

TDS

By

CMA S Venkanna

Cost Accountant

Provisions – General – Applicable TDS

- One of the method of collection of tax
- TDS Rates = As per Relevant Finance Act
 - Rates as Part II of First Schedule of the Finance Act
 - Applicable for Sec.193 to Sec.195
- In TDS – only Basic rate notified to be deducted and Sur Charge and Health and Education Cess.
- If PAN is furnished by the payee notified rates. If no PAN TDS will be 20%.
- Under Sec.197, the payee may obtain certificate from AO for Not deducting Tax and lower rate with PAN.
- Declaration in 15G/15H with PAN may be submitted for non deduction.

Sec.193

- Applicable for payment of Interest on Securities
- Meaning of Interest
 - As per Section 2(28B) interest on securities includes:
 - a) interest on any security of Central Government or State Government
 - b) interest on debentures or
 - c) interest on other securities by or on behalf of a local authority
 - or a company
 - or a corporation established by Government.

TDS Rate

- 10%
- No TDS if the interest is less than Rs.5,000
- the amount or the aggregate of the amounts of such interest paid or payable during the financial year does not exceed ₹ 5,000.

TDS is not applicable

- **Any interest payable to:—**

- i. Life Insurance Corporation of India;
- ii. General Insurance Corporation of India or any of four companies formed under it;
- iii. Any other insurer, in respect of any securities owned by them, or in which they have full beneficial interest.

Contd..

- **No tax is to be deducted at source if the following conditions are satisfied:**
- i. if debentures are issued by a widely held company;
- ii. such debentures may or may not be listed on a stock exchange in India;
- iii. interest is paid/payable to an individual or HUF who is resident in India; and
- iv. interest is paid by account payee cheque; and
- the amount or the aggregate of the amounts of such interest paid or payable during the financial year does not exceed ₹ 5,000.

- **1. Any interest payable on any security issued by a company, where such security is in dematerialized form and is listed on a recognized stock exchange in India in accordance with the Securities Contracts (Regulation) Act, 1956 and the rules made thereunder.**
- **2. Interest paid or credited on 8% saving (Taxable) Bonds 2003 issued by the Central Government provided the interest on such bonds does not exceed ₹ 10,000.**
- A person, other than a company or firm may furnish a declaration in writing in duplicate in new Form No. 15G to the payer to the effect that there is no tax payable on his Total Income. In this case, the payer shall not deduct any tax at source.

- **Any payment made to New Pension System Trust [Section 197A (1E)]:**
- No deduction of tax shall be made from any payment to any person for, or on behalf of, the New Pension System Trust referred to in section 10(44).
- Interest on 6 % Gold Bonds, 1977 or 7% Gold Bonds, 1980 held by a resident Individual only if the total nominal value of the bonds didn't exceed INR 10,000 at any time during the period to which the interest relates.

- **No deduction of tax from specified payment to notified institutions, association or body, etc. [Section 197A (1F)]:**
- No deduction of tax shall be made from such specified payment to such institution, association or body or class of institutions, associations or bodies as may be notified by the Central Government in the Official Gazette, in this behalf. No tax shall be deducted at source from the payments of the nature specified under section 10(23DA) received by any securitization trust.
- **H. Certain entities required to file return under section 139(4A) or 139(4C) [Rule 28AB]:**
- As per rule 28AB certain entities who are required to file their return of income under section 139(4A) or 139(4C) may apply under Form No. 13 for no deduction of tax at source provided certain conditions are satisfied.

- **Entities whose income is exempt under section 10:**
- Who are statutorily not required to file return under section 139 there will be no requirement for TDS since their income is in any way exempt.
- Interest on 7 year National Savings Certificate (IV issue).
- Interest on the National Development Bonds
- Interest on 4% National Defence Loan, 1968 or National Defence Loan, 1972 held by an Individual.
- Interest on 4% National Defence Bonds, 1972 held by a resident Individual.

Person Responsible for making TDS

- The person responsible for paying to a resident any income by way of interest on securities shall, at the time of credit of such income to the account of the payee or at the time of payment thereof in cash or by issue of a cheque or draft or by any other mode, whichever is earlier, deduct income-tax at the rates in force on the amount of the interest payable :

Sec.194A

- Section 194A deals with the provisions relating to TDS on interest other than on securities.
- Tax is to be deducted under section 194A, if interest (other than interest on securities) is paid to a resident.
- The provisions of section 194A are not applicable in
 - case of payment of interest to a non-resident. Payments made to non-residents are also
 - covered under TDS mechanism, however, tax in such a case is to be deducted as per
 - section 195.

Who is to deduct tax under sec.194A

- Every person (i.e. the payer) other than an individual or a Hindu undivided family (HUF),
- who is responsible to pay interest (interest other than on securities) to a resident, is liable to deduct tax at source under section 194A.
 - However, an individual or a HUF, whose total sales, gross receipts or turnover from the business or profession carried on by him/it exceeds Rs. 1 crore in case of business and
 - Rs. 50 lakhs in case of a profession¹ during the financial year immediately preceding the financial year in which the aforesaid amount is credited or paid,
 - Shall be liable to deduct tax under section 194A.

When Tax to be deducted

- As per section 194A, tax is to be deducted at the time of payment or credit of interest (to any account by whatever name called), whichever is earlier.
- In case of interest on compensation awarded by Motor Accident Claims Tribunal, tax is to be deducted at the time of payment (TDS applies only if interest exceeds Rs. 50,000).

No TDS

- No tax is required to be deducted if aggregate amount of interest credited or paid to the payee in respect of time deposit during the financial year doesn't exceed the following limit

Threshold Limit

Payer	Payer is Senior Citizen	Payee is Others
Banking Company	50,000	40,000
Co-Operative Society engaged in Banking Business	50,000	40,000
Post Office	50,000	40,000
Other persons	5,000	5,000
The ceiling limit as specified above shall not be computed branch-wise if such banking company or co-operative society or public company has adopted Core Banking Solutions	(CBS). For the above purposes "time deposits" means deposits <i>including</i> recurring deposits repayable on the expiry of fixed periods	

No TDS

- No deduction of tax shall be made under this section in the case of an individual, who is resident in India, if such individual furnishes to the payer, a declaration in writing in Form 15G/15H, as the case may be, to the effect that his income is below exemption limit.
- The provisions in this regard are as follows:
 - Declaration (in duplicate) is to be made in Form No. 15H when the recipient is a senior citizen and in Form No. 15G when the recipient is other than senior citizen.
 - Declaration in Form No. 15G/15H can be made only by an individual resident in India.

Declaration

- Declaration in Form No. 15G/15H can be made, if the annual interest does not
- exceed the exemption limit (i.e. Rs.2,50,000 or Rs. 3,00,000 or Rs. 5,00,000, as
- the case may be). However, this condition is not applicable in case of a senior
- citizen (i.e. resident individual of at least 60 years of age) i.e. a resident senior
- citizen can furnish declaration in form 15H even if annual interest likely to be
- paid to him exceeds the exemption limit of Rs. 2,50,000 or Rs. 5,00,000, as the
- case may be, provided the tax payable on his total income after considering the
- rebate under section 87A is *nil*.
- The tax payable on total income of the year should be “*Nil*”.

Payer to do

- The payer who receives declaration in Form No. 15G/15H shall be required to upload
- details of such declarations on quarterly basis on the e-filing site
- (www.incometax.gov.in) under his digital signature within:
 - 15 days from the end of first, second and third quarte
 - 30 days from the end of fourth quarter.

Certificate

- When the payee has obtained a certificate from the Assessing Officer for no deduction or lower deduction of tax.
- The payee may file online application in Form No. 13 for issuance of certificate for no deduction of tax or lower deduction of tax at source.
- On receiving such an application, the AO may issue appropriate certificate in this regard if he is satisfied that the total income of the payee justifies the deduction of income-tax at any lower rate or nil deduction of income tax.

Certificate for nil deduction

- As per Income-tax (eleventh amendment) Rules, 2017, Certificate for lower or nil deduction of tax shall be issued directly to the person responsible for deducting the tax under advice to the person who made an application for issue of such certificate.
- However, if number of persons responsible for deducting the tax is likely to exceed 100 and the details of such persons are not available with the [A s amended by Finance A c t, 2021]
- person making such application, the certificate may be issued to the applicant authorizing him to receive income after deduction of tax at lower rate.
- If AO has issued certificate for no deduction of tax or lower deduction of tax, as the case may be, then payer should deduct tax accordingly.

Partners in a Firm

- No tax is to be deducted under section 194A in respect of interest credited or paid by the firm to its partners.

Provisions not applicable

- Interest paid to any banking company to which the Banking Regulation Act, 1949,
- applies, or any co-operative society engaged in carrying on the business of
- banking (including a co-operative land mortgage bank).
 - Interest paid to any financial corporation established by or under a Central, State
- or Provincial Act.
 - Interest paid to the Life Insurance Corporation of India established under the Life
- Insurance Corporation Act, 1956.
 - Interest paid to the Unit Trust of India established under the Unit Trust of India Act, 1963.
 - Interest paid to any company or co-operative society carrying on the business of
- insurance.

Interest to specified persons

- Interest paid to any other institution, association or body or class of institutions,
- associations or bodies which the Central Government may notify on or before 31-03-2021.
 - Interest paid by a co-operative society (other than a co-operative bank) to a
- member thereof or to such income credited or paid by a co-operative society to
- any other co-operative society.
 - Interest credited or paid in respect of deposits notified by the Central
- Government. Interest credited or paid in respect of deposits with a primary
- agricultural credit society or a primary credit society or a co-operative land
- mortgage bank or a co-operative land development bank

Interest to others

- Interest credited or paid by the Central Government under any provision of
- Income-tax Act, 1961
 - Interest which is paid or payable by an infrastructure capital company or
- infrastructure capital fund or infrastructure debt fund or a public sector company
- or scheduled bank in relation to a zero coupon bond issued on or after the
- Interest paid by special purpose vehicle to business trust as given in section
- 10(23FC)

Contd...

- However, where interest is paid or payable by a co-op. bank or society specified
- above, the tax shall be deducted under this provision if the following conditions
- are satisfied:
 - a) total sales, gross receipts or turnover of the payer exceeds Rs. 50 crores
- during the financial year immediately preceding the financial year in which
- the interest is credited or paid;

Government powers

- Further, the Central Government is empowered to issue notification to provide
- for no deduction of tax or deduction of at lower rate in respect of certain
- payments or certain persons. Thus, tax is respect of such persons or payment
- shall not be deducted or deducted at such rate as may be notified by the Central Government.

TDS Rate

- In respect of interest other than interest on securities, tax is to be deducted @ 10%.
- However, if the payee does not furnish his Permanent Account Number, then the payer
- has to deduct tax at the higher of following:
 - At the rate specified in the relevant provision of the Income-tax Act.
 - At the rate or rates in force, i.e., the rate prescribed in the Finance Act.
 - At the rate of 20%.

Payment of Tax to Government

- Tax deducted from interest by the non-Government deductor is to be paid to the credit of
- the Central Government by the following due dates:
- [?] Tax deducted during the month of April to February should be paid to the credit
- of the Government on within 7 days from the end of the month in which the tax is
- deducted.
- [?] Tax deducted during the month of March should be paid to the credit of the
- Government on or before 30th day of April.

Delay in payment

- As per section 201, if any person who is liable to deduct tax at source does not deduct tax
- at source, or after so deducting fails to pay the whole or any part of the tax to the credit of
- the Government, then such person shall be liable to pay simple interest at following rates:
- [?] Interest shall be levied @ 1% for every month or part of a month on the amount of
- such tax from the date on which such tax was deductible to the date on which such
- tax is deducted. Interest shall be levied @ 1.5% for every month or part of a month on
- the amount of such tax from the date on which such tax was deducted to the date on
- which such tax is actually paid to the credit of the Government.
- In other words, interest will be levied @ 1% for delay in deduction and @ 1.5% for delay
- in payment after deduction.

Certificate

- Every deductor has to furnish a TDS certificate to the deductee in Form No. 16A (for tax deducted on payments other than salary). The certificate should be issued on quarterly basis by following dates

Due date for issue of certificate

Quarter April to June	15 th August
Quarter July to September	15 th November
Quarter October to December	15 th February
Quarter January to March	15 th June

TDS Returns

- Every deductor who has deducted tax at source has to furnish the details of tax deducted
- by him to the Government. These details are to be furnished to the Government in the
- prescribed form. These details are to be furnished on quarterly basis. In other words,
- every deductor has to furnish the details of tax deducted by him by filing quarterly TDS
- return in the prescribed form. The due dates for filing the quarterly TDS return by a non-
- Government deductor are as per table given below :

Quarterly returns

Quarter	Due Date
I Quarter	31 st July
II Quarter	31 st October
III Quarter	31 st January
IV Quarter	31 st May

Default

- The deductor will be liable to fee/penalty/persecution in respect of following defaults:
 - 1. Default in obtaining Tax Deduction Account Number (*)
 - 2. Default in deduction of tax
 - 3. Default in payment of tax to the credit of the Government
 - 4. Default in furnishing the TDS return
 - 5. Default in furnishing the TDS certificate to the payee

Note

- As per section 203A(1), every person liable to deduct tax at source has to obtain Tax
- Deduction Account Number (TAN), except person liable to deduct tax under section
- 194IA (TDS on purchase of land/building), 194-IB (TDS on payment of rent by certain
- Individual or HUF), 194M (TDS on payment of commission, contractual free or
- professional fee by certain Individual or HUF) and such person, as may be notified by the
- Central Government in this behalf.

Disallowance of expenses

- **Disallowance of expenses while computing business income due to non-deduction of**
- **tax at source under section 194A**
- As per section 40(a)(ia), any sum payable to a resident, which is subject to deduction of
- tax at source, would attract 30% disallowance while computing income chargeable to tax
- under the head “Profits and gains of business or profession”:
- [?] If tax is deductible at source but is not deducted.
- [?] If tax is deducted during the year, and the same is not paid on or before the due
- date of filing of return of income specified under section 139(1).

filing

- In other words, if tax is deducted during the year and the same is paid on or before the
- due date of filing the return as specified in section 139(1), then the concerned expenditure
- will be deductible in the year in which such expenditure is incurred.
- However, any payment disallowed by aforesaid provision, shall be allowed as a
- deduction in computing the income of the year in which such tax deducted has been paid
- to the Government.

Solution

- However, no disallowance shall be made even if assessee has not deducted the
- tax at source from any sum paid to a payee, if following conditions are satisfied:
 - a) The recipient has furnished his return of income.
 - b) He has taken into account the above income in such return of income
 - c) He has paid the tax due on the income declared in such return of income;
 - and
 - d) Payer obtains a certificate from Chartered Accountant in Form No. 26A and
- electronically furnishes it to the Income-tax Dept.