

Tax Deduction at Source – Basic Provisions and Procedures in the Deduction

By
CMA Niranjan Swain. BCom, CS, FCMA, LLB
Advocate & Tax Consultant

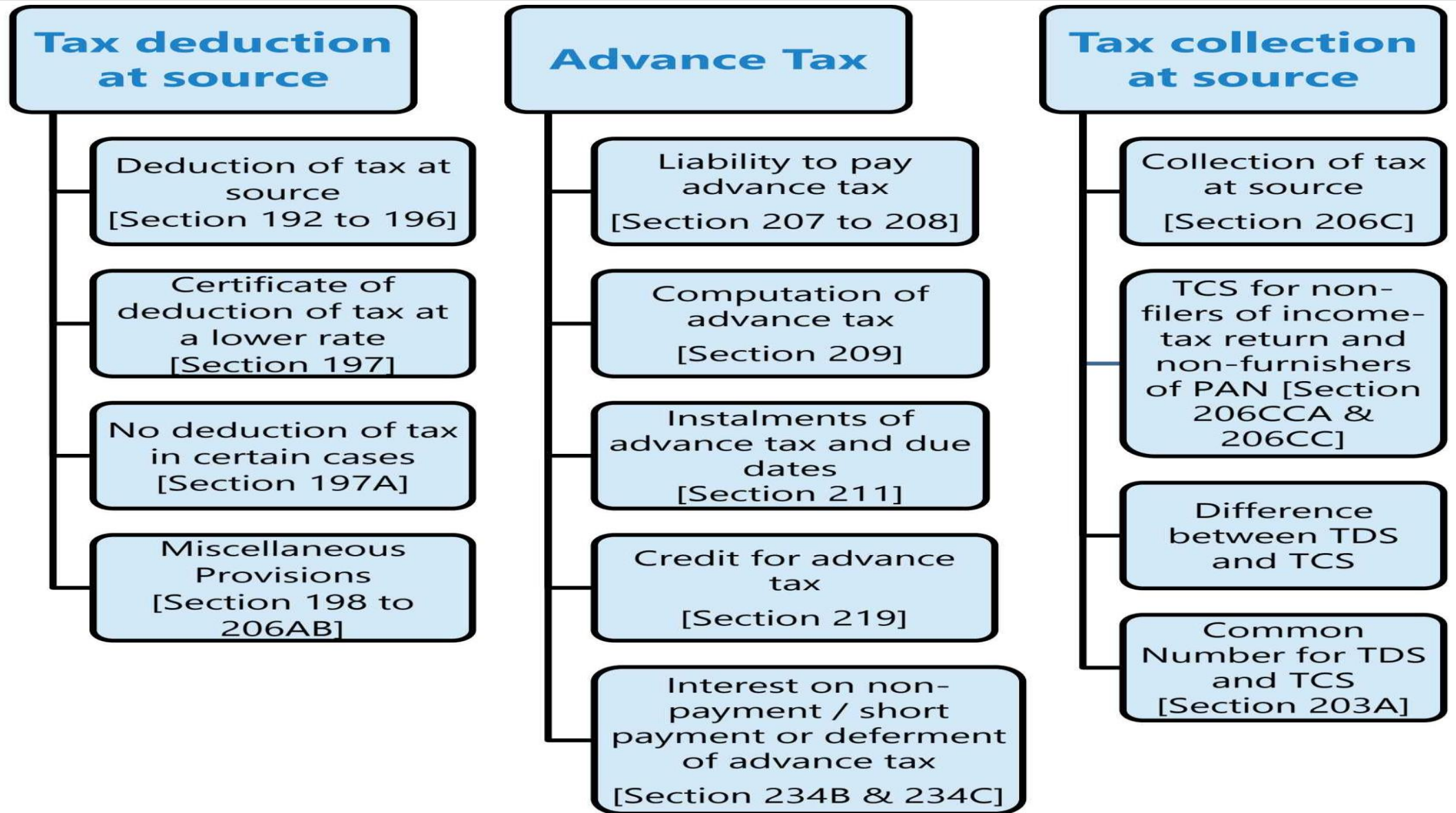
Deduction of Tax at Source and Advance Payment of Tax

The total income of an assessee for the previous year is taxable in the relevant assessment year. For example, the total income for the P.Y. 2023-24 is taxable in the A.Y. 2024-25. However, income-tax is recovered from the assessee in the previous year itself through –

- (1) Tax deduction at source (TDS)
- (2) Tax collection at source (TCS)
- (3) Payment of advance tax

Another mode of recovery of tax is from the employer through tax paid by him under section 192(1A) on the non-monetary perquisites provided to the employee.

These taxes are deductible from the total tax due from the assessee. The assessee, while filing his return of income, has to pay self-assessment tax under section 140A, if tax is due on the total income as per his return of income after adjusting, *inter alia*, TDS, TCS, relief of tax claimed under section 89, tax credit claimed to be set off in accordance with the provisions of section 115JD, *in case assessee exercises the option of shifting out of the default tax regime provided under section 115BAC(1A)*, any tax or interest payable according to the provisions of section 191(2) and advance tax.



Direct Tax payment

Direct payment of tax - Section 191(1) provides that in the following cases, tax is payable by the assessee directly –

- (i) in the case of income in respect of which tax is not required to be deducted at source; and
- (ii) income in respect of which tax is liable to be deducted but is not actually deducted.

In view of this provision, the proceedings for recovery of tax necessarily had to be taken against the assessee whose tax was liable to be deducted, but not deducted.

Direct Tax Payment

In order to overcome this difficulty, the *Explanation* to this section provides that if any person, including the principal officer of a company –

- (i) who is required to deduct tax at source; or
- (ii) an employer paying tax on non-monetary perquisites under section 192(1A), does not deduct, or after deducting fails to pay such tax, or does not pay, the whole or part of the tax, then, such person shall be deemed to be an assessee-in-default.

However, if the assessee himself has paid the tax, this provision will not apply.

Installment of Advance Tax and due dates:

- (1) **Common advance tax payment schedule for both corporates and non-corporates [Other than assesseees computing profits on presumptive basis under section 44AD(1) or section 44ADA(1)]:**

Due date of instalment	Amount payable
On or before 15th June	Not less than 15% of advance tax liability
On or before 15th September	Not less than 45% of advance tax liability, as reduced by the amount, if any, paid in the earlier instalment.
On or before 15th December	Not less than 75% of advance tax liability, as reduced by the amount or amounts, if any, paid in the earlier instalment or instalments.
On or before 15th March	The whole amount of advance tax liability as reduced by the amount or amounts, if any, paid in the earlier instalment or instalments.

Note - Any amount paid by way of advance tax on or before 31st March shall also be treated as advance tax paid during each financial year ending on 31st March.

Installment of Advance Tax and due dates:

(2) Advance tax payment by assesseees computing profits on presumptive basis under section 44AD(1) or section 44ADA(1)

An eligible assessee, opting for computation of profits or gains of business on presumptive basis in respect of eligible business referred to in section 44AD(1) or for computation of profits or gains of profession on presumptive basis in respect of eligible profession referred to in section 44ADA(1), shall be required to pay advance tax of the whole amount in one instalment on or before 15th March of the financial year.

Installment of Advance Tax and due dates:

However, any amount paid by way of advance tax on or before 31st March shall also be treated as advance tax paid during each financial year ending on 31st March.

- (3) If the last day for payment of any instalment of advance tax is a day on which the receiving bank is closed, the assessee can make the payment on the next immediately following working day, and in such cases, the interest leviable under sections 234B and 234C would not be charged.
- (4) Where advance tax is payable by virtue of the notice of demand issued⁸ by the Assessing Officer, the whole or the appropriate part of the advance tax specified in such notice shall be payable on or before each of such due dates as fall after the date of service of notice of demand.
- (5) Where the assessee does not pay any instalment by the due date, he shall be deemed to be an assessee in default in respect of such instalment.

Interest under section 234A

For the above purpose, interest payable under section 234A shall be computed on the amount of tax on the total income as declared in the return, as reduced by the amount of-

- (i) advance tax paid, if any;
- (ii) any tax deducted or collected at source;
- (iii) *any relief of tax claimed under section 89;***
- (iv) relief of tax claimed under section 90 or 90A;
- (v) deduction of tax claimed under section 91;
- (vi) any tax credit claimed to be set-off in accordance with the provisions of section 115JAA or section 115JD.

Interest under section 234B

Interest payable under section 234B shall be computed on the assessed tax or on the amount by which the advance tax paid falls short of the assessed tax.

For this purpose, “assessed tax” means the tax on total income declared in the return as reduced by –

- (i) the amount of tax deducted or collected at source;
- (ii) ***any relief of tax claimed under section 89;***
- (iii) relief of tax claimed under section 90 or 90A
- (iv) deduction of tax claimed under section 91
- (v) any tax credit claimed to be set-off in accordance with the provisions of section 115JAA or section 115JD [Sub-section (1B)].

Interest for deferment of advance tax – section 234C (other than assessee covered under presumptive tax)

Specified date	Specified %	Shortfall in advance tax	Period
(1)	(2)	(3)	(4)
15 th June	15%	15% of tax due on returned income (-) advance tax paid up to 15 th June	3 months
15 th September	45%	45% of tax due on returned income (-) advance tax paid up to 15 th September	3 months
15 th December	75%	75% of tax due on returned income (-) advance tax paid up to 15 th December	3 months
15 th March	100%	100% of tax due on returned income (-) advance tax paid up to 15 th March	1 month

Note – However, if the advance tax paid by the assessee on the current income, on or before 15th June or 15th September, is not less than 12% or 36% of the tax due on the returned income, respectively, then, the assessee shall not be liable to pay any interest on the amount of the shortfall on those dates.

Computation of interest under section 234C in case of an assessee who declares profits and gains in accordance with the provisions of section 44AD(1) or section 44ADA(1):

In case an assessee who declares profits and gains in accordance with the section 44AD(1) or section 44ADA(1), as the case may be, who is liable to pay advance tax under section 208 has failed to pay such tax or the advance tax paid by the assessee on its current income on or before 15th March is less than the tax due on the returned income, then, the assessee shall be liable to pay simple interest at the rate of 1% on the amount of the shortfall from the tax due on the returned income.

Non-applicability of interest under section 234C in certain cases:

Interest under section 234C shall not be leviable in respect of any shortfall in payment of tax due on returned income, where such shortfall is on account of under-estimation of or failure to estimate –

- (i) the amount of capital gains;
- (ii) income of nature referred to in section 2(24)(ix) i.e., winnings from lotteries, crossword puzzles etc.;
- (iii) income under the head “Profits and gains of business or profession” in cases where the income accrues or arises under the said head for the first time.
- (iv) the amount of dividend income other than deemed dividend referred u/s 2(22)(e)

However, the assessee should have paid the whole of the amount of tax payable in respect of such income referred to in (i), (ii), (iii) or (iv), as the case may be, had such income been a part of the total income, as part of the remaining instalments of advance tax which are due or where no such instalments are due, by 31st March of the financial year.

Meaning of tax due on returned income

Tax due on returned income means the tax calculated on total income declared in the return furnished by the assessee *less*

- tax deducted or collected at source
- any relief of tax allowed under section 89
- any tax credit allowed to be set off in accordance with the provisions of section 115JD, *in case the assessee exercises the option of shifting out of the default tax regime provided under section 115BAC(1A).*

Self-assessment under section 140A

<p>Tax Payable = Tax on Total Income – Advances tax paid – TDS/TCS – relief u/s 89 – tax credit claimed to be set-off in accordance with section 115JD – tax and inerest payable under section 191(2)</p>	<p>Return to be accompanied by proof of payment of Taxpayable + Interest u/s 234A, 234B and 234C + Fee payable u/s 234F</p>	<p>Order of adjustment of amount paid Fee, Interest and tax</p>
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Self-Assessment Tax Payable- Section 140A

Find out income-tax, surcharge and health and education cess as per return of income		XXXX
<i>Add:</i> Interest and fee—		
Interest under section 234A for late submissions of return of income*	XXXX	
Interest under section 234B for non-payment or short payment of advance tax*	XXXX	
Interest under section 234C for non-payment or short payment of different instalments of advance tax*	XXXX	
Fee under section 234F for late submission of return of income	XXXX	XXXX
Total tax, interest and fee		XXXX
<i>Less:</i> Advance tax, tax deducted at source, tax collected at source, MAT credit under section 115JAA, alternate minimum tax credit under section 115JD and relief under section 90/90A/91A		XXXX
Self-assessment tax payable under section 140A		XXXX

Interest or dividend or other sums payable to Government, Reserve Bank or certain corporations [Section 196]

- (1) No deduction of tax shall be made by any person from any sums payable to -
 - (i) the Government; or
 - (ii) the Reserve Bank of India; or
 - (iii) a corporation established by or under a Central Act, which is, under any law for the time being in force, exempt from income-tax on its income; or
 - (iv) a Mutual Fund¹.
- (2) This provision for non-deduction is applicable when such sum is payable to the above entities by way of -
 - (i) interest or dividend in respect of securities or shares -
 - (a) owned by the above entities; or
 - (b) in which they have full beneficial interest or
 - (ii) any income accruing or arising to them.

Certificate of Deduction of Tax at Lower Rate – Section 197

- (1) This section applies where, in the case of any income of any person or sum payable to any person, income-tax is required to be deducted at the time of credit or payment, as the case may be, at the rates in force as per the provisions of sections 192, 193, 194, 194A, 194C, 194D, 194G, 194H, 194-I, 194J, 194K, 194LA and 194M.
- (2) In such cases, the assessee can make an application to the Assessing Officer for deduction of tax at a lower rate or for non-deduction of tax.
- (3) If the Assessing Officer is satisfied that the total income of the recipient justifies the deduction of income-tax at lower rates or no deduction of income-tax, as the case may be, he may give to the assessee such certificate, as may be appropriate.

Certificate of Deduction of Tax at Lower Rate – Section 197

- (4) Where the Assessing Officer issues such a certificate, then the person responsible for paying the income shall deduct income-tax at such lower rates specified in the certificate or deduct no tax, as the case may be, until such certificate is cancelled by the Assessing Officer.
- (5) Enabling powers have been conferred upon the CBDT to make rules for prescribing the procedure in this regard.

No deduction of Tax at Source in certain Cases – Section 197A

(1) Enabling provision for filing of declaration for receipt of dividend without deduction of tax [Sub-section (1)]

- (i) This section enables an individual, who is resident in India and whose estimated total income of the previous year is less than the basic exemption limit, to receive dividend, without deduction of tax at source under section 194 on furnishing a declaration in duplicate in the prescribed form [Form 15G] and verified in the prescribed manner.
- (ii) The declaration in the above form is to be furnished in writing in duplicate by the declarant to the person responsible for paying any income of the nature referred to in section 194. The declaration will have to be to the effect that the tax on the estimated total income of the declarant of the previous year in which such income is to be included in computing his total income will be **Nil**.

No deduction of Tax at Source in certain Cases – Section 197A

(2) *Enabling provision for filing of declaration for non-deduction of tax under section 192A or 193 or 194A or 194D or 194DA or 194-I or 194K by persons, other than companies and firms [Sub-section (1A)]*

No deduction of tax shall be made under the above provisions of the Act, where a person, who is not a company or a firm, furnishes to the person responsible for paying any income of the nature referred to in these sections, a declaration in writing in duplicate in the prescribed form [Form 15G] to the effect that the tax on his estimated total income of the previous year in which such income is to be included in computing his total income will be **Nil**.

Sections

192A:Accumulated balance of PF

193:Interest on Securities

194A: Interest other than the interest on Securities

194D:Insurance Compensation

194DA:Payment in respect of life insurance policy

194I: Rent

194K: Income of Units of Mutual Fund

No deduction of Tax at Source in certain Cases – Section 197A

(3) *Filing declaration not permissible if income/aggregate of incomes exceed basic exemption limit [Sub-section (1B)]*

Declaration cannot be furnished as per the above provisions, where -

- (i) payments of dividend; or
- (ii) payment of premature withdrawal from Employee Provident Fund; or
- (iii) income from interest on securities or
- (iv) interest other than "interest on securities" or units; or
- (v) insurance commission; or
- (vi) payment in respect of life insurance policy; or
- (vii) rent; or
- (viii) income from units; or
- (ix) the aggregate of the amounts of such incomes in (i) to (viii) above credited or paid or likely to be credited or paid during the previous year in which such income is to be included exceeds the basic exemption limit.

No deduction of Tax at Source in certain Cases – Section 197A

(4) *Enabling provision for filing of declaration by resident senior citizens for non-deduction of tax at source [Sub-section (1C)]*

For a resident individual, who is of the age of 60 years or more at any time during the previous year, no deduction of tax shall be made under section 192A or section 193 or section 194 or section 194A or section 194D or section 194DA or section 194EE or section 194-I or section 194K, if such individual furnishes a declaration in writing in duplicate in Form 15H to the payer, that tax on his estimated total income of the previous year in which such income is to be included in computing his total income is **Nil**. The restriction contained in sub-section (1B) will not apply to resident senior citizens.

192A:Accumulated balance of PF

193:Interest on Securities

194:Dividend

194A: Interest other than than interest on Securities

194D:Insurance Compensation

194DA:Payment in respect of life insurance policy

194EE:Payment in respect of Deposit under NSS

194I: Rent

194K: Income of Units of Mutual Fund

No deduction of Tax at Source in certain Cases – Section 197A

(5) *Non-deduction of tax in certain cases*

Payments to notified person or class of persons including institutions/class of institutions etc. [Sub-section (1F)]

No deduction of tax shall be made or deduction of tax shall be made at such lower rate, from such payment to such person or class of persons, including institution, association or body or class of institutions or associations or bodies as may be notified by the Central Government in the Official Gazette in this behalf. Therefore, in respect of such payments made to notified person or class of persons, no tax is to be deducted at source or tax is to be deducted at lower rate.

No deduction of Tax at Source in certain Cases – Section 197A

(6) Time limit for delivery of one copy of declaration [Sub-section (2)]

On receipt of the declaration referred to in sub-sections (1), (1A) or (1C), the person responsible for making the payment will be required to deliver or cause to be delivered to the Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner, one copy of the declaration **on or before the 7th of the month following the month in which the declaration is furnished** to him.

Tax deducted is income received [Section 198]

- (1) All sums deducted in accordance with the foregoing provisions shall, for the purpose of computing the income of an assessee, be deemed to be income received.
- (2) However, the following tax paid or deducted would not be deemed to be income received by the assessee for the purpose of computing the total income –
 - (i) the tax paid by an employer under section 192(1A) on non-monetary perquisites provided to the employees
 - (ii) tax deducted under section 194N



Credit for tax deducted at source [Section 199]

- (1) Tax deducted at source in accordance with the above provisions and paid to the credit of the Central Government shall be treated as payment of tax on behalf of the-
 - (i) person from whose income the deduction was made; or
 - (ii) owner of the security; or
 - (iii) depositor; or
 - (iv) owner of property; or
 - (v) unit-holder; or
 - (vi) shareholder.
- (2) Any sum referred to in section 192(1A) and paid to the Central Government, shall be treated as the tax paid on behalf of the person in respect of whose income, such payment of tax has been made.
- (3) The CBDT is empowered to frame rules for the purpose of giving credit in respect of tax deducted or tax paid under Chapter XVII. The CBDT also has the power to make rules for giving credit to a person other than the persons mentioned in (1) and (2) above. Further, the CBDT can specify the assessment year for which such credit may be given.

6.3 Duty of person deducting tax [Section 200]

- The persons responsible for deducting the tax at source should deposit the sum so deducted to the credit of the Central Government or as the Board directs, within the prescribed time.
- (2) Further, an employer paying tax on non-monetary perquisites provided to employees in accordance with section 192(1A), should deposit within the prescribed time, the tax to the credit of the Central Government or as the Board directs.
 - (3) Rule 30 prescribes the time and mode of payment to Government account of TDS or tax paid under section 192(1A) and Rule 31A provides for submission of quarterly statements by every person responsible for deduction of tax

However, every person responsible for deduction of tax under section 194-IA, 194-IB or 194M have to furnish to the Principal Director General of Income-tax (Systems) (in case of sections 194-IB and 194M) or Director General of Income-tax (System) or the person authorised by them, a challan-cum-statement in Form No.26QB, 26QC or 26QD respectively, within thirty days from the end of the month of deduction of tax.

Section -194IA: Payment / Credit of consideration to resident transfer of immovable property

Section – 194IB: Payment / Credit of rent by an individual / HUF

Section – 194M: Payment / Credit to resident Contractor / professional by way of commission / brokerage

Correction of arithmetic mistakes and adjustment of incorrect claim during computerized processing of TDS statements [Section 200A]

- (1) At present, all statements of tax deducted at source are filed in an electronic mode, thereby facilitating computerised processing of these statements. Therefore, in order to process TDS statements on computer, electronic processing on the same lines as processing of income-tax returns has been provided in section 200A.
- (2) The following adjustments can be made during the computerized processing of statement of tax deducted at source or a correction statement –
 - (i) any arithmetical error in the statement; or
 - (ii) an incorrect claim, if such incorrect claim is apparent from any information in the statement.
- (3) The term “an incorrect claim apparent from any information in the statement” shall mean such claim on the basis of an entry, in the statement,—
 - (i) of an item, which is inconsistent with another entry of the same or some other item in such statement;
 - (ii) in respect of rate of deduction of tax at source, where such rate is not in accordance with the provisions of the Act.

Correction of arithmetic mistakes and adjustment of incorrect claim during computerized processing of TDS statements [Section 200A]

- (4) The interest, if any, has to be computed on the basis of the sums deductible as computed in the statement;
- (5) The fee, if any, has to be computed in accordance with the provision of section 234E. A fee of ₹ 200 for every day would be levied under section 234E for late furnishing of TDS statement from the due date of furnishing of TDS statement to the date of furnishing of TDS/ statement. However, the total amount of fee shall not exceed the total amount of tax deductible/collectible and such fee has to be paid before delivering the TDS statement.
- (6) The sum payable by, or the amount of refund due to, the deductor has to be determined after adjustment of interest and fee against the amount paid under section 200 or section 201 or section 234E and any amount paid otherwise by way of tax or interest or fee.

Correction of arithmetic mistakes and adjustment of incorrect claim during computerized processing of TDS statements [Section 200A]

- (7) An intimation will be prepared and generated and sent to the deductor, specifying his tax liability or the refund due, within one year from the end of the financial year in which the statement is filed. The refund due shall be granted to the deductor.
- (8) For this purpose, the CBDT is empowered to make a scheme for centralized processing of statements of TDS to determine the tax payable by, or refund due to, the deductor.

Consequences for failure to deduct or pay (Section 201)

(1) *Deemed assessee-in-default*

Any person including the principal officer of a company -

- (i) who is required to deduct any sum in accordance with the provisions of the Act; or
- (ii) an employer paying tax on non-monetary perquisites under section 192(1A).

shall be deemed to be an assessee-in-default, if he does not deduct, or does not pay or after deducting, fails to pay, the whole or any part of the tax, as required by or under the provisions of the Income-tax Act, 1961.

Consequences for failure to deduct or pay (Section 201)

(2) *Non-applicability of deeming provision*

Any person (including the principal officer of the company) who fails to deduct the whole or any part of the tax on the amount credited or paid to a payee shall not be deemed to be an assessee-in-default in respect of such tax if such payee –

- (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 payer furnishes a certificate to this effect from an accountant in such form as may be prescribed.

Consequences for failure to deduct or pay (Section 201)

(3) Interest Liability

- (i) A person deemed to be an assessee-in-default under section 201(1), for failure to deduct tax or to pay the tax after deduction, is liable to pay simple interest **@ 1%** for every month or part of month on the amount of such tax from the date on which tax was deductible to the date on which such tax was actually deducted and simple interest **@ 1½%** for every month or part of month from the date on which tax was deducted to the date on which such tax is actually paid [Section 201(1A)].
- (ii) Such interest should be paid before furnishing the statements in accordance with section 200(3).
- (iii) Where the payer fails to deduct the whole or any part of the tax on the amount credited or payment made to a payee and is not deemed to be an assessee-in-default under section 201(1) on account of payment of taxes by such payee, interest under section 201(1A)(i) i.e., @1% p.m. or part of month, shall be payable by the payer from the date on which such tax was deductible to the date of furnishing of return of income by such payee. The date of deduction and payment of taxes by the payer shall be deemed to be the date on which return of income has been furnished by the payee.
However, where an order is made by the Assessing Officer for assessee-in-default, the interest shall be paid by the person in accordance with such order.
- (iv) Where the tax has not been paid after it is deducted, the amount of the tax together with the amount of simple interest thereon shall be a charge upon all the assets of the person or the company, as the case may be.

Certificate for tax deducted [Section 203]

- (1) Every person deducting tax at source have to issue a certificate to the effect that tax has been deducted and specify the amount so deducted, the rate at which tax has been deducted and such other particulars as may be prescribed.
- (2) Every person, being an employer, referred to in section 192(1A) shall, within such period, as may be prescribed, furnish to the person in respect of whose income such payment of tax has been made, a certificate to the effect that tax has been paid to the Central Government, and specify the amount so paid, the rate at which the tax has been paid and such other particulars as may be prescribed.

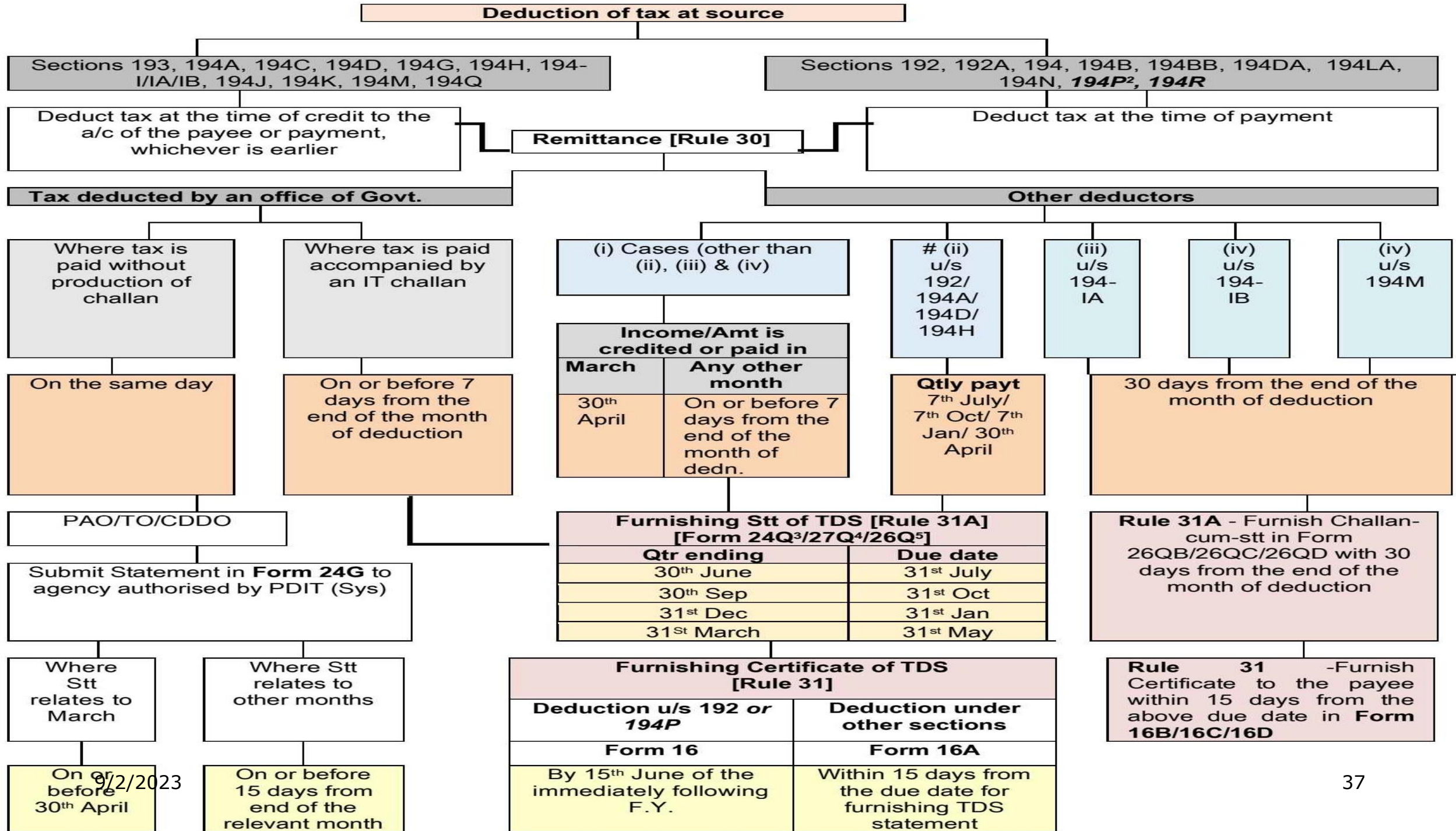
Certificate for Tax deducted – Section 203

(3) Certificate of TDS to be furnished under section 203 [Rule 31]

The certificate of deduction of tax at source to be furnished under section 203 shall be in Form No.16 in respect of tax deducted or paid under section 192 and in any other case, Form No.16A.

Form No.16 shall be issued to the employee annually by **15th June** of the financial year immediately following the financial year in which the income was paid and tax deducted. Form No.16A shall be issued quarterly within 15 days from the due date for furnishing the statement of TDS under Rule 31A.

Form No. 16B, 16C or 16D shall be issued by the every person responsible for deduction of tax under section 194-IA, 194-IB or 194M to the payee within fifteen days from the due date for furnishing the challan-cum-statement in Form No. 26QB, 26QC or 26QD, respectively, under rule 31A.



Person responsible for paying tax deducted at source – Sec 204

	Nature of income/payment	Person responsible for paying tax
(1)	Salary (other than payment of salaries by the Central or State Government)	(i) the employer himself; or (ii) if the employer is a company, the company itself, including the principal officer thereof.
(2)	Interest on securities (other than payments by or on behalf of the Central or State Government)	the local authority, corporation or company, including the principal officer thereof.
(3)	Any sum payable to a non-resident Indian, representing consideration for the transfer by him of any foreign exchange asset, which is not a short term capital asset	the “Authorised Person” responsible for remitting such sum to the non-resident Indian or for crediting such sum to his Non-resident (External) Account maintained in accordance with the Foreign Exchange Management Act, 1999 and any rules made thereunder.
(4)	furnishing of information relating to payment to a non-corporate non-resident, or to a foreign company, of any sum, whether or not chargeable under the provisions of this Act	(i) the payer himself; or (ii) if the payer is a company, the company itself including the principal officer thereof.

Person responsible for paying tax deducted at source – Sec 204

(5)	Credit/payment of any other sum chargeable under the provisions of the Act	(i) the payer himself; or (ii) if the payer is a company, the company itself including the principal officer thereof.
(6)	Credit/payment of any sum chargeable under the provisions of the Act made by or on behalf of the Central Government or the Government of a State.	(i) the drawing and disbursing officer; or (ii) any other person, by whatever name called, responsible for crediting, or as the case may be, paying such sum.
(7)	In case of a person not resident in India (irrespective of the nature of payment or income)	(i) the person himself; or (ii) any person authorized by such person; or (iii) the agent of such person in India including any person treated as an agent under section 163.

Bar against direct demand on assessee [Section 205]

Where tax is deductible at source under any of the aforesaid sections, the assessee shall not be called upon to pay the tax himself to the extent to which tax has been deducted from that income.

Mandatory requirement of furnishing PAN in all bills, TDS statements, Vouchers, correspondences between deductor and deductee – Section 206AA

- (1) The non-furnishing of PAN by deductees in many cases have led to delay in issue of refund on account of problems in the processing of returns of income and in granting credit for tax deducted at source.
- (2) With a view to strengthening the PAN mechanism, section 206AA provides that any person whose receipts are subject to deduction of tax at source i.e. the deductee, shall mandatorily furnish his PAN to the deductor failing which the deductor shall deduct tax at source at higher of the following rates –
 - (i) the rate prescribed in the Act;
 - (ii) at the rate in force i.e., the rate mentioned in the Finance Act; or
 - (iii) at the rate of **20%**. [5% in case tax is required to be deducted at source u/s 194Q]

For instance, in case of rental payment for plant and machinery, where the payee does not furnish his PAN to the payer, tax would be deductible @20% instead of @2% prescribed under section 194-I. However, non-furnishing of PAN by the deductee in case of income by way of winnings from lotteries, card games etc., would result in tax being deducted at the existing rate of 30% under section 194B. Therefore, wherever tax is deductible at a rate higher than 20%, this provision would not have any impact.

Mandatory requirement of furnishing PAN in all bills, TDS statements, Vouchers, correspondences between deductor and deductee – Section 206AA

- (3) Tax would be deductible at the rates mentioned above also in cases where the taxpayer files a declaration in Form 15G or 15H (under section 197A) but does not provide his PAN.
- (4) Further, no certificate under section 197 will be granted by the Assessing Officer unless the application contains the PAN of the applicant.
- (5) Both the deductor and the deductee have to compulsorily quote the PAN of the deductee in all correspondence, bills, vouchers and other documents exchanged between them.
- (6) If the PAN provided to the deductor is invalid or it does not belong to the deductee, it shall be deemed that the deductee has not furnished his PAN to the deductor. Accordingly, tax would be deductible at the rate specified in (2) above.

Higher rate of TDS for Non filer of Return – Section 206AB

Pre-amended provision

- ❑ Section 206AB(1) provides that where tax is required to be deducted under the provisions of Chapter XVIIIB (other than specified provisions¹¹) on any sum paid, or payable or credited, by a person to a specified person, the tax shall be deducted at the higher of the following rates, namely:
 - ❖ (a) Twice the rate specified in the relevant provision of the Act;
 - ❖ (b) Twice the rate or rates in force; or
 - ❖ (c) 5%.

- ❑ Section 206AB(3) defines "specified person" (non-filer) as a person who has not furnished the return of income for the assessment year relevant to the previous year immediately preceding the financial year in which tax is required to be deducted or collected:

Higher rate of TDS for Non filer of Return – Section 206AB

Pre-amended provision - Contd

- ❖ (a) For which the time limit for furnishing the return of income under Section 139(1) has expired; and
- ❖ (b) The aggregate of TDS and TCS is Rs. 50,000 or more in the said previous year.
- The proviso to Section 206AB(3) provides that a non-resident is excluded from the definition of a specified person if it does not have a permanent establishment in India.

Higher rate of TDS for Non filer of Return – Section 206AB

Relief is given to the non-filers who are not required to file ITRs

- ❑ Pre-amended Section 206AB(3) makes no distinction between a non-filer who was required to file an ITR and a non-filer who was not required to do so.
- ❑ In order to provide relief in such cases, the Finance Act, 2023 has amended the definition of the "specified person" in Section 206AB(3) by substituting the proviso to Section 206AB(3) so as to exclude a person who is not required to furnish the return of income for the assessment year relevant to the said previous year and who is notified by the Central Government in the Official Gazette in this behalf.
- ❑ **The proviso to Section 206AB(3) as substituted reads as under: "Provided that the specified person shall not include-**
 - ❖ (i) a non-resident who does not have a permanent establishment in India; or
 - ❖ (ii) a person who is not required to furnish the return of income for the assessment year relevant to the said previous year and is notified by the Central Government in the Official Gazette in this behalf."

Q&A

