

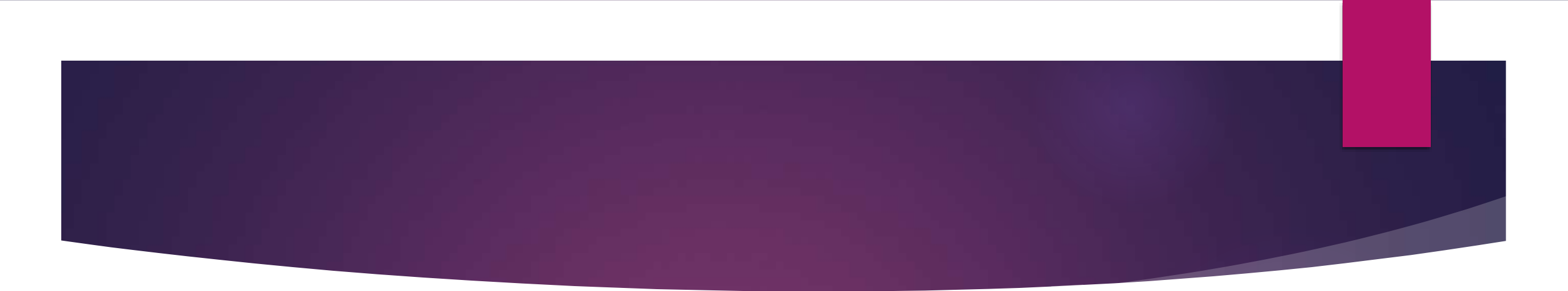
# SEC 192 – TDS ON SALARY

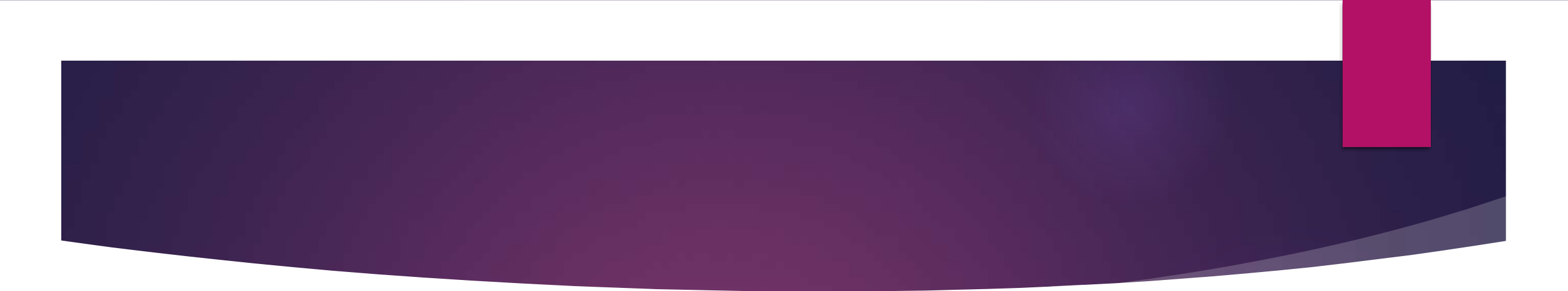
CMA AJITH SIVADAS

- ▶ (1) Any person responsible for paying any income chargeable under the head "Salaries" shall, at the time of payment, deduct income-tax <sup>1</sup>[\*\*\*] on the amount payable at the average rate of income-tax <sup>2</sup>[\*\*\*] computed on the basis of the <sup>3</sup>[rates in force] for the financial year in which the payment is made, on the estimated income of the assessee under this head for that financial year.
- ▶ <sup>4</sup>[(1A) Without prejudice to the provisions contained in sub-section (1), the person responsible for paying any income in the nature of a perquisite which is not provided for by way of monetary payment, referred to in clause (2) of section 17, may pay, at his option, tax on the whole or part of such income without making any deduction therefrom at the time when such tax was otherwise deductible under the provisions of sub-section (1).
- ▶ (1B) For the purpose of paying tax under sub-section (1A), tax shall be determined at the average of income-tax computed on the basis of the rates in force for the financial year, on the income chargeable under the head "Salaries" including the income referred to in sub-section (1A), and the tax so payable shall be construed as if it were, a tax deductible at source, from the income under the head "Salaries" as per the provisions of sub-section (1), and shall be subject to the provisions of this Chapter.]

- ▶ [(2) Where, during the financial year, an assessee is employed simultaneously under more than one employer, or where he has held successively employment under more than one employer, he may furnish to the person responsible for making the payment referred to in sub-section (1) (being one of the said employers as the assessee may, having regard to the circumstances of his case, choose), such details of the income under the head "Salaries" due or received by him from the other employer or employers, the tax deducted at source therefrom and such other particulars, in such form and verified in such manner as may be prescribed, and thereupon the person responsible for making the payment referred to above shall take into account the details so furnished for the purposes of making the deduction under sub-section (1).]
- ▶ <sup>14</sup>[(2A) Where the assessee, being a Government servant or an employee in a <sup>6</sup>[company, co-operative society, local authority, university, institution, association or body] is entitled to the relief under <sup>18</sup>[\*\*\*\*] section 89, he may furnish to the person responsible for making the payment referred to in sub-section (1), such particulars, in such form and verified in such manner as may be prescribed, and thereupon the person responsible as aforesaid shall compute the relief on the basis of such particulars and take it into account in making the deduction under sub-section (1).]

- ▶ Where an assessee who receives any income chargeable under the head “Salaries” has, in addition,—
- ▶ (i) any income chargeable under any other head of income (not being a loss under any such head other than the loss under the head “Income from house property”); or
- ▶ (ii) any tax deducted or collected under the provisions of Part B or Part BB of this Chapter, as the case may be,
- ▶ for the same financial year, he may send to the person responsible for making the payment referred to in sub-section (1), the particulars of—
- ▶ (a) such other income;
- ▶ (b) any tax deducted or collected under any other provision of Part B or Part BB of this Chapter, as the case may be; and
- ▶ (c) the loss, if any, under the head “Income from house property”,
- ▶ in such form and verified in such manner as may be prescribed, and thereupon the person responsible as aforesaid shall take into account the particulars referred to in clauses (a), (b) and (c) for the purposes of making the deduction under sub-section (1):

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- ▶ A person responsible for paying any income chargeable under the head "Salaries" shall furnish to the person to whom such payment is made a statement giving correct and complete particulars of perquisites or profits in lieu of salary provided to him and the value thereof in such form and manner as may be prescribed.]
  - ▶ <sup>15</sup>[(2D) The person responsible for making the payment referred to in sub-section (1) shall, for the purposes of estimating income of the assessee or computing tax deductible under sub-section (1), obtain from the assessee the evidence or proof or particulars of prescribed claims (including claim for set-off of loss) under the provisions of the Act in such form and manner as may be prescribed.]
  - ▶ (3) The person responsible for making the payment referred to in sub-section (1) <sup>10</sup>[or sub-section (1A)] <sup>11</sup>[or sub-section (2) or sub-section (2A) or sub-section (2B)] may, at the time of making any deduction, increase or reduce the amount to be deducted under this section for the purpose of adjusting any excess or deficiency arising out of any previous deduction or failure to deduct during the financial year.

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- ▶ (4) The trustees of a recognised provident fund, or any person authorised by the regulations of the fund to make payment of accumulated balances due to employees, shall, in cases where sub-rule (1) of rule 9 of Part A of the Fourth Schedule applies, at the time an accumulated balance due to an employee is paid, make therefrom the deduction provided in rule 10 of Part A of the Fourth Schedule.
  - ▶ (5) Where any contribution made by an employer, including interest on such contributions, if any, in an approved superannuation fund is paid to the employee, <sup>12</sup>[tax] on the amount so paid shall be deducted by the trustees of the fund to the extent provided in rule 6 of Part B of the Fourth Schedule.
  - ▶ (6) For the purposes of deduction of tax on salary payable in foreign currency, the value in rupees of such salary shall be calculated at the prescribed rate of exchange.

# Meaning of Salary for TDS

- ▶ Definition of Salary (Sec. 17)
- ▶ Components of Salary (Basic, DA, Bonus, Commission, Allowances, etc.)
- ▶ Perquisites - Taxable vs. Non-Taxable (e.g., Rent-free accommodation, ESOPs, medical reimbursement)

# Applicability of TDS under Section 192

- ▶ Who is liable to deduct TDS (Any person responsible for paying salary)
- ▶ When TDS is required to be deducted (At the time of actual payment)
- ▶ Employer-employee relationship (Contract of service vs. contract for service)

# Computation of TDS

- ▶ Estimation of Salary Income (Expected salary during the financial year)
- ▶ Tax Slabs & Rates (Old Regime - slab-wise; New Regime - optional lower rates without exemptions)
- ▶ Deductions under Chapter VI-A (80C - LIC, PPF; 80D - Mediclaim; 80E - Education loan, etc.)
- ▶ Rebate u/s 87A (For resident individuals with income up to Rs. 5 lakhs)
- ▶ Relief u/s 89(1) (For arrears or advance salary - Form 10E requirement)

# Comparison of Deductions and Exemptions: Old vs. New Regime

- ▶ Old Regime: Allows all standard exemptions and deductions including: - Standard deduction (Rs. 50,000) - House Rent Allowance (HRA) - Leave Travel Allowance (LTA) - Section 80C (LIC, PPF, NSC, etc.) - Section 80D (Health insurance premium) - Section 24(b) (Interest on home loan) - Education loan interest (80E), etc.
- ▶ New Regime: Lower tax rates but most exemptions/deductions not allowed, except: - Employer's contribution to NPS (Sec 80CCD(2)) - EPF and gratuity exemptions - Standard deduction (Rs. 50,000, reintroduced in FY 2023-24) - Rebate u/s 87A - Exemptions allowed under new regime include: - Transport allowance for specially-abled employees - Conveyance allowance for official duty - Travel allowance on transfer/posting - Daily allowance for performance of duty - Allowances to MPs/MLAs

# Timing and Rate of Deduction

- ▶ Time of deduction (Monthly basis at the time of salary payment)
- ▶ Rate of deduction (Average rate of income tax based on estimated income)
- ▶ Cases of multiple employers (Declaration in Form 12B by employee) 24.  
Anticipatory Salary: Inclusion in TDS computation (Advance salary taxed on receipt basis)
- ▶ Advance Salary vs. Arrears: Tax implications (Relief u/s 89(1) for arrears; advance salary taxed in year of receipt)

# TDS Payment & Compliance

- ▶ Due dates for TDS payment (7th of next month; 30th April for March)
- ▶ Challan 281 & TAN requirements (Mandatory for all deductors)
- ▶ Interest & Penalty for Late Payment (Interest u/s 201(1A); Penalty u/s 271C; Prosecution under Sec 276B)

# TDS Returns & Certificates

- ▶ Form 24Q - Quarterly Returns (Details of salary payments and TDS)
- ▶ Form 16 - TDS Certificate (Issued annually; proof of tax deduction)
- ▶ Structure and Parts (Part A - TDS details; Part B - salary breakdown and deductions)
- ▶ Details required in Form 16 (PAN, TAN, assessment year, employee details, salary, deductions, tax paid)
- ▶ Due dates for filing returns and issuing Form 16 (Form 24Q by 31st May; Form 16 by 15th June)
- ▶ Common errors and rectifications (Mismatch of PAN, incorrect tax computation, delays in filing)

# Employer Obligations

- ▶ Obtaining declaration from employees (Form 12BB - HRA, LTA, 80C deductions, interest on housing loan)
- ▶ Considering other income and deductions (Employee can disclose other income & loss under the head House Property)
- ▶ Consequences of non-compliance (Disallowance of expense u/s 40(a)(ia), penalties, interest, prosecution)
- ▶ Consequences for Non or Part Deduction of TDS: - Deemed Assessee-in-default under Section 201 - Interest u/s 201(1A): 1% p.m. for failure to deduct, 1.5% p.m. for failure to deposit - Penalty u/s 271C: Equal to the amount of TDS not deducted - Disallowance of salary expense u/s 40(a)(ia) in computation of business income - Prosecution u/s 276B: Rigorous imprisonment of 3 months to 7 years and fine

# SEC 192 A

- ▶ Notwithstanding anything contained in this Act, the trustees of the Employees' Provident Fund Scheme, 1952, framed under section 5 of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (19 of 1952) or any person authorised under the scheme to make payment of accumulated balance due to employees, shall, in a case where the accumulated balance due to an employee participating in a recognised provident fund is includible in his total income owing to the provisions of rule 8 of Part A of the Fourth Schedule not being applicable, at the time of payment of the accumulated balance due to the employee, deduct income-tax thereon at the rate of ten per cent.:
- ▶ Provided that no deduction under this section shall be made where the amount of such payment or, as the case may be, the aggregate amount of such payment to the payee is less than <sup>2</sup>[ fifty thousand rupees ]:

