduct TDS on payments to sellers/participants using their platforms.

4. Banks and Financial Institutions

- Deduct TDS on interest payments such as fixed deposits under Section 194A.

5. Special Cases (Non-Resident Deductors):

- Non-residents making payments to Indian residents may also be required to deduct TDS, subject to applicable rules.

Key Conditions for Deduction

1. **Threshold Limits:**

TDS is applicable only if the payment exceeds specified limits under the relevant section .

2. **Rate of TDS:**

TDS must be deducted at the rate prescribed under the relevant section, which may vary depending on the nature of the payment.

3. **When to Deduct TDS:**

○ **Earlier of Payment or Credit:**

TDS must be deducted at the time of payment or when the amount is credited to the payee's account, whichever is earlier.

Non-Applicability of TDS Deduction

TDS is not required in the following cases:

- When the deductee provides a valid **Form 15G/15H** (subject to conditions).
- If the payment is below the specified threshold limits.
- Certain exemptions under specific sections (e.g., interest paid to banks).

Some interesting facts about TDS

- TDS Applies to Gifts Too, in kind too
- Non-Residents Are Not Exempt from TDS
- TDS Rates Can Be Different for Non-Filers
- TDS Is Not Always the Final Tax
- You Can Get a Refund of Excess TDS
- Not Just for Large Corporations
- Responsibility of deductor is greater than deductee

V. Rate of TDS & TCS under various sections

The following are the rates of TDS when the amount is to be paid to a resident.

Section	Nature of Transaction	Threshold Limit (Rs)	TDS Rate
192	Payment of salary	Basic exemption limit of employee	Normal Slab Rates
192A	Premature withdrawal from EPF	50,000	With PAN: 10% Without PAN: 20%
193	Interest on securities	Debentures- 5,000 8% Savings (Taxable) Bonds 2003 or 7.75% Savings (Taxable) Bonds 2018- 10,000 Other securities- 10,000	10%
194	Payment of any dividend	10,000	10%
194A	Interest other than interest from securities (from deposits with banks/post office/co-operative society)	Senior Citizens- 1 lakh Others- 50,000	10%
194B	Income from lottery winnings , card games, crossword puzzles etc.	Aggregate income from lottery winnings, card games, crossword	30%

		puzzles etc- 10,000 for each transaction	
		Online Gaming - Refer 194BA	
194BA	Income from online games	No limit	30%
194BB	Income from horse race winnings	10,000 (Aggregate winnings during a financial year not single transaction)	30%
194C	Payment to contractor/sub-contractor:- a) Individuals/HUF	Single transaction- 30,000	1%
	b) Other than Individuals/HUF	Total transactions during FY- 1 lakh	2%
194D	Insurance Commission	20,000	2%
194DA	Insurance pay-out in respect of a life insurance policy	1 lakh	2%
194EE	Payment of amount standing to the credit of a person under National Savings Scheme (NSS)	2,500	10%
194G	Payments, commission, etc., on the sale of lottery tickets	20,000	2%
194H	Commission or brokerage	20,000	2%
194-I	Rent:	50,000 per month or part of the month	2%
	194-I(a) Rent on plant and machinery		

	194-I(b) Rent on land/building/furniture/fitting		10%
194-IA	Payment in consideration of transfer of certain immovable property other than agricultural land.	50 lakhs	1%
194-IB	Rent payment by an individual or HUF not covered u/s. 194-I.	50,000 per month	2%
194-IC	Payment under Joint Development Agreements (JDA) to Individual/HUF	No limit	10%
	Any sum paid by way of fee for professional services	50,000	10%
	Any sum paid by way of remuneration/fee/commission to a director	50,000	10%
	Any sum paid for not carrying out any activity concerning any business;	50,000	10%
194J	Any sum paid for not sharing any know-how, patent, copyright, etc.	50,000	10%
	Any sum paid as a fee for technical services	50,000	2%
	Any sum paid by way of royalty towards the sale or distribution, or exhibition of cinematographic films	50,000	2%

	Any sum paid as fees for technical services, but the payee is engaged in the business of operation of the call center.	50,000	2%
194K	Payment of any income for units of a mutual fund, for example, dividend	10,000	10%
194LA	Payment in respect of compensation on acquiring certain immovable property	5 lakhs	10%
194LBA(1)	Certain income distributed by a business trust to its unitholder	No limit	10%
194LBA(2)	Interest income of a business trust from SPV distribution to its unitholders	No limit	5%
194LBA(2)	Dividend income of a business trust from SPV, in which it holds the entire share capital exempt the capital held by the government, and distribution to its unitholders.	No limit	10%
194LBA(3)	Rental income payment of assets owned by the business trust to the unitholders of such business trust	No limit	30%
194LBB	Certain income paid to a unitholder in respect of units of an investment fund	No limit	10%
194LBC	Income from investment in securitisation fund received by a resident	No limit	10%
194M	Certain payments by Individual/HUF not liable to deduct TDS under Section 194C, 194H, and 194J	50 lakhs	2%
194N		20 lakh to 1 crore	2%

	Cash withdrawal in case person not filing ITR for last three years and the original ITR filing due date expired	1 crore	5%
194O	Payment for the sale of goods or provision of services by the e-commerce operator through its digital or electronic facility or platform.	5 lakhs	0.10%
194P	Payment of pension or interest to specified senior citizens of age 75 years or more	Basic exemption limit of senior citizens or super senior citizens	Normal tax slab rates
194Q	Payments for the purchase of goods	50 lakhs	0.10%
194R	Perquisite or benefit to a business or profession	20,000	10%
194S	TDS on the transfer of Virtual Digital Assets	10,000	
	Specified persons: Individual or a HUF not having income from business or profession	50,000	1%
194T	Partner's Remuneration	20,000	10%

VI. Furnishing of statement in respect of payment of any income to residents without deduction of tax. “206A

Furnishing of statement in respect of payment of any income to residents without deduction of tax. - Section 206A of the Act relates to furnishing of statement in respect of payment of certain income by way of interest to residents where no tax has been deducted at source.

“206A (1) provides, any banking company or co-operative society or public company referred to in the proviso to clause (i) of sub-section (3) of section 194A responsible for paying to a resident any income not exceeding forty thousand rupees, where the payer is a banking company or a co-operative society, and five thousand rupees in any other case by way of interest (other than interest on securities), shall prepare such statement in such form, containing such particulars, for such period, verified in such manner and within such time, as may be prescribed, and deliver or cause to be delivered the said statement to the prescribed income-tax authority or to the person authorised by such authority.

(2) The Board may require any person, other than a person mentioned in sub-section (1), responsible for paying to a resident any income liable for deduction of tax at source under Chapter XVII, to prepare such statement in such form, containing such particulars, for such period, verified in such manner and within such time, as may be prescribed, and deliver or cause to be delivered the said statement to the income-tax authority or the authorised person referred to in sub-section (1).

(3) The person responsible for paying to a resident any income referred to in sub-section (1) or sub-section (2) may also deliver to the income-tax authority referred to in sub-section (1), a correction statement for rectification of any mistake or to add, delete or update the information furnished in the statement delivered under the said sub-sections in such form and verified in such manner, as may be prescribed.”.

VII. Payment of Advance Tax

Advance Tax is a mechanism under the Indian Income Tax Act, 1961, where taxpayers are required to pay their tax liability in installments during the financial year, instead of paying it in a lump sum at the end of the year. It is also known as "pay-as-you-earn tax."

Who Needs to Pay Advance Tax?

1. **Mandatory for Taxpayers with Tax Liability Exceeding ₹10,000:**
 - Advance tax is applicable to individuals, HUFs, companies, and all other entities whose estimated tax liability for the year is ₹10,000 or more after considering TDS/TCS and other credits.
2. **Exemptions from Advance Tax:**
 - **Senior Citizens (60 years or older):** Not engaged in business or profession are exempt from paying advance tax.
 - Taxpayers whose income is fully subject to TDS are not required to pay advance tax.

Installments and Due Dates for Advance Tax

The advance tax is payable in installments as follows:

Installment	Due Date	Payment Amount
1st Installment	On or before 15th June	At least 15% of the total tax liability
2nd Installment	On or before 15th Sept	At least 45% of the total tax liability (cumulative)
3rd Installment	On or before 15th Dec	At least 75% of the total tax liability (cumulative)
4th Installment	On or before 15th Mar	100% of the total tax liability

For taxpayers opting for the presumptive taxation scheme (Sections 44AD/44ADA):

- Entire advance tax must be paid in a single installment on or before 15th March.
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How to Calculate Advance Tax?

1. **Estimate Total Income:**
 - Include all sources of income (salary, business/profession, capital gains, rental income, etc.).
 2. **Compute Taxable Income:**
 - Deduct eligible exemptions and deductions (e.g., under Sections 80C, 80D, etc.).
 3. **Calculate Tax Liability:**
 - Apply the applicable tax slab rates.
 4. **Subtract TDS/TCS and Other Credits:**
 - Reduce the tax liability by the amount of TDS, TCS, and other pre-paid taxes.
 5. **Determine Advance Tax Payable:**
 - If the net tax liability exceeds ₹10,000, calculate advance tax installments.
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Modes of Payment

- Advance tax can be paid online through the **Income Tax Department's website** or offline via designated banks using **challan ITNS 280**.
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Benefits of Advance Tax

- Reduces year-end tax burden.
- Minimizes interest liability due to timely tax payments.
- Ensures compliance with tax laws and avoids penalties.

VIII. Consequences of Non-Compliance of Advance Tax

Section 234 of the Income Tax Act, 1961, deals with the levy of **interest for default or delays in payment of taxes**. It is subdivided into **Sections 234A, 234B, and 234C**, each addressing a specific type of default. Here is a detailed breakdown of the provisions:

1. Section 234A: Interest for Delay in Filing Income Tax Return

Applicability:

Interest is levied if the taxpayer fails to file the income tax return within the due date as prescribed under Section 139(1).

Rate of Interest:

- Interest is charged at **1% per month or part of a month** on the unpaid tax.

Period for Interest Calculation:

- From the **due date of filing the return** to the **actual date of filing the return**.

Amount on Which Interest is Charged:

- **Net tax payable** after adjusting for:
 - TDS/TCS
 - Advance tax paid
 - Relief under Sections 89, 90, 90A, or 91

Example:

If the due date is 31st July, and you file the return on 31st December with an outstanding tax of ₹50,000:

- Delay = 5 months
 - Interest = ₹50,000 × 1% × 5 = ₹2,500
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2. Section 234B: Interest for Non-Payment or Short Payment of Advance Tax

Applicability:

Interest is levied if:

- The taxpayer fails to pay **90% or more** of the assessed tax as advance tax.
- Advance tax paid is less than 90% of the total tax liability.

Rate of Interest:

- Interest is charged at **1% per month or part of a month** on the shortfall.

Period for Interest Calculation:

- From the **1st day of the assessment year** to the **date of actual payment of tax**.

Amount on Which Interest is Charged:

- Assessed tax minus:
 - Advance tax paid
 - TDS/TCS deducted

Example:

If the total tax liability is ₹1,00,000, and advance tax paid is ₹70,000 (less than 90%), with a shortfall of ₹30,000 paid on 30th September:

- Interest = ₹30,000 × 1% × 6 months = ₹1,800

3. Section 234C: Interest for Deferment of Advance Tax

Applicability:

Interest is levied if the taxpayer fails to pay advance tax by the prescribed due dates or pays less than the required percentage.

Rate of Interest:

- **1% per month or part of a month** on the shortfall in advance tax.

Shortfall in Payment:

- Tax not paid as per the following schedule:

Installment	Due Date	Minimum % of Tax to be Paid
1st Installment	15th June	15%
2nd Installment	15th September	45% (cumulative)
3rd Installment	15th December	75% (cumulative)
4th Installment	15th March	100% (cumulative)

Calculation Period:

- From the due date of the installment to the date of payment or the end of the quarter, whichever is earlier.

Amount on Which Interest is Charged:

- Shortfall in advance tax for the respective installment.

Example:

If the total tax liability is ₹1,00,000 and the taxpayer pays:

- ₹10,000 by 15th June (short by ₹5,000 for 15% requirement):
 - Interest = ₹5,000 × 1% × 3 months = ₹150
- ₹35,000 by 15th September (short by ₹10,000 for 45% requirement):
 - Interest = ₹10,000 × 1% × 3 months = ₹300

General Provisions

1. **No Waiver of Interest:**
Interest under Sections 234A, 234B, and 234C is **mandatory** and cannot be waived, except under specific directions from the Central Board of Direct Taxes (CBDT).
2. **Rounding Off:**
Tax amounts are rounded off to the nearest multiple of ₹100 before calculating interest under these sections.
3. **Interaction with TDS/TCS:**
TDS and TCS are considered part of tax payments while determining shortfalls.

Summary of Sections 234A, 234B, and 234C

Section	Reason for Levy	Rate of Interest	Period of Levy
234A	Delay in filing income tax return	1% per month	Due date of filing to actual filing date
234B	Non-payment or short payment of tax	1% per month	1st day of AY to date of actual payment
234C	Deferment of advance tax	1% per month	Due date of installment to payment or quarter

IX. Role of TDS in Paying Advance Tax Liability

1. **TDS as a Pre-Paid Tax**
 - When TDS is deducted from income (e.g., salary, interest, rent), it reduces the taxpayer's overall tax liability for the financial year.
 - The amount of TDS already deducted is treated as an advance tax payment.
2. **Adjusting Advance Tax Liability**
 - While calculating advance tax, the total tax liability is determined first, and then the TDS deducted during the year is subtracted to compute the balance advance tax payable.
 - Formula:
Advance Tax Payable = Total Tax Liability - TDS Deducted - Tax Reliefs
3. **Impact on Advance Tax Installments**

- If TDS deductions cover a significant portion of the total tax liability, the advance tax payable may be reduced or even eliminated for certain installments.

Example

Scenario:

- **Total Tax Liability:** ₹1,00,000
- **TDS Deducted by Employer:** ₹70,000

Calculation:

- Net tax liability after TDS: ₹1,00,000 - ₹70,000 = ₹30,000
- Advance Tax Installments (based on the remaining ₹30,000):
 - 15% by 15th June: ₹4,500
 - 45% (cumulative) by 15th September: ₹13,500
 - 75% (cumulative) by 15th December: ₹22,500
 - 100% by 15th March: ₹30,000

If TDS exceeds or equals 90% of the total tax liability, no advance tax is payable (avoiding interest under Section 234B).

Key Points to Note

1. **No Duplicate Payments:**
 - TDS is considered while calculating advance tax liability, preventing duplicate payment of taxes.
2. **Reconciliation with Form 26AS:**
 - Ensure the TDS details match those in **Form 26AS** or Annual Information Statement (AIS). Any mismatch can affect advance tax calculations.
3. **Excess TDS:**
 - If TDS exceeds the total tax liability, the taxpayer can claim a refund by filing an income tax return.
4. **Professionals and Businesses:**
 - For income sources without TDS (e.g., profits from a business), the advance tax must be paid directly, as TDS from other sources may not cover the liability.

Benefits of TDS in Advance Tax Compliance

- Reduces the burden of lump-sum advance tax payments.
- Ensures timely payment of taxes throughout the year.
- Minimizes the likelihood of interest penalties under **Sections 234B and 234C** for non-payment or shortfall in advance tax.

TDS serves as a mechanism for steady tax collection, making it easier for taxpayers to manage their advance tax liabilities. Let me know if you need further clarifications!

Discussion on any questions

