



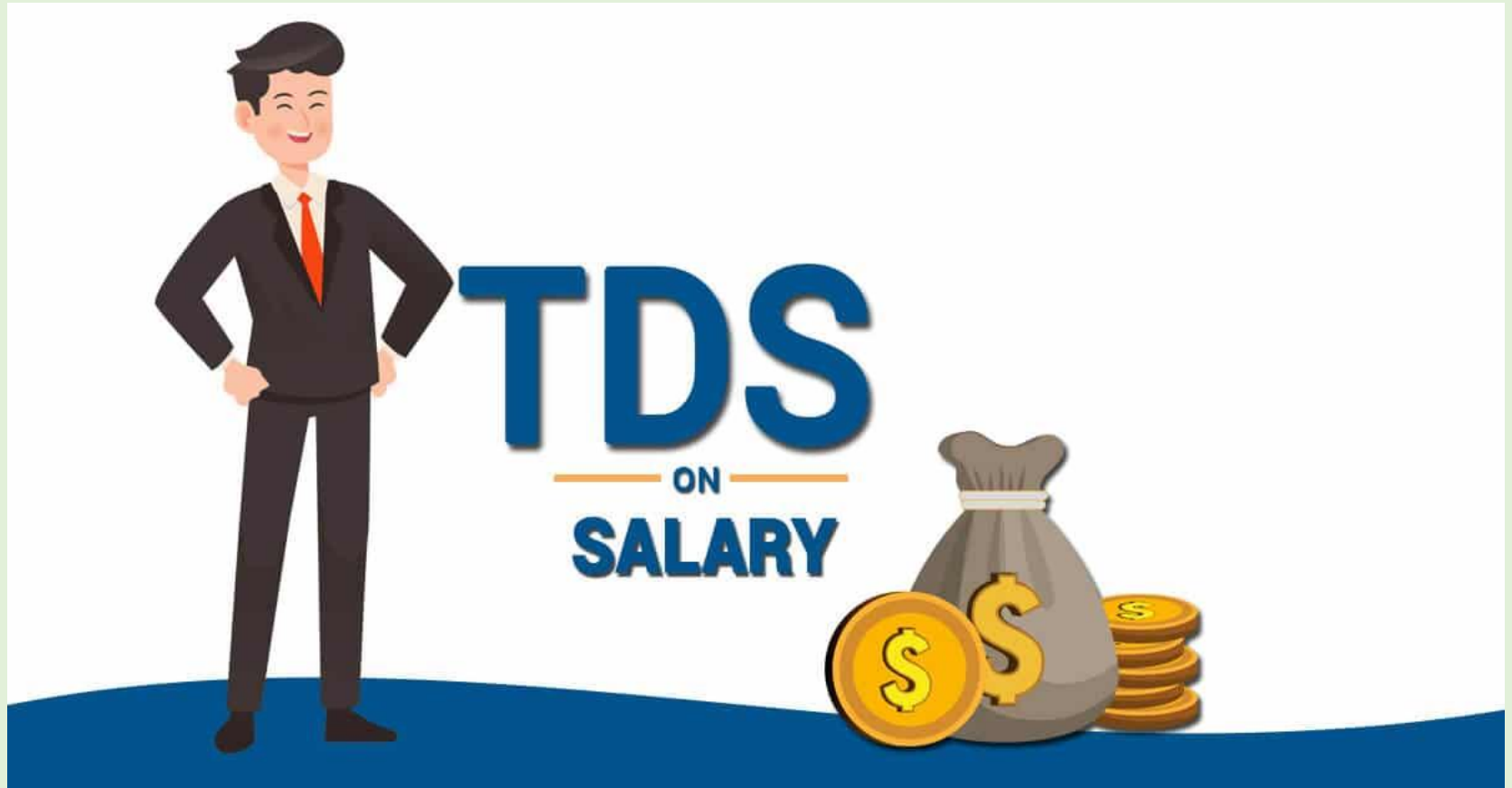
**THE INSTITUTE OF
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Certificate Course on TDS



TDS on Salary under Section 192 of the Income Tax Act

What is Section 192?

Section 192 deals with the TDS on salary. It mandates every employer to deduct TDS on salary payments in case the salary of the employee exceeds the basic exemption limit.

This section impacts the in-hand salary of most salaried people in India.

What is a Salary under section 17(1)?

- Under Section 17(1), the term “salary” includes any payment received by an **employee from an employer** in cash, kind or as a facility.
- It encompasses various components such as basic salary, allowances, bonuses, commissions, monetary & non-monetary perquisites, and profits in lieu of salary.
- The definition of salary is comprehensive and covers a wide range of remuneration received by employees **in the course of their employment**

What is the basis of the charge of salary income?

Section 15 of the Income Tax Act deals with the basis of charge. Salary shall be chargeable to tax either on a '**due basis**' or '**receipt basis**', whichever is earlier. For further clarification, income from salary during the year shall consist of the following:

- Any amount paid in advance to the employee before it became due or payable.
- Whether paid or not, any salary due to the employee during the year.
- Arrears of salary paid to the employee during the year and not charged to tax in any earlier years.

Who is required to deduct TDS u/s 192?

- Any employer who pays salary to an employee(resident or non-resident) is required to deduct TDS every month under section 192
- **Employer here means:**
 - Individual/HUF
 - Firm
 - Company
 - Trusts
 - AOP, BOI
 - Local Authority
 - Every Artificial judicial person

The important condition for TDS deduction under section 192 is the presence of an **Employer-Employee relationship** (irrespective of the government employee, private or other).

What a deductor must do?

1. Obtain TAN
2. Obtain PAN of the deductee
3. Deduct the tax at correct rate
4. The tax deducted has to be deposited in the designated banks within specified time
5. Use challan no. 281 for depositing TDS amount
6. Filing of TDS return statement in form- 24Q
7. Issue Form-16 to employees annually

When is TDS on salary deducted?

- TDS is required to be deducted by the employer at the time of payment of salary, and the salary income is taxable i.e., Gross Total Income after fewer Deductions under Chapter VIA of an employee exceeds the basic exemption limit.

The basic exemption limit under the new regime as per Union Budget 2023 is Rs. 3,00,000 for all individuals.

How to Calculate TDS on Salary Under Section 192?

- **Step 1:** At first, the employer estimates employee's salary for the relevant financial year. This should include basic pay, dearness allowance, perquisites granted by the employer, other allowances granted by the employer like HRA, LTA, meal coupons, etc., EPF contributions, bonus, commissions, gratuity, salary from the previous employer, if any, etc.
- **Step 2:** In the next step, the employer calculates exemptions under Section 10 of the Income Tax Act. The exemptions can be applicable on allowances like HRA, travel expenses, uniform expenses, children's education allowances, etc. basis the **necessary declaration** and **document submission** made by employee. Also, reduce the amount of professional tax paid, entertainment allowance and standard deduction of Rs 50,000.

- **Step 3:** The employer reduces such exemption from the gross monthly income and the net amount will be treated as the taxable salary income.
- **Step 4:** If the employee has provided the information about other incomes such as rental income from house property or bank deposits, etc. In that case, such amounts should be added to the net taxable salary. Further, the interest paid on housing loans is deducted from the house property income, but if there is no income from house property, there will be a negative figure under the head 'income from house property'. After adding or reducing the said amounts, the calculated figure will be the employee's gross total income.
- **Step 5:** Now, the employer reduces the investments for the year, which fall under Chapter VI-A of the Income Tax Act declared by the employees as per the investment declaration submitted. The declaration may include the amounts of investments such as PPF, employee's provident fund, ELSS mutual funds, NSC and Sukanya Samridhi account. It may also include expenditures such as home loan repayment, life insurance premiums etc. Similarly, the employer allows a deduction under various other sections such as Section 80D, 80G, etc.

- **Note:** From FY 2023-24, the new tax regime is the default tax regime and your tax calculation will be done as per the [new regime tax rates](#). If you wish to opt for the old tax regime, then you will have to intimate the same to the employer at the time of making the investment declaration. You can exercise this option between the old and new tax regime each year. The employer may deduct his/her income tax according to the tax regime selected.
- Also, if the employee has declared to calculate income tax as per the new tax regime, then the Income Tax act does not allow majority of the exemptions and deductions which are allowed in the old tax regime. Hence, the employer will calculate the net taxable income as per the income tax regime chosen by the employee.

What is the rate of TDS?

- TDS under this section is calculated on the estimated income earned during the year at an average tax rate. Unlike other sections of TDS under Income Tax, there is no fixed rate of TDS under section 192.
 - To compute the rate of TDS, the estimated total tax liability on such estimated income is divided throughout employment, i.e., months
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- $\text{TDS on Salary} = \frac{\text{Estimated Total Tax Liability}}{\text{Period of employment}}$

What is the time limit to deposit TDS under Section 192?

- TDS deducted from salary by the employer is required to be deposited to the government within the given below timeline to avoid interest :
- TDS deducted for April-Feb : 7th of subsequent month
- TDS deducted for March : 30th April

What are the consequences of non-compliance under section 192?

- **Levy of Interest:** If the employer does not deduct the TDS on salary or deduct the TDS but does not deposit it to the government, then interest is required to be paid on such amount.
- **Disallowance of expenses:** Also, the employer is only eligible to claim the deduction of salary expense from PGBP income if TDS is deducted on time.
The amount of disallowed salary expenses shall be
 - 30% of the salary payment goes to the resident.
 - 100% of Salary payment to Non-Resident.

Relief u/s 89(1)

- In a situation where your total income includes any past dues paid in the current year, you may be worried about paying a higher tax on such arrears.
- In such a situation, section 89(1) can come to your rescue.

Challenges before Employer

- The absence of proper documentation in TDS processes poses substantial risks and challenges. In scenarios where TDS challans, certificates, or acknowledgments are inadequately maintained or missing, financial ambiguity arises. This deficiency impedes accurate reconciliation, compliance verification, and may lead to penalties and scrutiny from tax authorities. Thus, employer before allowing any deduction or exemption, to ensure collection of proper documentation.

Challenges before Employee

- Incorrect TDS mapping to Deductee PAN, a critical component in tax processes, introduces significant challenges. When an employee's PAN is inaccurately mapped, it can result in delayed tax credits, causing financial inconveniences and potential disputes.
- Overlooking TDS exemptions and deductions is like leaving money on the table during your financial journey. Think of these exemptions and deductions as special offers or discounts in the world of taxes. If you ignore them, you might end up paying more taxes than necessary.
- Failure to address discrepancies, such as incorrect deductions or filings, may result in compounding issues over time. This oversight can lead to increased penalties, interest liabilities, and potential legal consequences

Section 192A of Income Tax Act :

TDS on EPF Withdrawal

- Section 192A of the Income Tax Act is related to TDS on premature withdrawals from PF.
- This is a comparatively newer addition to the existing income tax rules. It was added in 2015.
- According to this section, the deduction of tax must be made before the amount withdrawn from an Employee's Provident Fund (EPF) account.

Who is responsible to deduct tax u/s 192A of Income Tax Act, 1961

--Tax is to be deducted by the trustees of Employees' Provident Fund Scheme, 1952 or any other person authorized under the scheme to make payment of accumulated sum to employees.

What is the rate of TDS under Section 192A

-- Tax is deductible at the rate of 10 per cent of taxable component of lump sum payment.

However, if employee fails to furnish PAN, then tax shall be deducted at maximum marginal rate.

What amount is subject to TDS u/s 192A

Component of lump sum payment	Is this component taxable in the hands of employee not completing continuous 5 years of service?	Is it subject to TDS if other conditions of section 192A are satisfied?
Employer's Contribution	Taxable under head "Salary"	Subject to TDS
Interest on Employer's Contribution	Taxable under head "Salary"	Subject to TDS
Employee's Contribution	Not Taxable	No TDS required
Interest on Employee's Contribution	Taxable under head "Other Sources"	Subject to TDS

When TDS Deduction not Applicable Under Section 192A?

- The withdrawal amount from an EPF account is below ₹ 50,000.
- An individual withdraws an amount from EPF after rendering 5 years of consistent service.
- An individual furnishes Form 15H or Form 15G, along with his or her PAN card.
- If the employment contract of the employee is terminated due to completion of the project for which they were hired
- If the contract was terminated due to the employee's illness
- If the business venture was discontinued





THANK YOU!

Documentation for tax exemption

- **Form 12BB is a statement of claims by an employee for deduction of tax. With effect from 1st June 2016, a salaried employee is required to submit Form 12BB to his or her employer to claim tax benefits or rebates on investments and expenses.** Form 12BB has to be submitted at the **end of the financial year**. Form 12BB applies to all salaried taxpayers.
- Using Form 12BB, an employee has to declare the investments that they have made during the year. Documentary evidence of these investments and expenses has to be provided at the end of the financial year as well.