

INTRODUCTION AND PROCEDURE OF

Tax Deducted at Source

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• INTENTION OF LAW MAKER – LOGICAL REASONING.

- To collect tax at the source from where an individual's income is generated.
 - It would be better to deduct the tax at the time of generation itself, as the tax payer would be more convenient in paying the taxes at the time of receipt of Income rather than making the whole payment at the end of the year.
 - Government's tool to collect tax in order to minimize tax evasion by taxing the Income (Partially or wholly) at the time it is generated rather than at a later date.
 - Also, payment of tax at the time of receipt of income reduces their Interest burden calculated on tax payable too which otherwise arises at the end of the financial year.
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WHAT IS TDS ?

The concept of TDS was introduced with an aim to collect tax from the very source of income. As per this concept, a person (deductor) who is liable to make payment of specified nature to any other person (deductee) shall deduct tax at source and remit the same into the account of the Central Government. The deductee from whose income tax has been deducted at source would be entitled to get credit of the amount so deducted on the basis of Form 26AS or TDS certificate issued by the deductor.

Taxes shall be deducted at the rates specified in the relevant provisions of the Act or the First Schedule to the Finance Act. However, in case of payment to non-resident persons, the withholding tax rates specified under the Double Taxation Avoidance Agreements shall also be considered

Section 190 – Legal basis for TDS

Section 191 – Safeguard for Revenue – If no provision for TDS or where tax not deducted – Tax is to be payable by Assessee Direct

Section 192 – 196 D– Tax rates and Payments.

Section 197 - Certificate for deduction at lower rate

Section 198 - Tax deducted is income received.

Section 199 - Credit for tax deducted

Section 200 - Duty of person deducting tax

Section 200 A -Processing of statements of tax deducted at source.

Section 201 - Consequences of failure to deduct or pay.

Section 202 - Deduction only one mode of recovery

Section 203 - Certificate for tax deducted

Section 203 A - Tax deduction and collection account number

Section 204 - Meaning of "person responsible for paying".

Section 205 - Bar against direct demand on assessee.

Section 206 - Persons deducting tax to furnish prescribed returns

Section 206 AB – TDS for non filers of Income Tax.

STATUTE



TAKE A GLANCE

Sec	Particulars
192	Salary
192A	Payment of accumulated balance due to an employee
193	Interest on securities
194A	Interest other than Interest on securities
194B	Winnings from lottery or crossword puzzle
194BB	Winnings from horse race
194C	Payments to contractors
194D	Insurance commission
194DA	Payment in respect of life insurance policy
194E	Payments to non-resident sportsmen or sports associations
194EE	Payments in respect of deposits under National Savings Scheme, etc
194F	Payments on account of repurchase of units by Mutual Fund or Unit Trust of India
194G	Commission, etc., on the sale of lottery tickets
194H	Commission or brokerage
194I	Rent
194IA	Payment on transfer of certain immovable property other than agricultural land

Secs	Particulars
194IB	Payment of rent by certain individuals or HUF
194IC	Payment under specified agreement
194J	Fees for professional or technical services
194LA	Payment of compensation on acquisition of certain immovable property
194LB	Income by way of interest from infrastructure debt fund
194LBA	Certain income from units of a business trust
194LBB	Income in respect of units of investment fund
194LBC	Income in respect of investment in securitization trust
194LC	Income by way of interest from Indian company
194LD	Income by way of interest on certain bonds and Government securities
194M	Payment of certain sums by certain individuals or HUF
194N	Payment of certain amounts in cash
194 O	Electronic Commerce Operator
194 P	Specified Non Senior Citizen
194 Q	Buyer of goods



STAGES / PROCEDURES

IDENTIFICATION

- First check whether the payment made attracts TDS liability or not, then classify the payment into two categories
 - 1. Salary
 - 2. Non-Salary (*Contract Payments, Professional Fees, Parking lot lease etc.,*)
 - Note: Even payable entries(transactions) also attracts Tax deduction at source.
-
- It is the duty of the deductor (who is responsible of signing the bills or the paying authority) to deduct income tax at the time of payment as per the prevailing rates and make sure correctness of the details of PAN which is submitted by the deductee/payee.

RESPONSIBILITIES OF DEDUCTOR

1. Obtain TAN

Every deductor is required to obtain a unique identification number called TAN (Tax Deduction Account Number) which is a ten digit alpha numeric number e.g.DELH90468K.

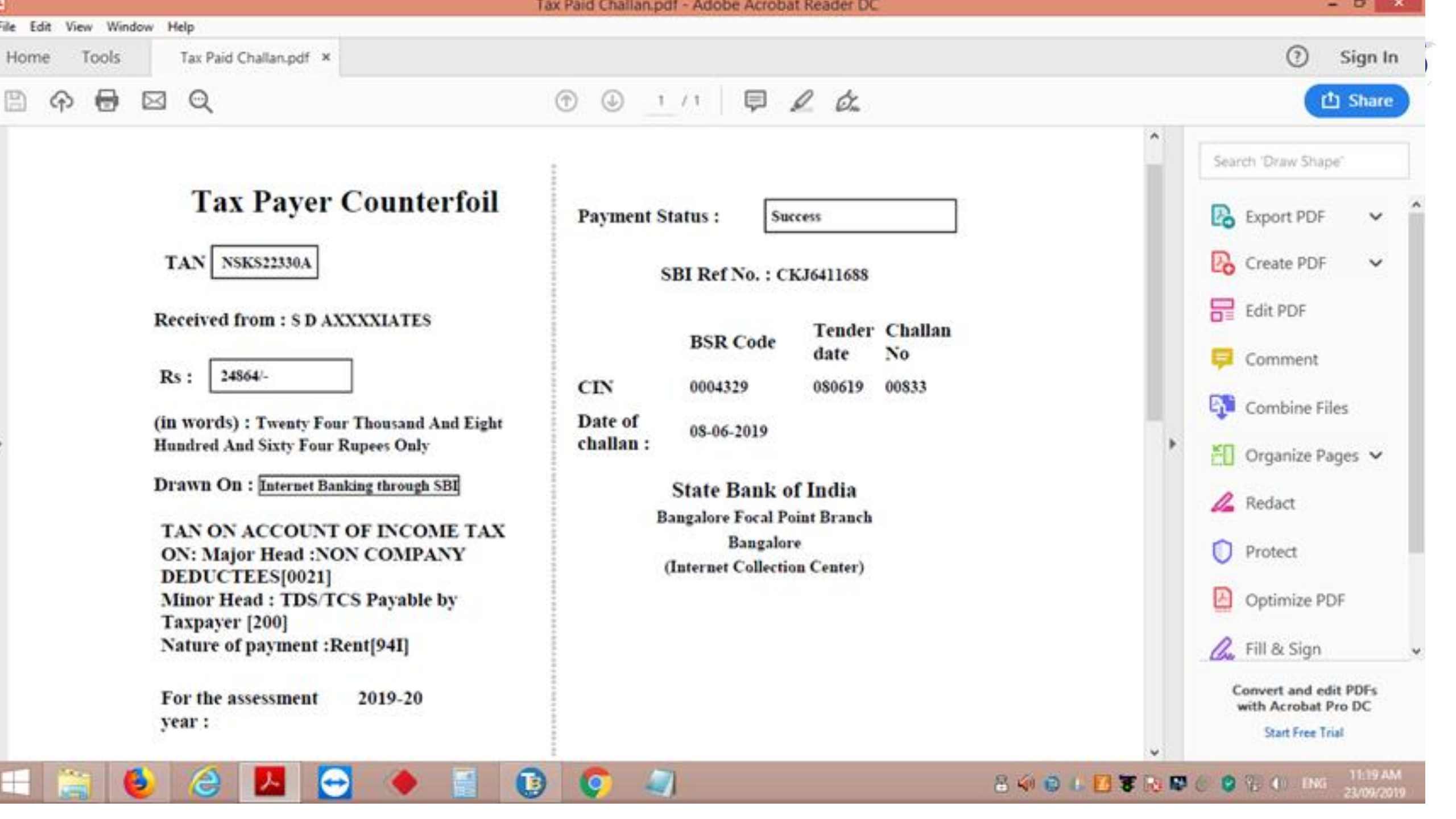
This number has to be quoted by the deductor in every correspondence related to Income Tax matters concerning TDS.

2. He/She should **obtain PAN of the deductee.**

3. File statements of tax deduction in the prescribed time

Remittance:

- He/She should **deduct the tax at correct rate.**
- **The tax deducted has to be deposited in the designated banks within specified time.** (Govt. deductors shall transfer the tax deducted through book entry in Government account). This is detailed below:
 - — By or on behalf of the Government : **on the same day,**
 - — By or on behalf of any other person : **before the 7th of the following month.**
- However, if the amount is credited in the books in the month of March then the tax should be remitted by 30th April.
- Note: w.e.f., 01.04.2008 electronic payment of tax has to be done by all corporate assesses and all persons whose cases are auditable under section 44B.
- **Use challan no. 281 for depositing TDS amount.**



Tax Payer Counterfoil

TAN

Received from : S D AXXXXIATES

Rs :

(in words) : Twenty Four Thousand And Eight Hundred And Sixty Four Rupees Only

Drawn On :

TAN ON ACCOUNT OF INCOME TAX
ON: Major Head :NON COMPANY
DEDUCTEES[0021]
Minor Head : TDS/TCS Payable by
Taxpayer [200]
Nature of payment :Rent[94I]

For the assessment year : 2019-20

Payment Status :

SBI Ref No. : CKJ6411688

	BSR Code	Tender date	Challan No
CIN	0004329	080619	00833
Date of challan :	08-06-2019		

State Bank of India
Bangalore Focal Point Branch
Bangalore
(Internet Collection Center)

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Due dates for furnishing the e-tds returns

Periodicity	Govt., deductor (who remits the tax through Book-entry)	Other than Govt., deductor / deductors who pay tax by way of challan 281.
Q1 (Quarter 1) 1 st Apr – 30 th Jun	31 st JULY	15 th JULY
Q2 (Quarter 2) 1 st Jul – 30 th Sep	30 th OCTOBER	15 th OCTOBER
Q3 (Quarter 3) 1 st Oct – 31 st Dec	31 st JANUARY	15 th JANUARY
Q4 (Quarter 4)	15 th MAY	15 th MAY

Furnishing of TDS statement electronically

The quarterly TDS statement shall be furnished electronically in any of the following mode:

- a) Furnishing the statement electronically under digital signature; or
- b) Furnishing the statement electronically along with the verification of the statement in Form 27A or verified through an electronic process

RETURNS

01

Form 24Q – for
salaries

02

Form 26Q – for non
salaries

03

Form 27Q – For
payment made to
NRI

SPECIAL PROCEDURES

TDS on Property (Form 26QB)

In case tax is deducted under [section 194-IA](#), the deductor shall furnish a challan-cum-statement in Form 26QB within a period of 30 days from the end of the month in which the deduction is made. In this case, no statement shall be filed separately.

TDS on Rent of Property (Form 26QC)

In case tax is deducted under [section 194-IB](#), the deductor shall furnish a challan-cum-statement in Form 26QC within a period of 30 days from the end of the month in which the deduction is made. In this case, no statement shall be filed separately.

TDS on Payment to Resident Contractors and Professionals (Form 26QD)

In case tax is deducted under [section 194M](#), the deductor shall furnish a challan-cum-statement in Form 26QD within a period of 30 days from the end of the month in which the deduction is made. In this case, no statement shall be filed separately.

WEB PORTAL

ELECTRONIC WAY OF FILING RETURNS.

CERTIFICATIONS

i) For TDS on salary	Form No. 16. Form No. 12BA (statement of the value of perquisites and profit in lieu of salary).
(ii) For TDS on other income	Form No. 16A
(iii) For TDS on purchase of immovable property as per section 194-IA	Form No. 16B.
(iv) For TDS under section 194B	Form No. 16C

Time Limit for Issue of TDS Certificate [Rule 31(3)]

SL. No.	Form No.	Periodicity	Due date
(1)	(2)	(3)	(4)
1.	16	Annual	By 15th day of June of the financial year immediately following the financial year in which the income was paid and tax deducted
2.	16A	Quarterly	Within 15 days from the due date for furnishing the statement of tax deducted at source under rule 31 A. In other words, certificate in Form No. 16A should be issued within the time limit specified as under:
3	16B	Monthly	Within 15 days from the due date for furnishing the challan-cum-statement in Form No. 26QB after generating and down-loading the same from the web portal specified by the DGIT (System) or person authorized by him.
4	16C		Within 15 days from the due date for furnishing the challan-cum-statement in Form No. 26QC under rule 31A after generating and downloading the same from

Assessee to be Deemed as Assessee in TDS Default [Section 201(1)]

- Where any person, including the principal officer of a company, —
- who is required to deduct any sum in accordance with the provisions of this Act; or referred to in section 192(1A), being an employer,
 - — does not deduct, or
 - — does not pay, or
 - — after so deducting fails to pay,
- the whole or any part of the tax, as required by or under this Act, then, such person, be deemed to be an assessee in default in respect of such tax and hence shall be liable to penalty under section 221.

CONSEQUENCES A DEDUCTOR WOULD FACE IF HE FAILS TO DEDUCT TDS OR AFTER DEDUCTING THE SAME FAILS TO DEPOSIT IT TO THE GOVERNMENT'S ACCOUNT

Disallowance of expenditure

- [section 40\(a\)\(i\)](#)
- [section 40\(a\)\(ia\)](#)
- [Section 58\(1A\)](#)

Levy of interest

- [Section 201A](#)
- [Section 221\(1\)](#)

Levy of Penalty

- [section 271C](#)
- [Section 271H](#)
- [Section 234E](#)
- [Section 270A](#)

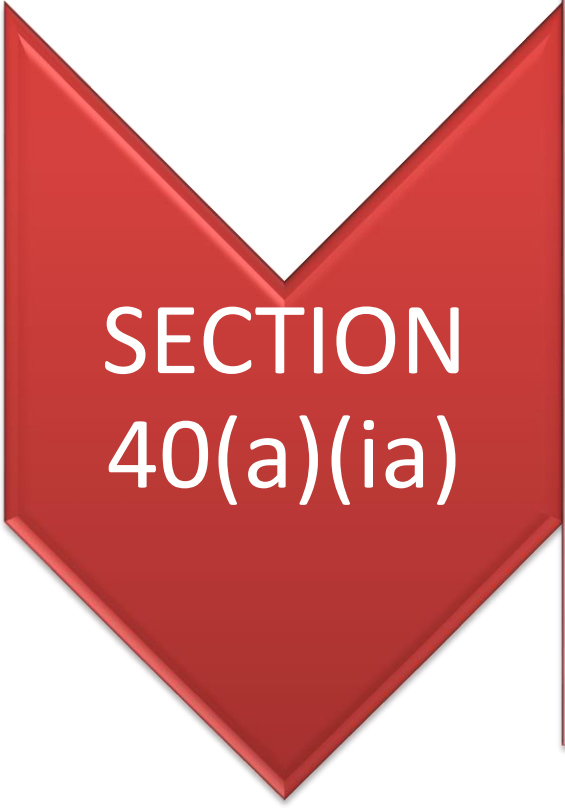
Prosecution

- [Section 276 B](#)

DISALLOWANCE OF EXPENDITURE

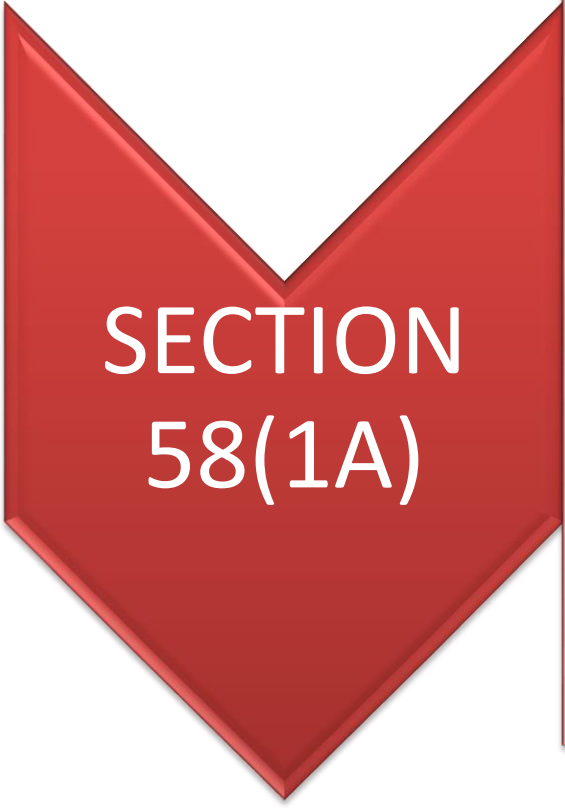
SECTION 40(a)(i)

- Notwithstanding anything to the contrary in sections 30 to [2][38], the following amounts **shall not be deducted** in computing the income chargeable under the head Profits and gains of business or profession in the case of any assessee any interest (not being interest on a loan issued for public subscription before the 1st day of April, 1938), royalty, fees for technical services or other sum chargeable under this Act, which is payable, **(A)** outside India;
- or **(B)** in India to a non-resident, not being a company or to a foreign company, on which tax is deductible at source under Chapter XVII-B and such **tax has not been deducted or, after deduction, has not been paid** [4][on or before the due date specified in sub-section (1) of section 139]



SECTION 40(a)(ia)

- **Thirty per cent** of any sum payable to a resident, on which tax is deductible at source under Chapter XVII-B and such tax has not been deducted or, after deduction, has not been paid on or before the due date specified in subsection (1) of section 139



SECTION 58(1A)

- (1A) The provisions of [8][sub-clauses (ia) and (iia)] of clause (a) of section 40 shall, so far as may be, apply in computing the income chargeable under the head Income from other sources as they apply in computing the income chargeable under the head Profits and gains of business or profession .]

LEVY OF INTEREST

SECTION 201 A

- Non-deduction of tax at source, either in whole or in part
 - Interest 1% Per Month
 - **Period for which interest is to be paid:** From the date on which tax-deductible to the date on which tax is actually deducted.
- After deduction of tax, non-payment of tax either in whole or in part
 - Interest 1.5% Per Month
 - **Period for which interest is to be paid:** From the date of deduction to the date of payment

SECTION 221(1)

- When an assessee is in default or is deemed to be in default in making a payment of tax, he shall, in addition to the amount of the arrears and the amount of interest payable under sub-section (2) of section 220, be liable, by way of penalty, to pay such amount as the [3][Assessing] Officer may direct, and in the case of a continuing default, such further amount or amounts as the [4][Assessing] Officer may, from time to time, direct, so, however, that the total amount of penalty does not exceed the amount of tax in arrears

LEVY OF PENALTY

SECTION 271

C

- 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; or pay the whole or any part of the tax as required by or under, --sub-section (2) of section 115-O; or second proviso to section 194B, 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 aforesaid.
- Any penalty imposable under sub-section (1) shall be imposed by the [4][Joint Commissioner

SECTION 271 H

- Penalty for failure to furnish statements, etc
- The penalty referred to in sub-section (1) shall be a sum **which shall not be less than ten thousand rupees but which may extend to one lakh rupees**
- no penalty shall be levied for the failure referred to in clause (a) of sub-section (1), if the person proves that after paying tax deducted or collected along with the fee and interest, if any, to the credit of the Central Government, he had delivered or cause to be delivered the statement referred to in sub-section (3) of section 200 or the proviso to sub-section (3) of section 206C before the expiry of a period of one year from the time prescribed for delivering or causing to be delivered such statement.



SECTION 234E

- Without prejudice to the provisions of the Act, where a person fails to deliver or cause to be delivered a statement within the time prescribed in sub-section (3) of section 200 or the proviso to sub-section (3) of section 206C, he shall be liable to pay, by way of fee, a sum of two hundred rupees for every day during which the failure continues





SECTION 270 A

- Penalty for under-reporting and misreporting of income
- UNDER REPORTING- The penalty referred to in sub-section (1) shall be a sum equal to fifty per cent of the amount of tax payable on under-reported income
- MIS REPORTING- Notwithstanding anything contained in sub-section (6) or sub-section (7), where under-reported income is in consequence of any misreporting thereof by any person, the penalty referred to in sub-section (1) shall be equal to two hundred per cent. of the amount of tax payable on under-reported income

PROSECUTION

SECTION 276 B

- If a person fails to pay to the credit of the Central Government-the tax deducted at source by him as required by or under the provisions of Chapter XVII-B; or the tax payable by him, as required by or under, -- sub-section (2) of section 115-O; or the second proviso to section 194B, he shall be punishable with rigorous imprisonment for a term which shall not be less than three months but which may extend to seven years and with fine.

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- **Provided** that any person, including the principal officer of a company, who fails to deduct the whole or any part of the tax in accordance with the provisions of this Chapter on the sum paid to a resident or on the sum credited to the account of a resident shall not be deemed to be an assessee in default in respect of such tax if such resident —
 - (i) has furnished his return of income under section 139;
 - (ii) has taken into account such sum for computing income in such return of income; and
 - (iii) has paid the tax due on the income declared by him in such return of income,
 - and the person furnishes a certificate to this effect from an accountant in such form as may be prescribed⁶⁸.]
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OTHER MAJOR POINTS

Certificate for Deduction at Lower rate



- ☐ The payee feels that there will not be any tax liability, even after receiving the payment
- ☐ He can file an application to his Assessing Officer (AO), giving all details of income
- ☐ AO if satisfied that total income justifies non-deduction or lower deduction , can give a certificate
- ☐ Payer can give the amount after making nil-deduction or deduction at lower rate, on the basis of the certificate produced before him
- ☐ Certificate is valid for the financial year, unless it is cancelled by the AO during the year.

Thank
you