



# **TAX DEDUCTED AT SOURCE (TDS) – 194, 194B AND BB**

**Ravi Bharadwaj**

# WHAT IS TDS?

## Tax Deducted at Source (TDS)

- ❖ aims at collection of revenue at the very source of income;
- ❖ an indirect method of collecting tax;
- ❖ combines the concepts of
  - ✓ pay as you earn and
  - ✓ collect as it is being earned.

TDS is one of the modes of collection of taxes, by which a certain percentage of amounts are deducted by a person at the time of making/crediting certain specific nature of payment to the other person and deducted amount is remitted to the Government account.



# PAN REQUIREMENT

## Requirement to furnish Permanent Account Number.

- ❖ **206AA.** (1) Notwithstanding anything contained in any other provisions of this Act, any person entitled to receive any sum or income or amount, on which tax is deductible under Chapter XVIIB (hereafter referred to as deductee) shall furnish his Permanent Account Number to the person responsible for deducting such tax (hereafter referred to as deductor), failing which tax shall be deducted at the higher of the following rates, namely:—
  - ❖ (i) at the rate specified in the relevant provision of this Act; or(ii) at the rate or rates in force; or(iii) at the rate of twenty per cent.



# RESPONSIBILITIES OF THE DEDUCTOR/ COLLECTOR

## ❖ Deduct Tax at the time of payment/credit

- ✓ Any person responsible for paying any sum, on which tax is deductible, shall deduct tax at the prescribed rates at the time of payment/credit.
- ✓ Tax must be deducted at the time of payment in cash or cheque or credit to the payee's account whichever is earlier. Credit to payable account or suspense account is also considered to be credit to payee's account and TDS must be made at the time of such credit.



# RESPONSIBILITIES OF THE DEDUCTOR/ COLLECTOR

Deposit deducted tax within the prescribed time limits:

- ✓ In case of Government deductors:
  - ❖ on the same day where the tax is paid without production of an income-tax challan; and
- ✓ In case of Others :
  - ❖ on or before 30th day of April where the income or amount is credited or paid in the month of March;
  - ❖ in any other case, on or before seven days from the end of the month in which-
    - the deduction is made; or
    - income-tax is due under sub-section (1A) of section 192.



# CONSEQUENCES OF NON-COMPLIANCE

## Expenditure claimed disallowed

- ❖ As per section 40(a)(ia) of the IT Act, thirty percent of any sum payable to a resident, on which tax is deductible at source and such tax has not been deducted or, after deduction, has not been paid on or before the due date specified in sub section (1) of section 139.



# CONSEQUENCES OF NON-COMPLIANCE

## Assessee in default

- An assessee shall be deemed to be in default in respect of :
  - ✓ Non deduction of tax at source
  - ✓ Non payment, in whole or in part, of the tax deducted

## Amendment to section 201

If the payer has not deducted tax, he shall not be deemed to be an assessee in default in case :

- ✓ The recipient has included such income in the return submitted u/s.139 and has paid tax on such income and
- ✓ The payee submits a certificate to this effect from a chartered accountant (Form No.26A)



# CONSEQUENCES OF NON-COMPLIANCE

## ❖ Interest implications

Section	Nature of default	Interest
201(1A)	Non-deduction of tax at source, either in whole or part. After deduction, non payment of tax, either in whole or part. Non-payment of tax u/s 192(1A).	<input type="checkbox"/> simple interest @ 1% per month from the date on which tax was deductible to the date on which tax is actually deducted  <input type="checkbox"/> simple interest @1.5% per month from the date on which tax was deducted to the date on which tax is actually paid





# CONSEQUENCES OF NON-COMPLIANCE

## ❖ Penal implications

Section	Nature of default	Penalty
271C	Failure to deduct the whole or any part of tax at source	Sum equal to the amount of tax which was failed to be deducted
271CA	Failure to collect the whole or any part of tax at source (TCS)	Sum equal to the amount of tax which he failed to collect
271H(1)(a)	Failure to submit quarterly return	Penalty of Rs.10,000 to Rs.1,00,000
271H(1)(b)	for furnishing quarterly returns with incorrect information	No penalty shall be levied if the revised returns are filed within a period of one year from the due date.



# CONSEQUENCES OF NON-COMPLIANCE

## ❖ Penal implications

Section	Nature of default	Penalty
272B	Failure to comply with provisions of Section 139A for quoting Pan	Rs.10,000
272BB	Failure to obtain TAN	Rs.10,000
272A(2)	1.Failure to issue TDS certificates 2. Failure to deliver declaration in Form 15G/15H 3.Failure to file quarterly statements (only till 30-06-2012)	Rs.100 for every day during which the failure continues but the penalty shall not exceed the amount of tax Deductible



# CONSEQUENCES OF NON-COMPLIANCE

## ❖ Penal implications

Section	Nature of default	Penalty
276B	Failure to pay Tax Deducted at Source	Punishable with rigorous imprisonment for minimum 3 months , maximum 7 years and with fine
276BB	Failure to pay Tax Collected at Source (TCS)	Punishable with rigorous imprisonment for minimum 3 months, maximum 7 years and with fine



# CONSEQUENCES OF NON-COMPLIANCE

## Month for the calculation of Interest

Interest payable under section 201(1A) should be computed by taking a period of 30 days as a month instead of British calendar month.



# 194 –TDS ON PAYMENT OF DIVIDENDS

**194.** The principal officer of an Indian company or a company which has made the prescribed arrangements for the declaration and payment of dividends (including dividends on preference shares) within India, shall, before making any payment <sup>33</sup>*[by any mode]* in respect of any dividend or before making any distribution or payment to a shareholder, who is resident in India, of any dividend within the meaning of sub-clause (a) or sub-clause (b) or sub-clause (c) or sub-clause (d) or sub-clause (e) of clause (22) of section 2, deduct from the amount of such dividend, income-tax <sup>34</sup>*[at the rate of ten per cent]* :

**Provided** that no such deduction shall be made in the case of a shareholder, being an individual, if—

- (a) the dividend is paid by the company by <sup>35</sup>*[any mode other than cash]*; and
- (b) the amount of such dividend or, as the case may be, the aggregate of the amounts of such dividend distributed or paid or likely to be distributed or paid during the financial year by the company to the shareholder, does not exceed <sup>36</sup>*[five thousand]* rupees:



# 194 –TDS ON PAYMENT OF DIVIDENDS

**Provided further** that the provisions of this section shall not apply to such income credited or paid to—

- (a) the Life Insurance Corporation of India established under the Life Insurance Corporation Act, 1956 (31 of 1956), in respect of any shares owned by it or in which it has full beneficial interest;
- (b) the General Insurance Corporation of India (hereafter in this proviso referred to as the Corporation) or to any of the four companies (hereafter in this proviso referred to as such company), formed by virtue of the schemes framed under sub-section (1) of section 16 of the General Insurance Business (Nationalisation) Act, 1972 (57 of 1972), in respect of any shares owned by the Corporation or such company or in which the Corporation or such company has full beneficial interest;
- (c) any other insurer in respect of any shares owned by it or in which it has full beneficial interest.



# **194 –TDS ON PAYMENT OF DIVIDENDS**

## **1) Who is responsible to deduct tax u/s 194?**

The principal officer of an Indian company or a company which has made the prescribed arrangements for the declaration and payment of any dividend (including dividends on preference shares) to a shareholder, who is resident in India, is required to deduct tax at source.

## **2) What is threshold limit u/s 194?**

No deduction upto Rs. 5000, if dividend is paid by any mode, other than cash.



# 194 –TDS ON PAYMENT OF DIVIDENDS

## 3) When to Deduct TDS under Section 194?

Such tax shall be deducted before making payment of dividend.

## 4) Rate of TDS under Section 194

Tax is to be deducted at the rate of 10% (7.5% w.e.f. 14.05.2020 to 31.03.2021). If the recipient of income doesn't furnish his PAN to deductor then TDS is to be deducted at the rate of 20%.

For Non Resident Share Holders, 20% plus applicable surcharge and cess or rates as per DTAA whichever is beneficial





# 194B –TDS ON WINNINGS FROM LOTTERY OR CROSSWORD PUZZLES

**194B.** The person responsible for paying to any person any income by way of winnings from any lottery or crossword puzzle or card game and other game of any sort in an amount exceeding ten thousand rupees shall, at the time of payment thereof, deduct income-tax thereon at the rates in force :

**Provided** that in a case where the winnings are wholly in kind or partly in cash and partly in kind but the part in cash is not sufficient to meet the liability of deduction of tax in respect of whole of the winnings, the person responsible for paying shall, before releasing the winnings, ensure that tax has been paid in respect of the winnings.



# 194B –TDS ON WINNINGS FROM LOTTERY OR CROSSWORD PUZZLES

The **Scope of Section 194B** is summarized hereunder :

- Any person making payment of winning amount to any person is responsible for deducting TDS thereon.
- Winnings from a lottery, crossword puzzle, card game, and any other game is covered within the **scope of section 194B**.
- TDS is to be deducted if the aggregate amount exceeds INR 10,000.
- When the winning amount is payable in kind or is partly payable in cash and partly in kind. Then, in that case, it is the Deductor's responsibility to ensure that the TDS has been paid before releasing the winning amount.



# 194B –TDS ON WINNINGS FROM LOTTERY OR CROSSWORD PUZZLES

Have you ever wondered about people who win money on game shows like Kaun Banega Crorepati, Bigg Boss, Indian Idol etc pay tax or not? Do they take the whole money home?

The answer is NO. This is where the concept of TDS u/s 194B comes into play. Under this section, **TDS** is deducted on any income earned as winnings from lottery or crossword puzzle or card games or other ways like entertainment shows, game shows on TV etc.



## 194BB –TDS ON WINNINGS FROM HORSE RACE

**194BB.** Any person, being a bookmaker or a person to whom a licence has been granted by the Government under any law for the time being in force for horse racing in any race course or for arranging for wagering or betting in any race course, who is responsible for paying to any person any income by way of winnings from any horse race in an amount exceeding ten thousand rupees shall, at the time of payment thereof, deduct income-tax thereon at the rates in force.



# 194BB –TDS ON WINNINGS FROM HORSE RACE

The **Scope of Section 194B** is summarized hereunder :

- Any bookmaker or the person to whom Government has granted a licence for horse racing in any race course or for arranging for gambling or betting in any race course is liable to deduct TDS while making payment of the winning amount.
- TDS is to be deducted if the aggregate amount exceeds INR 10,000.
- Rate of TDS – 30%



**THANK YOU**

