

SECTION 197 CERTIFICATE FOR TDS DEDUCTION AT LOWER RATE

(1) What is Section 197 of Income Tax Act, 1961?

Section 197 of the Income Tax Act, 1961 allows the taxpayer the facility of **NIL or Lower** tax rate deduction of TDS (or TDS exemption). In order to apply for this you need to submit Form 13 to the assessing officer. Also, this section strikes a delicate balance between the requirement of cash flow to the taxpayer and realizing the government dues at the earliest.

(2) Income Covered Under Section 197

Section 197 application can be made by the recipient of income in case of the following category of receipts where TDS is required to be made under the following Sections:

- Section 192 – Salary income
- Section 193 – Interest on securities
- Section 194 – Dividends
- Section 194A – Interest other than interest on securities
- Section 194C – Contractors income
- Section 194D – Insurance commission
- Section 194G – Commission/remuneration/prize on lottery tickets
- Section 194H – Commission or brokerage
- Section 194-I – Rent
- Section 194J – Fee for Professional or technical services
- Section 194LA – Compensation on acquisition of immovable property
- Section 194LBB – Income in respect of units of investment fund
- Section 194LBC – Income in respect of investment in securitization trust
- Section 194M – Contractors income, Commission, Fee for Professional or technical services
- Section 195 – Income of non-residents

(3) Eligibility for Making an Application Under Section 197

Application can be made where income of any person attracts TDS as per above mentioned sections and income of the recipient justifies non-deduction or lower deduction of income tax based on his estimated final tax liability.

(4) Timeline for Making the Application

Income-tax provision does not provide for a deadline to make an application under Section 197. However, as TDS is made on income of on-going financial year it is advisable to make an application at the beginning of financial year in case of regular income throughout the financial year and as and when the need arises in case of one-off incomes.

(5) Validity of an Application Made Under Section 197

Section 197 is issued for a particular financial year and stands valid from the date of issue and throughout the financial year unless cancelled by the assessing officer (TDS) before the expiry.

(6) Procedure for Making the Application Under Section 197

- An application for nil/lower deduction of TDS using the FORM 13 is required to be filed with the Assessing Officer (TDS) for seeking permission. Such Form 13 can be filed either online or manually.
- If the applicant satisfies the AO, he would process the issue of the certificate;
- The copy of this certificate can be attached to the invoice given to the deductor, and he can use this to justify the lower tax deduction.

Extract of Section 197 of *Income Tax Act, 1961*

Section 197 Certificate For TDS Deduction at Lower Rate

197. (1) Subject to rules made under sub-section (2A), 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, as the case may be, at the time of payment at the rates in force under the provisions of sections 192, 193, 194, 194A, 194C, 194D, 194G, 194H, 194-I, 194J, 194K, 194LA, 194LBB, 194LBC [, 194M] [, 194-O] and 195, the Assessing Officer is satisfied that the total income of the recipient justifies the deduction of income-tax at any lower rates or no deduction of income-tax, as the case may be, the Assessing Officer shall, on an application made by the assessee in this behalf, give to him such certificate as may be appropriate.

Where any such certificate is given, the person responsible for paying the income shall, until such certificate is cancelled by the Assessing Officer, deduct income-tax at the rates specified in such certificate or deduct no tax, as the case may be.

(2A) The Board may, having regard to the convenience of assesseees and the interests of revenue, by notification in the Official Gazette, make rules specifying the cases in which, and the circumstances under which, an application may be made for the grant of a certificate under sub-section (1) and the conditions subject to which such certificate may be granted and providing for all other matters connected therewith.

*(2) [***]*

SECTION 197A – NO TDS DEDUCTION – FORM 15G & FORM 15H

1. What is Form 15G and Form 15H?

Form 15G and Form 15H are forms you can submit to prevent TDS deduction on your income, if you meet the conditions mentioned below. For this, [PAN](#) is compulsory. Some banks allow you to submit these forms online through the bank's website. Form 15H is for senior citizens, those who are 60 years or older; while Form 15G is for everybody else.

Form 15G and Form 15H are valid for one financial year. So, please submit these forms every year at the beginning of the financial year. This will ensure the bank does not deduct any TDS on your interest income.

- For FY 2020-21, in view of the spread of the disease COVID-19, taxpayers may not be able to submit the forms in the first week of April 2020. Hence, the government has extended the validity of the Form 15G and Form 15H expiring on 31 March 2020 up to 30 June 2020. Taxpayers can submit the Form 15G and Form 15H in the first week of July 2020. For the period beginning 1 April 2020 and up to 30 June 2020, the Form 15G and 15H submitted for FY 2019-20 will be valid proof for non-deduction of [TDS](#). **Section 197A** of Income Tax Act, 1961 and **Rule 29C** of Income Tax Rules, 1962 contain the provisions related to the filing of Form 15G and Form 15H for non-deduction of income tax or TDS on certain incomes.
- Rule 29C rule prescribes the form to be furnished for non-deduction of income tax on certain incomes as below-

Rule 29c(1)- A declaration –

under section **197A(1)** or under section **197A(1A)** shall be in **Form No.15G** and under section **197A(1C)** shall be in **Form No.15H**.

- Section 197A(1) or section 197A(1A) applies to an Individual below 60 years of age. It also applies to non-Individuals.

Section 197A(1C) applies only to Individuals who is a senior citizen.

- The provisions of Section 197A are discussed below:

? Section 197A(1): No deduction of income tax shall be made for –

Section 194 – TDS on dividend paid to a resident in India if exceeds Rs. 5,000. Section 194EE – TDS on payments in respect of deposits under National Savings Scheme, etc. if exceeds Rs. 2,500.

in case of –

- an Individual, who is resident in India,
- if such individual furnishes
- to the payer
- a declaration in writing in duplicate
- in the prescribed form and,
- verified in the prescribed manner,
- when-
- tax on his estimated total income of the previous year in which such income is includible is

NIL.

Please note that here rebate u/s 87A is **not considered** for the purpose of this section.

? Section 197A(1A): No deduction for income tax shall be made for –

Section 192A – TDS on payment from Employees' Provident Funds if exceeds Rs. 50,000.

Section 193 – Interest on securities if exceeds Rs. 10,000 except securities held in dematerialized form and listed securities.

Section 194A – Interest other than interest on securities if exceeds Rs. 40,000 for bank and PO/Rs. 50,000 for senior citizen, and Rs. 5,000 from others.

Section 194D – TDS on Insurance Commission if exceeds Rs. 15,000

Section 194DA – TDS on Life Insurance Policy maturity proceeds if exceeds Rs. 1,00,000

Section 194I – TDS on Rent payment if exceeds Rs. 2,40,000

Section 194K – TDS on Payment of any income in respect of units of mutual fund if exceeds Rs. 5,000

in case of a person-

- not being a company or firm
- if such person furnishes a declaration
- in writing in duplicate
- in the prescribed form and
- verified in the prescribed manner.
- when-
- tax on his estimated total income of the previous year in which such income is includible
- is NIL

Please note that here rebate u/s 87A is **not considered** for the purpose of this section.

? Section 197A(1B): The provisions of section 197A(1) or section 197A(1A) shall not apply –

- when the aggregate of income referred to above sections or
- the aggregate of the amount of such incomes-
- 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.

This provision means if the income for which **Form 15G** is being furnished such income shall not exceed the basic exemption limit. For example, in case of a bank, if payment of interest during a financial year exceeds the basic exemption limit (Rs. 2,50,000 at present) then Form 15G **cannot** be filed.

? Section 197A(1C): Contains filing of declaration for no deduction in the prescribed form for-

Section 194 – TDS on dividend paid to a resident in India if exceeds Rs. 5,000. Section 194EE – TDS on payments in respect of deposits under National Savings Scheme, etc. if exceeds Rs. 2,500.

Section 192A – TDS on payment from Employees’ Provident Funds if exceeds Rs. 50,000.

Section 193 – Interest on securities if exceeds Rs. 10,000 except securities held in dematerialized form and listed securities.

Section 194A – Interest other than interest on securities if exceeds Rs. 40,000 for bank and PO/Rs. 50,000 for senior citizen, and Rs. 5,000 from others.

Section 194D – TDS on Insurance Commission if exceeds Rs. 15,000

Section 194DA – TDS on Life Insurance Policy maturity proceeds if exceeds Rs. 1,00,000

Section 194I – TDS on Rent payment if exceeds Rs. 2,40,000

Section 194K – TDS on Payment of any income in respect of units of mutual fund if exceeds Rs. 5,000

- by an individual **resident** in India
- who is a senior citizen.
- Thus, a non-resident senior citizen is expressly **prohibited** from filing of Form 15H. In case of filing of Form 15G by a non-resident, it is impliedly prohibited, but for a senior citizen, it is **expressly** The condition mentioned in section 197A(1B) is not applicable to a senior citizen filing Form 15H. In other words, Form 15H can be filed even if the aggregate of income referred to above sections exceeds the basic exemption limit which is Rs. 3,00,000 at present for a senior citizen and Rs. 5,00,000 for a very senior citizen but his **tax** on total income shall be nil.

Please note that The CBDT has come up with “*Notification No. 41/2019/F. No. 370142/5/2019-TPL dated 22 nd May, 2019*” which reads as below:

“Provided that such person shall accept the declaration in a case where income of the assessee, who is eligible for rebate of income-tax under section 87A, is higher than the income for which declaration can be accepted as per this note, but his tax liability shall be nil after taking into account the rebate available to him under the said section 87A.” which means rebate u/s 87A is **considered** for the purpose of this section. **This can be explained with the help of following comparative letter:-**

Age	Interest Income	Other Income	Deductions	Taxable Income	15G/15H allowed?	Remarks
Below 60 Years	Rs. 3 Lakhs	Rs. 1 Lakh	Rs. 1.50 Lakhs	Rs. 2.50 Lakhs	15G not allowed	Interest income exemption limit is Rs. 2.50 Lakhs
	Rs. 2.50 Lakhs	Rs. 1.60 Lakhs	Rs. 1.50 Lakhs	Rs. 2.60 Lakhs	15G not allowed	Taxable income is Rs. 2.60 Lakhs, exemption limit is Rs. 2.50 Lakhs
	Rs. 2.50 Lakhs	Rs. 1.50 Lakhs	Rs. 1.50 Lakhs	Rs. 2.50 Lakhs	15G allowed	Both conditions for 15G are satisfied
60 Years and above	Rs. 2.50 Lakhs	Rs. 2 Lakhs	Rs. 1.50 Lakhs	Rs. 3 Lakhs	15H allowed	Taxable income is Rs. 3 Lakhs, which is less than Rs. 3 Lakhs
	Rs. 2.50 Lakhs	Rs. 4.50 Lakhs	Rs. 1.50 Lakhs	Rs. 5.50 Lakhs	15H not allowed	Taxable income is Rs. 5.50 Lakhs, which is above exemption limit of Rs. 3 Lakhs
	Rs. 4 Lakhs	Rs. 2.50 Lakhs	Rs. 1.50 Lakhs	Rs. 5 Lakhs	15H allowed	Taxable income is Rs. 5 Lakhs, which means rebate u/s 87B is not be available
80 Years and above	Rs. 4 Lakhs	Rs. 3 Lakhs	Rs. 1.50 Lakhs	Rs. 5.50 Lakhs	15H not allowed	Taxable income is Rs. 5.50 Lakhs, exemption limit is Rs. 5 Lakhs

	Taxable pre-mature withdrawal from provident fund [Section 192A]	Interest [Section 193 and 194A] or Rent [Section 194-I] or Insurance Commission [Section 194D]	Dividend [Section 194]	Payment in respect of life insurance policy [Section 194DA]	National Saving Scheme [Section 194EE]	Income mutual funds
<u>Condition 1</u>– Who is recipient	Individual	Other than a company or firm	Resident individual	Other than a company or firm	Resident individual	Other firm
<u>Condition 2</u>– What is tax on total income of the previous year	Nil	Nil	Nil	Nil	Nil	Nil
<u>Condition 3</u>– How much is total of income covered by Sections 192A, 193, 194, 194A, 194D, 194DA, 194EE, 194-I and 194K	Not exceeding the maximum amount not chargeable to tax					

Extract of Section 197A of Income Tax Act, 1961

Section 197A – No TDS Deduction – Form 15G & Form 15H

197A. (1) Notwithstanding anything contained in section 194 or section 194EE, no deduction of tax shall be made under any of the said sections in the case of an individual, who is resident in India, if such individual furnishes to the person responsible for paying any income of the nature referred to in section 194 or, as the case may be, section 194EE, a declaration in writing in duplicate in the prescribed form and verified in the prescribed manner 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.

(1A) Notwithstanding anything contained in section 192A or section 193 or section 194A or section 194D or section 194DA or section 194-I or section 194K, no deduction of tax shall be made under any of the said sections in the case of a person (not being a company or a firm), if such person furnishes to the person responsible for paying any income of the nature referred to in section 192A or section 193 or section 194A or section 194D or section 194DA or section 194-I or section 194K, as the case may be, a declaration in writing in duplicate in the prescribed form and verified in the prescribed manner 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.

(1B) The provisions of this section shall not apply where the amount of any income of the nature referred to in sub-section (1) or sub-section (1A), as the case may be, or the aggregate of the amounts of such incomes credited or paid or likely to be credited or paid during the previous year in which such income is to be included exceeds the maximum amount which is not chargeable to income-tax.

(1C) Notwithstanding anything contained in 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 or sub-section (1B) of this section, no deduction of tax shall be made in the case of an individual resident in India, who is of the age of sixty years or more at any time during the previous year, if such individual furnishes to the person responsible for paying any income of the nature referred to in 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, as the case may be, a declaration in writing in duplicate in the prescribed form and verified in the prescribed manner 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.

(1D) Notwithstanding anything contained in this section, no deduction of tax shall be made by the Offshore Banking Unit from the interest paid—

(a) on deposit made on or after the 1st day of April, 2005, by a non-resident or a person not ordinarily resident in India; or

(b) on borrowing, on or after the 1st day of April, 2005, from a non-resident or a person not ordinarily resident in India.

Explanation.—For the purposes of this sub-section “Offshore Banking Unit” shall have the same meaning as assigned to it in clause (u) of section 2 of the Special Economic Zones Act, 2005.

(1E) Notwithstanding anything contained in this Chapter, 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 clause (44) of section 10.

[(1F) Notwithstanding anything contained in this Chapter, 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, associations or bodies, as may be notified by the Central

Government in the Official Gazette, in this behalf.]

(2) The person responsible for paying any income of the nature referred to in sub-section (1) or sub-section (1A) or sub-section (1C) shall deliver or cause to be delivered to the Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner one copy of the declaration referred to in sub-section (1) or sub-section (1A) or sub-section (1C) on or before the seventh day of the month next following the month in which the declaration is furnished to him.

SECTION 198 TAX DEDUCTED AT SOURCE SHALL BE DEEMED TO BE INCOME RECEIVED

Extract of Section 198 of Income Tax Act, 1961

Section 198 Tax Deducted at Source shall be deemed to be income received

198. All sums deducted in accordance with the foregoing provisions of this Chapter shall, for the purpose of computing the income of an assessee, be deemed to be income received :

Provided that the sum being the tax paid, under sub-section (1A) of section 192 for the purpose of computing the income of an assessee, shall not be deemed to be income received:

[Provided further that the sum deducted in accordance with the provisions of section 194N for the purpose of computing the income of an assessee, shall not be deemed to be income received.

Tax deducted at source shall be deemed to be income received. Accordingly, it shall be considered for the purpose of computing the income of assessee.

E.g. Mr. C received interest of ₹ 54,000/- after deduction of ₹ 6,000/- as **TDS**. The income of Mr. C will be ₹ 60,000/- i.e including the portion of TDS.

However in the following two cases, Tax deducted will not form part of income-

- TDS contributed by the employer on non-monetary perquisites provided to employee u/s 192(1A).
- TDS deducted by banks, post offices, cooperative banks u/s 194N

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