

Chapter - 1

INTRODUCTION

1. The Indian Income Tax Act provides for chargeability of tax on the total income of a person on an annual basis. The quantum of tax determined as per the statutory provisions is payable as:

- a) Advance Tax
- b) Self Assessment Tax
- c) Tax Deducted at Source (TDS)
- d) Tax Collected at Source (TCS)
- e) Tax on Regular Assessment

Tax deducted at source (TDS) and Tax collection at source (TCS), as the very names imply aim at collection of revenue at the very source of income. It is essentially an indirect method of collecting tax which combines the concepts of “pay as you earn” and “collect as it is being earned.” Its significance to the government lies in the fact that it prepones the collection of tax, ensures a regular source of revenue, provides for a greater reach and wider base for tax. At the same time, to the tax payer, it distributes the incidence of tax and provides for a simple and convenient mode of payment.

The concept of TDS requires that the person on whom responsibility has been cast, is to deduct tax at the appropriate rates, from payments of specific nature which are being made to a specified recipient. The deducted sum is required to be deposited to the credit of the Central Government. The recipient from whose income tax has been deducted at source, gets the credit of the amount deducted

in his personal assessment on the basis of the certificate issued by the deductor.

While the statute provides for deduction of tax at source on a variety of payments of different nature, in this booklet, an attempt is being made to discuss various provisions of TDS on payments of nature other than salaries and of Tax collection at source.

Chapter - 2

PAYMENTS SUBJECT TO T.D.S.

The statutory provision regarding deduction of tax at source is dealt in Chapter XVII of the Income-tax Act, 1961 which gives the details of the relevant provision of TDS, the rates and also the exemptions where no tax is to be deducted.

The following items of payment are subject to tax deduction at source:-

- i) Interest on securities (S.193),
- ii) Dividends (S.194),
- iii) Interest other than interest on securities (S.194A),
- iv) Winnings from lottery or crossword puzzles (S.194B),
- v) Winnings from horse race (S.194BB),
- vi) Payments to contractors and sub-contractors (S.194C),
- vii) Insurance Commission (S.194D),
- viii) Payments to non-resident sportsmen or sports associations (S.194E),
- ix) Payments in respect of deposits under National Savings Scheme etc. (S.194EE),
- x) Payments on account of repurchase of units by a Mutual Fund or Unit trust of India (S.194F),
- xi) Commission etc. On sale of lottery tickets (S.194G),

- xii) Commission or brokerage, etc. (S.194H),
- xiii) Rent (S.194-I),
- xiv) Fees for professional or technical services (S.194J),
- xv) Payment of Compensation on acquisition of certain immovable property (S.194LA),
- xvi) Other sums, for example, payment to a non-resident (not being a company) or a foreign company, of any interest (not being interest on securities) or any other sum subject to Income-tax (non-salary)(S.195),
- xvii) Income payable “net of tax” i.e. Where, under an agreement or arrangement the income-tax is borne by the person by whom the income is payable to assessee. This amount of income-tax would be added to the income of the assessee and the Income-tax would be deducted on that amount also (S.195A),
- xviii) Income in respect of units, as referred in Section 115AB, payable to an Offshore Fund (S.196B),
- xix) Income from foreign currency bonds or shares of Indian company, referred to in Section 115 AC. (Sec.196C),
- xx) Income of Foreign Institutional Investors from securities referred to in Section 115AD. However, if capital gain arises from transfer of securities referred to in Section 115AD, no tax is deductible on payment to a Foreign Institutional Investor (S.196D),
- xxi) Section 206C prescribes collection of tax at source on specified items.

Chapter - 3

TDS PROVISIONS APPLICABLE TO NON-SALARY INCOME SECTION-WISE LIST

A very brief description of the various categories of payments(other than salaries) and the relevant sections are being given below, while detailed discussion on the issues of TDS and TCS are included in the subsequent chapters.

- Section 193 - TDS from interest on securities.** _The Exempted securities are listed in the relevant Section. Deduction is to be done as per rates in force.
- Section 194 - TDS from Dividend.** Certain exemptions exist as are provided for in the Section where the aggregate of Dividend during the financial year does not exceed Rs.2500/- Deduction is to be made as per the rates in force.
- Section 194A - TDS from Interest other than interest on securities** TDS is to be done on Interest exceeding Rs.5000/-. W.e.f. 01.06.2007, in respect of deposit with a banking company or a co-operative society carrying on banking business, TDS is to be made if the interest exceeds Rs.10,000/-.

Exempted categories are listed in the section. Deduction are to be done as per rates in force.

Section 194B - TDS from winnings from lotteries or crossword puzzles or card game & other game of any sort. TDS is to be done on payment of an amount exceeding Rs.5000/-. TDS is deductible on prize in kind also (w.e.f.1.6.1997). In cases where the winnings are wholly in kind or where they are partly in cash and partly in kind but the part in cash is not sufficient to meet the liability for tax deduction in respect of the whole of the winnings, the person responsible for paying shall, before releasing the winnings either in cash or in kind, ensure that tax has been paid in respect of the winnings.

Section 194BB - Winnings from horse races exceeding Rs.2500/-

Section 194C- Payments to contractors and sub-contractors exceeding Rs.20,000/-. For payments to contractors, the rate of TDS is one percent in case of advertising and two percent in other cases. Work includes advertising, broadcasting and telecasting including production of programmes for such purpose, carriage of goods and passengers by any mode of transport other than by railways and catering. For payments made by Contractors to sub contractors rate of TDS is one percent.

The provision is not applicable in case of payment made by individuals and HUF if the gross receipts or turnover from the business or profession does not exceed the monetary limits specified u/s 44AB clause (a) or (b).

Section 194D - Insurance commission TDS on payments above Rs.5,000/-

Section 194E- Non-resident Sportsmen or sports associations. TDS @ 10%.

Section 194EE- Payment in respect of NSS. TDS to be done on payment above Rs.2,500/- @ 20%.

Section 194F - Payments for repurchasing units of Mutual Fund/UTI - @ 20%

Section 194G - Commission etc. on sale of lottery tickets exceeding Rs.1,000/- - @10%

Section 194H - Commission, Brokerage etc. above Rs.2,500/- @ 10% N.A. when payments are made by Indl / HUF, if their business turnover does not exceed the limits specified in section 44AB. If the payment made for personal use, no deduction.

Section 194-I - Rental income TDS to be done on payment exceeding Rs.1,20,000/- per annum. W.e.f. 1.4.2007, the rate of TDS is to be 10% where plant or machinery is rented out, 15% in case of land or building and 20% where the payee is not an individual or HUF.

Section 194J - Payment to resident of fees for professional or technical services exceeding Rs.20,000/-. Deduction at the rate of 10% . Not applicable, if payer is individual or HUF and if the business turnover does not exceed the limits mentioned in Section 44AB clause (a) or (b) Not applicable when payment made or credited before 1st July, 1995.

Section 194 LA- Deduction of tax is to be done @ 10% from **payment to resident of compensation/ consideration on account of compulsory acquisition under any law of any immovable property** (other than agricultural land) No deduction if payment is less than Rs.1 lakh during the financial year.

Section 195-	Payments to Non-Resident (Non-company) or to a foreign Company of interest (other than interest on security) or any other sum (other than salary). Deduction is to be done as per rates in force.
Section 196B -	Units referred to in Section 115AB (Units of mutual fund/UTI owned by Off shore Fund) - 10% : includes long-term capital gain on transfer.
Section 196C -	Interest or dividend payable for bonds and shares referred to in Section 115AC (foreign currency bonds or shares) and long-term capital gains. Deduction @ 10% "bonds and shares" substituted by words "Bonds or GDR" with effect from 1st April 2002. No deduction shall be made in respect of any dividends referred in Sec.115-O.
Section 196D -	Income in respect of securities referred under section 115AD(1)(a) held by FII's. Deduction at the rate of 20%. No deduction shall be made in respect of any dividends referred in Sec.115-O. No TDS on capital gains.
Section 197 -	Non-deduction or deduction at a lower rate in regard to Section 192, 193, 194, 194A, 194C, 194D, 194G, 194H, 194-I, 194J, 194K, 194LA and 195.- Application to be filed before Assessing Officer in prescribed form. See Rule 28(1) and 28 AA.
Section 197A -	Non-deduction u/s 194 or 194EE on declaration furnished by a resident individual to the person responsible for deduction in prescribed form.
197A(1A)	Non-deduction on application made by the person to the person responsible for deduction in prescribed form in respect of Sections 193, 194A or 194K.

Section 197A(1B) -	The provisions of this Sec. shall not apply if the gross income credited or paid exceeds the maximum amount which is not chargeable to income tax.
Section 197A(1C) -	No deduction of tax from a resident individual who is 65 years or more during the previous year if such individual furnishes a declaration in writing to the effect that tax on his estimated total income will be nil.
Section 198 -	TDS is also income received except taxes paid u/s. 192(1A).
Note :	Surcharge as applicable in all the above sections.
Section 206C -	The statute provides that the tax is to be collected by the seller of the commodities specified at the time of receipt of the sale proceeds either in cash or by cheque or draft or by any other mode or at the time of debit of such amount to the account of the buyer whichever is earlier. The provisions of TCS apply to business of : i) Alcoholic liquor for human consumption ii) Tendu leaves, iii) Timber obtained under a forest lease, iv) Timber obtained by any mode other than under a forest lease, v) any other forest produce not being timber or tendu leaves. vi) Scrap

Chapter - 4

PROVISIONS ENJOINING DEDUCTION OF TAX AT SOURCE

4.1 Interest on securities

Where any payment is made in the nature of "Interest on Securities," the person responsible for making such payment of income or credit has to make deduction of tax at source before making such payment or crediting to the account of the payee. The deduction is to be done as per rates in force on the amount of interest payable. (Sec.193 of I. T. Act, 1961) However payments from certain categories of bonds, debentures etc. is exempt from TDS. These include :-

- i) National Defence Bonds 1972 (4.1/4%), ia) National Defence Loan 1968, or National Defence Loan 1972 (4.3/4%), ib) National Development Bonds,
- ii) 7 year (IV Issue) National Savings Certificates,
- iii) Any interest payable on debentures issued by any institution or authority or any Public Sector Company or any Co-operative society, including a Co-operative Land Mortgage Bank or Co-operative Land Development Bank, as may be notified by Central Government in Gazette,
- iv) Gold Bonds, 1977 (6.1/2%), Gold Bonds 1980 (7%),
- v) Interest on any Security of Central Government or State Government, (However w.e.f. 1.6.07 exemption will not be available if interest payment exceeds rupees ten thousand during the F.Y. on 8% savings (Taxable) Bonds 2003.

- vi) Any interest payable to an individual, resident of India, on debentures issued by a Public Limited Company where the debentures are listed in a recognised stock exchange, if the interest is paid by an account payee cheque and its amount does not exceed Rs. 2500/- during the financial year,
- vii) Any interest payable to LIC,
- viii) Any interest payable to GIC or any of its four companies,
- (ix) Any interest payable on any security issued by a company, where the security is in dematerialized form and is listed in recognized stock exchange in India (Inserted by Finance Act 2008).
- x) Any interest payable to any insurer in respect of any securities owned by it or in which it has full beneficial interest.

No TDS to be made from any Regimental Fund or non-public fund established by any Armed forces since income of these organizations is exempt u/s 10(23AA).

4.2 Dividend income (Sec. 194) - where any amount is payable in the nature of "Dividends" by an Indian Company or a Company that has made arrangement for declaration and payment of dividend within India (including dividend on preference shares). The deduction has to be done of tax at source on such payments as per rates in force before the payment is made in cash or issue of cheque or dividend warrant or before making any distribution or payment to the share holder of any dividend u/s 2(22). Sec. 2(22) defines dividends as including inter alia distribution by a company to its share-holder of various sums like accumulated profits (whether Capitalized or not) by releasing all or part of company's assets or debentures, debenture stock, deposit certificates, or bonus shares to preference share-holders to the extent of accumulated profits, or payments by a Private Limited Company of any advance or loan to a share-holder being beneficial owner holding not less than 10% of voting power, or loan or advance to a concern in which such share-holder is a member or partner with substantial interest or payment by company on behalf of or, for benefit of such share-holder, to the extent of accumulated profits.

Exemption (a) -Exemption from T.D.S. is granted in case of a shareholder who is an individual and the company pays dividend of Rs.2500/- or less in one financial year and it is paid by account payee cheque (Rule 28). (b) Further If the Assessing Officer gives a certificate in writing that total income of the share-holder is below taxable limit then the person paying the dividend to share holder is not to deduct tax at source (Rule 28 and Rule 29). (c) Further no TDS to be done in respect of dividends referred to in Section 115-O.

4.3 Interest Income other than interest on securities-

The 'Interest' other than 'Interest on Securities' is subject to tax deduction at source as per rates in force under Section 194A. However an individual or Hindu Undivided family is not obliged to deduct tax at source. But w.e.f. 1.6.2002, an HUF or an individual whose total sales, gross receipts or turnover from the business or profession, carried on by him exceeded monetary limit specified in clause (a) or clause (b) of section 44AB(Rs. 40 lakh), are also liable to deduct tax under this Sections. However, any other person (i.e company, firm, Association of persons, Trust etc.) who is responsible for paying Interest (other than 'Interest on Securities') is responsible for deduction of tax at source. This tax is to be deducted, as usual, at the time of credit of interest to the account of payee (i.e. Assessee) or actual payment in cash or by issue of cheque, draft, or any other mode of payment, whichever is earlier. Even if the amount of interest is credited to any account whether called "interest payable account" or "Suspense Account", or by any other name, in the books of the person who is paying such income(i.e. "Payer" of the interest), these provisions of Section 194A will apply.

Exemption - Exemption from this section is allowed:

- i) if interest, or aggregate of interest during the financial year, does not exceed Rs.5000/-. However where the payer is a banking company, a cooperative society engaged in the business of banking or a post office the exemption limit shall be Rs. 10,000 (applicable w.e.f. 1.6.2007).
- ii) Such interest income is credited or is paid to a banking company

or co-operative Society engaged in banking, or a Financial Corporation or, LIC, or UTI, or company or cooperative society carrying on insurance business, or any other institution, association or body notified by the Central Government for reasons recorded in writing.

- iii) The interest is paid, or credited by, the firm to its partner's account.
- iv) Interest income credited, or paid, by co-operative society to its members account, or to another co-operative society.
- v) Interest income on deposits under any scheme framed and notified in Gazette by Central Government.
- vi) Income credited or paid in respect of deposits other than time deposits, such time deposits made on or after 1-7-1995, with banking company including any bank nor banking institution referred to in Section 51 of the Banking Regulation Act, 1949.
- vii) Any interest credited or paid by the Central Government under the Income-tax Act or other allied Acts like Wealth-Tax, Estate-Duty, Super Profits Tax, Companies (Profits) Sur-tax or Interest Tax Act.
- viii) Interest earned on deposits with;
 - a primary agricultural credit society.
 - a primary credit society.
 - a Co-operative land mortgage bank.
 - a Co-operative land development bank
 - a Co-operative society engaged in banking business (other than time deposits on or after 1-7-1995),
- ix) Income credited or paid by way of interest on compensation awarded by the Motor Accidents Claims Tribunal. However, the aggregate amount of income paid/credited should not exceed fifty thousand rupees.

- x) Income paid/payable by infrastructure capital company /fund or public sector company in relation to zero coupon bond issued after 1.6.05.

4.4 Lotteries etc. - Under Section 194B, winnings from lottery or crossword puzzle or card game and other game of any sort exceeding Rs. 5000/- are also subject to deduction of tax at source, as per rates in force .

In cases where the winnings are wholly in kind or where they are partly in cash and partly in kind but the part in cash is not sufficient to meet the tax liability for tax deduction in respect of the whole of the winning, the person responsible for paying shall, before releasing the winning either in cash or in kind, ensure that tax is paid in respect of the winnings.

4.5 Horse Races - Section 194BB enjoins any person, who is a bookmaker, or a licensee for horse racing in a race course, or arranger for wagering or betting in any race course, and is responsible for paying to any person the winning from such horse race, to deduct income-tax at source. The deduction is to be done as per rates in force. The only exemption is for winnings of Rs.2500/or below.

4.6 Contractor - Section 194C applies to a person who is responsible for “paying any sum to a contractor or sub-contractor”. Such contractor or sub-contractor should be a resident.

Definition of residence is given in Section 6 of the Income-tax Act. It applies to an individual who is in India for 182 days or more in a financial year or has been in India for more than 365 days in the last 4 years and for 60 days in the year under consideration. The HUF, Firm and an AOP is resident in India in any previous year unless the control and management of its affairs is situated wholly outside India. A company is a resident if it is an Indian company or the control and management is wholly situated in India. A person is termed as contractor if he is carrying out any work including supply of labour for carrying out any work, in pursuance of a contract with Central Government/ State Government/ Local Authority/ Corporation/

Company /any authority in India engaged in housing or co-operative society /trust / University or any firm etc. ‘Work’ includes advertising, broadcasting and telecasting and production of programmes in such connection, carriage of goods and passengers by any mode other than by railway, and catering. These are the persons who are enjoined to deduct tax at source at the time of credit of any sum to the account of contractor or at the time of payment either in cash or by cheque or draft or any other mode. **The deduction is to be made @ 2% of the total payment.** In case of advertising, the contract rate of TDS is 1%.

A contractor who is a resident and is not an individual/HUF and makes payments to a sub-contractor who is also a resident and engaged in carrying out or supplying labour for carrying out, whole or part of the work undertaken by the contractor, **is also liable to deduct tax at source from the payments or credits of the payment to such sub-contractor @1%.** An individual or an HUF whose total sales/gross receipts/turnover from business and profession carried on by him exceeded the monetary limits specified under clause (a) or (b) of section 44AB is liable to deduct income-tax under this Section.

Even where the credit is made in any account called “Suspense Account” or in the books of account of the person liable to pay such income, such credit will be deemed to be in the account of payee (contractor or sub-contractor as the case may be) and deduction of tax will have to be made.

Exemption - If the credit or the payment in pursuance of the contract does not exceed Rs.20,000/-, no deduction has to be made at source. No TDS to be done by an Individual or an HUF on a contractual payment of work which is for personal purposes of the individual or the HUF.

If the Assessing Officer is satisfied that the total income of the contractor or the sub-contractor justifies deduction at lower rate or justifies no deduction of income-tax, then on an application to be filed by the contractor or sub-contractor in this behalf, the Assessing Officer can give such certificate as may be appropriate i.e. Deduction

at a lower rate or no deduction at all. Hence, when such a certificate is produced before the person responsible for payment he will deduct tax at the specified rate, or will not deduct any tax, as the case may be.

4.7 Insurance Commission (Section 194D)

Any person, who is responsible for paying to a resident any remuneration or reward, whether called commission or by any other name, for soliciting or procuring insurance business (including continuance, renewal or revival of policies of insurance), is enjoined upon to deduct tax at source 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 any other mode, whichever is earlier. Deduction is to be done as per rates in force. However, if the aggregate of such account, credited or paid during one financial year is Rs.5000/- or less, then no tax is required to be deducted at source.

4.8 Payments to Non-resident sportsmen or sports associations u/s.194E

If a payment is to be made to a non-resident sportsman (including an athlete) who is not a citizen of India or non resident sports association and the income is covered by Section 115BBA, then income-tax is to be deducted at source @ 10% of such payment. Section 115BBA applies to any tax-payer (assessee) who is not a citizen of India and who is a non-resident and income is received, or receivable, for participation in India in any game or sport or income from advertisement or income from contribution of articles in Indian Newspapers, magazines and journals or a non-resident sports association or institution which receives guarantee money for games or sports played in India.

4.9 Deduction of tax from payment in respect of National Savings Scheme (Sec. 194EE)

“Sec. 194EE has been inserted with effect from 1-10-91. Where any payment is made by a person of an amount referred to in clause

(a) of sub section (2) of sec. 80CCA, then such person will deduct tax @20% there on at the time of making such payment. The amount standing to the credit of an assessee under National Saving Scheme 1987 and the interest accrued thereon is covered under this provision. However in following cases no tax is deductible:

- a) where amount so payable in a financial year is less than Rs.2500/- or
- b) where payment is made to heirs of a deceased assessee or
- c) where in case of resident individual, tax on his estimated total income of the previous year including such withdrawal would be nil and a declaration by him is furnished to that effect in form 15-G and verified in prescribed manner by the person responsible for such payment.”

4.10 Sec. 194F Payment on account of repurchase of units of mutual fund or UTI. Deduction of tax at source is to be done on payment on account of repurchase of units by mutual fund or UTI @20% at the time of making any payment, by the person responsible for paying any amount referred to in Sec. 80 CCB to any person.

4.11 Sec.194G Deduction of tax from commission etc. on sale of lottery tickets.

The person responsible for paying any income by way of commission, remuneration or Prize on lottery ticket has to deduct tax @ 10% at the time of credit to the recipient account, or at the time of payment in cash or issue of cheque/draft any other mode, whichever is earlier. However no tax is to be deducted ,if the amount does not exceed Rs.1000/-.

Further assessee can make an application in Form 13 to the Assessing Officer, who shall after satisfying himself, issue a certificate that total income of the person who is or has been stocking, distributing, purchasing or selling lottery tickets justifies the deduction of tax at a lower rate or no deduction of tax at all.

4.12 Sec. 194H Tax deduction from commission or brokerage.

With effect from 1-6-2001 any person (other than Individual and HUF whose accounts are not auditable under clauses (a) or (b) of section 44AB) responsible for paying any commission or brokerage to the account of payee or at the time of payment in cash or by cheque/draft any other mode, whichever is earlier, is to deduct tax @ of 10%. Where any income is credited to any account whether called "Suspense Account" or by any other name in books of the person liable to pay such income, such crediting shall be deemed to be credit of such income to the account of the payee.

However no tax is deductible if the amount during the financial year does not exceed Rs.2500/-. Commission & Brokerage includes any payment (other than commission referred to in section 194D) received/receivable directly or indirectly by a person acting on behalf of another person for services other than professional services notified by board u/s 44AA or for any services in the course of buying or selling of the goods or in relation to any transaction relating to any asset, valuable article or thing, not being Securities. **W.e.f. 1.4.2007 no deduction is to be made on any commission or brokerage payable by M/s. BSNL or M/s. MTNL to their public call office franchises.**

Recipient may apply in Form 13 to get a certificate of lower TDS or no TDS u/s 197.

4.13 Sec. 194I Deduction of tax from income by way of Rent.

Any person (not being an individual / HUF whose accounts are not auditable u/s 44AB, clause (a) or (b), responsible for paying rent has to deduct tax at source @20%. However where payment is to an individual or HUF, TDS is to be made @ 15%. TDS is to be done at the time of credit of such income into payee's a/c or at the time of payment in cash or by chq /draft or any other mode, whichever is earlier. Credit in payers books to a account called suspense a/c or by any other name shall be deemed to be credited to payees' a/c.

However in case where the rent paid/credited does not exceed Rs. 1,20,000/- during the year, no tax is deductible. **W.e.f. 1.4.07 the rate of TDS shall be (a) 10% where any machinery plant or equipment is let out (b) 15% in case of let out of building or land appurtenant thereto (including factory building) where the payee is an individual or HUF. (c) The rate will be 20% in (b) above in case the payee is not an individual or HUF.**

Essential features of rent are that –

- 1) Payment is made under any lease, sub-lease tenancy, or any other agreement or arrangement.
- 2) Payment is made either for use of land or building (including factory building) (together or separately) with or without furniture, fittings & land appurtenant thereto.
- 3) Immaterial whether land or part of such building is owned by the person to whom rent is paid.

Following points require consideration :

- 1) If building is let out with furniture & fittings & rent is payable under two separate agreements, composite rent is subject to tax.
- 2) If a non-refundable deposit is made by tenant, then TDS is applicable.
- 3) If refundable deposit is paid no TDS to be done, but if deposit carries interest TDS on interest will be governed by Sec. 194A.
- 4) If municipal taxes, ground rent etc. are borne by tenant no TDS on such sum.
- 5) Hotel accommodation taken on regular basis by any person other than Individual/HUF will be in the nature of rent and TDS is to be done.
- 6) No TDS, if payee is Government or local authorities referred to in section 10(20).

- 7) Payee can make application to the Assessing Officer in Form 13 for a certificate for deduction of tax at lower rate or to deduct no tax.

Deduction of Tax on Service Tax component of rental income
vide circular No. 4/2008 of CBDT dt. 28.4.2008 it has been clarified that deduction u/s. 194 I would be required to be made on the amount of rent paid/payable without including the Service Tax. This is so, as Service Tax does not partake the nature of income of the landlord.

4.14 TDS From Profession fee : (Sec. 194J) W.e.f. 1.6.07
TDS has to be done at the rate of 10% on payments made to a resident of fees for professional or technical services, of royalty or any sum referred in clause (va) of Section 28 where aggregate of such payment exceeds Rs.20,000/- in a financial year. However, it is not applicable to a payer who is an individual or a HUF. But where the gross sales/turn over from business or profession of such payers exceeds the monetary limit specified in section 44AB (Rs. 40,00,000/-) then such individual /HUF is also required to deduct tax at source as per provisions of this section. Payments made or credited before 1.7.95 are not covered by this provision.

Professional service means service rendered by a person in the course of carrying on any of the following professions :

Legal

Medical

Architectural

Engineering

Profession of accountancy

Technical consultancy

Interior Decoration

Advertising

Any other profession notified by the Board for purposes of Section 44AA or of this section. Technical services has the same

meaning as in Explanation 2 to section 9(1) (vii). On satisfaction, the Assessing Officer shall issue a certificate for tax deduction at a lower rate or for no deduction.

4.15 Sec. 194LA : Payment of compensation of acquisition of certain immovable property

Where any person is paying to a resident any sum which is in the nature of compensation, enhanced compensation, consideration, or enhanced consideration on account of compulsory acquisition of any immovable property (under any law), then deduction of tax at source @ 10% on such sum is to be done at the time of payment or by issue of a cheque/draft or by any other mode, which ever is earlier. The immovable property specified here should not be agricultural land. Deduction is to be done where the aggregate amount of such payment during the F.Y. exceeds one hundred thousand rupees.

4.16 Sec. 195 - Other sums

This section deals with TDS on payments being made to non residents.

Deduction of tax u/s 195 is to be done **at rates in force** on payment made to any non-resident not being a company, or to a foreign company on payment of any interest or any sum chargeable under the provisions of IT Act which is not in nature of salaries.

Tax is to be deducted at the time of payment or at the time of credit to the a/c of payee or interest payable a/c or suspense a/c, whichever is earlier.

(However TDS is to be done only at the time of payment in cash or issue of cheque/draft or any other mode, in case of interest of mutual fund, or interest payable by Govt / public sector bank or a public financial institution). However no tax to be deducted in case of payment of dividend referred in sec. 115(O). Further payee can make application in Form no. 15C and 15D to Assessing Officer to obtain certificate for non-deduction or deduction at lower rate of tax.

4.17 Section 196 - TDS from interest or Dividend or any sum payable to Government/RBI/Certain Corporations

Section 196 provides that no deduction of tax is to be done from interest or Dividend or any sum payable to Govt./ RBI / certain Corporations or Mutual Funds. No TDS from any sum payable to Government or RBI or corporation established by or under any Central Act which is exempt from income-tax on its income or a specified Mutual Fund, provided such sum is payable by way of interest or any other income accruing or arising to it or as dividend in respect of securities or shares owned by it or in which it has full beneficial interest.

4.18 Section 196-B - Income from units - This section enjoins the payer to deduct tax @ 10% from payments to an off shore fund in respect of units referred to in section 115AB or payments by way of long term capital gains arising from transfer of such units. The deduction is to be done at the time of credit in the account or at the time of payment in cash, through cheque or draft or any other mode, whichever is earlier.

4.19 Section 196C - Income from foreign currency bonds or shares of Indian Company where any income by way of interest or dividends in respect of Bonds or Global Depository receipts referred to in Section 115AC or by way of long term capital gains arising from their transfer is payable to a non-resident, then TDS @ 10% is to be done on such payments, at the time of credit of income in account or any payment through cash/cheque/draft/any other mode, which ever is earlier.

4.20 Section 196D : - This section applies to payments in respect of securities referred to in clause (a) of sub-section(1) of Section 115AD payable to foreign Institutional Investor. The payer is required to deduct tax @ 20% of the income when the same is credited to the account or paid in cash, through cheque or draft etc. which ever is earlier. No deduction is to be done in respect of dividends referred in section 115-O.

4.21 Sale of Liquor / Timber

Section 206C has been introduced w.e.f. 1.4.1992 prescribing collection of tax at source. It applies to business of (i) Alcoholic liquor for human consumption, (ii) Tendu leaves (iii) Timber obtained under a forest lease, timber obtained by any mode other than under a forest lease (iv) Any other forest produce not being timber or tendu leaves and also on (vi) Scrap.

It enjoins on every person who is a seller of any of the above six types of items to collect from the buyer of such goods a sum equal to the following percentage of the amount payable by the buyer to the seller : -

i)	Alcoholic liquor	1%
ii)	Tendu leaves	5%
iii)	Timber obtained under forest lease	2.5 %
iv)	Timber obtained by any other mode (other than under a forest lease)	2.5%
v)	Any other forest produce not being Timber or tendu leaves	2.5 %
vi)	Scrap	1%

Chapter - 5

TAXATION OF FOREIGN COMPANIES

Since post assessment collection of taxes is difficult from a non-resident assessee by virtue of his residence and business activities being outside India, TDS is an imperative mode of tax collection. In such cases the rate of TDS also equates the tax rate. The **estimated income approach** in Section 44B to 44BBB relating to taxation of certain categories of income in case of foreign companies is lined with TDS as a mode of collection.

Section 195 provides for deduction of tax at source as per rates in force which are specified in Annexure-1.

Following are the sections dealing with presumptive rate of taxation in regard to income of **foreign company**. The tax payable is deducted at the time of remittance.

Section	Nature of Income	% of gross receipt Chargeable as Tax and liable for TDS
115A	Non-residents (Not a company) and foreign company : Dividends/ Interest/income from units	20%
	Foreign company : Royalty/fees for Technical services.	30%

Note 1 : Lower rate provided in Double Taxation Avoidance agreement would prevail over these rates wherever they exist.

Note 2 : The rate of 30% is reduced to 20% or 10% in respect of royalty or fees for technical services depending on whether the fees is received pursuant to an agreement made after 31.5.1997 but before 1.6.2005 or whether it is made on or after 1.6.2005. Now, a foreign company deriving royalty and fees for technical services have to bifurcate its royalties and fees into 3 parts as follows :-

- Royalty and fees received pursuant to an agreement made on or before 31.5.1997 and
- Royalty and fees received pursuant to an agreement made after 31.5.1997 but before 1.6.2005.
- Royalty and fees received pursuant to an agreement made on or after 1.6.2005.

On the first part, tax would be payable @30%; on the second part, tax would be payable @ 20% and on the third part, tax would be payable @10%.

Section	Nature of Income	% of gross receipts
44B	Receipt from shipping business	7.5%
44BB	Business of exploration of Mineral oils	10%
44BBA	Business of operation of Air-craft	5%
44BBB	Approved turn-key Power project	10%

Chapter - 6

EXEMPTIONS

6.1 Lower deduction/non-deduction of tax

- (a) **Section 197** : - Section 197 gives a right to the assessee to obtain a certificate from the Assessing Officer that tax may be deducted at a lower rate than prescribed in Sections 192, 193, 194, 194A, 194C, 194D, 194G, 194H, 194I, 194J, 194K, 194LA, and 195, by making an application. He can even apply for no deduction of income- tax at source. Income-tax rules have prescribed Form No. 13, under Rule 28 for such application.
- (b) **Section 197A** : - Section 197A provides that no deduction of income-tax at source is to be made u/s 194 or 194EE in case of an individual resident of India if the individual gives the declaration to the person responsible for paying the income covered by these sections in duplicate in prescribed proforma and verified showing that the tax, on his estimated total income of the year, including the income from which tax is to be deducted will be nil. Form No. 15G under Rule 29C has been prescribed for such application.
- (c) **Section 197A(1A)** : - Similarly, for sections 193, 194A and Section 194K, exemption u/s 197A, from deduction of tax, can be obtained by any person (except a company or a firm) on furnishing a declaration in duplicate and in prescribed proforma in a similar manner. Similarly for sections 193, 194, 194A, 194 EE or 194K, exemption from TDS u/s 197A can be obtained

by an individual resident in India who is of age of 65 years or more during the previous year.

- (d) **Section 197A(1B)** : - The provisions of this section shall not apply when the gross total income of the assessee from all sources exceeds the maximum amount which is not chargeable to Income Tax.

The person responsible for paying the income without deduction of tax is duty-bound to deliver to the Chief Commissioner of Income-tax or Commissioner of Income-tax, one copy of such declaration before the 7th day of month following the month in which the declaration has been furnished to the payer by payee (i.e. Assessee).

6.2 Interest to Government etc.

Interest or dividend or any other sum payable to the Government, or Reserve Bank of India or a Corporation established under a Central Act, or a Mutual Fund specified u/s 10(23D), payable to it by way of interest or dividend in respect of securities or shares owned by it or any other income accruing to it, is not subject to deduction of tax at source (S.196).

Chapter - 7

DEPOSIT OF TAX AND CREDIT OF TDS

7.1 Deposit of Tax

Where tax has been deducted under Sections 193, 194, 194A, 194B, 194BB, 194C, 194D, 194E, 194EE, 194F, 194G, 194H, 194I, 194J, 194K, 194LA, 195, 196A, 196B, 196C and 196D, it is duty of the person deducting tax at source to deposit the amount of tax so deducted within the prescribed time in any branch of Reserve Bank of India or State Bank of India or any authorised bank accompanied by prescribed Income-tax challans as per the time limit and mode specified in Rule 30.

7.2 Credit of TDS

Where taxes have been deducted at source from any payment of income receivable by an assessee, the amount of tax deducted at source would be included in the income of the assessee while computing the income of the assessee and would be deemed to be the income received (S.198). Further, credit will be given to the assessee while calculating the net tax payable by him and the tax deducted at source will be treated as a payment of tax on his behalf. (i.e. to the Central Government by the payer who has deducted the tax at source) (S.199).

7.3 TDS Certificate

A certificate is prescribed u/s 203, which is to be issued by person deducting tax at source. Every person deducting tax is duty

bound to furnish this certificate to the person from whose income/ payment the tax has been deducted. The certificate should specify the amount of tax deducted and rate at which it is deducted. (Form No. 16A, under Rule 31). On production of this certificate, credit u/s 199, for tax paid, will be given to the person, from whose income the tax has been deducted, in his income-tax assessment for the assessment year in which the income (or payment) is assessable.

However where tax has been deducted or paid on or after 1.4.2010 there shall be no requirement to furnish such a certificate.

7.4 Tax Deduction Account Number (TAN)

A person deducting tax at source, if not already allotted a TAN (or a tax deduction and collection account number) should apply for allotment of TAN in Form No. 49B. The application has to be made in duplicate to the Assessing Officer (AO) or to any particular Assessing Officer where this duty is assigned by the Chief Commissioner or the Commissioner to that A.O. The application should be made within one month from the end of the month in which the tax is deducted for the first time.

TAN should be quoted in all the TDS Certificates, challans, quarterly statements, correspondence, etc. Non compliance with the provisions of Section 203A may lead to rigorous imprisonment for a term not less than 3 months but which may extend to 7 years and with a fine of Rs.10,000/-.

Reference Section 203 A, Rule 114 A and Rule 114AA.

7.5 Time Limit for Deposit of Tax

Section 200 provides that any person, who has deducted any sum at source as provided in Sections 192 to 196D, is obliged to pay the tax deducted at source to the credit of Central Government.

Rule 30 of the Income-tax rules lays down the time and the mode of the payment of the tax deducted at source to the Government Account. Wherein the deduction is by or on behalf of

the Government, it has to be credited to the Central Govt. Account on the same day.

In other cases as per provisions as under :

- i) In respect of sums deducted u/s.193,194A (interest on securities), S.194C (payment to contractors and sub-contractors), Sections 194D,194E, 194G, 194H,194I, 194J,195,196A,196B,196C, and 196D it has to be credited within one week from the last day of the month in which deduction is made. However if the income/sum is credited to the account of the payee as on the date up to which accounts of the payers are made, then within two months of the expiry of the month on which the date falls
- ii) In any other case the sum deducted at source is to be credited to the Central government account within a week from the last day of the month in which deduction is made.

Time limit for Deposit of Tax at Source

Nature of payment	Relevant Section	Due date of deposit
(1)	(2)	(3)
Interest on securities	193	
Interest other than 'Interest on securities'	194A	
Payments to contractors and sub-contractors	194C	
Insurance Commission	194D	
Payment to non-resident sports men or sports association	194E	
Commission, remuneration or prize on lottery tickets	194G	Within one week from the last day of the month in which the deduction is made. However, if the same is credited by the deductor to the account of the payee as on the date up to which the accounts of the payer
Commission, brokerage, etc.	194H	
Rent	194-I	
Fee for professional or technical services, royalty, sum under section 28(va)	194J	
Interest or other sum referred to in Section 195	195	
Income in respect of units of mutual fund or of the Unit Trust of India payable	196A	

to non-resident		are made, within two months of the expiry of the month in which that date falls.
Income on units referred to in section 115AB or by way of long-term capital gains arising on transfer of such units	196B	
Income from foreign currency bonds or shares of Indian Companies	196C	
Income on securities referred in section 115AD(1)(a)	196D	
Salaries	192	Within one week from the last day of the month in which the deduction is made(In case of tax paid under section 192(1A), within one week from the last day of each month on which tax is due under section 192(1B).
Dividends	194	
Winnings from lottery or crossword puzzle	194B	
Winnings from horse race	194BB	
Payments in respect of deposit made under National Savings Scheme	194EE/80CCA(i)	
Repurchase of units by mutual fund or Unit Trust of India	194F	
Income in respect of units	194K	
Compensation on acquisition of immovable property	194LA	

* In the case of deduction by or on behalf of the Government, tax deducted should be deposited on the same day.

* The Assessing Officer may, in special cases, and with the approval of the Joint Commissioner, -

- (a) permit any person to deposit the income-tax deducted from any payment under section 194A or section 194D or section 194H quarterly on July 15, October 15, January 15 and April 15, and
- (b) permit an employer to deposit income-tax deducted from salaries quarterly on June 15, September, 15, December 15 and March 15.

Chapter - 8

Duties of Person Deducting Tax at Source

8.1 Deduct Tax at Correct Rate and deposit in Government Account

Every person responsible for deducting tax at source shall at the time of payment or credit of income, whichever is earlier, verify whether the payment being made is to be subject to deduction of tax at source. If it is so, he must deduct such tax as per the prescribed rates. Further he is required to deposit such tax deducted in the Central Government Account within the prescribed time as specified in Rule 30.

Electronic payment of taxes

An optional scheme of electronic payment of taxes for income-tax was introduced in 2004. However with a view to expand the scope of electronic payment of taxes, the scheme of electronic payment of taxes has been made mandatory for the following categories of tax-payers(vide notification No. 34/2008 dt. 13.3.2008 of CBDT).

- (i) All corporate assesseees;
- (ii) All assesseees(other than company) to whom provisions of section 44AB of the Income Tax Act are applicable.

2. The scheme of mandatory electronic payment of taxes for income-tax payers is to be made applicable from 1st April, 2008

and shall also be applicable to payment of taxes to Government account where tax has been deducted at source.

3. Tax-payers can make electronic payment of taxes through the internet banking facility offered by the authorized banks. They will also be provided with an option to make electronic payment of taxes through internet by way of credit or debit cards.

8.2 Issue a TDS certificate

Further, such person is required to issue a certificate of tax deduction at source to the person from whose income the TDS has been done, in the prescribed proforma i.e. Form No.16A, within one month from the end of the month during which the credit has been given or the sums have been paid or a cheque/warrant for payment of any dividend has been issued to a shareholder.

8.3 File Return/Quarterly Statement

Finally, Sec.206 prescribes that every person, e.g. Principal Officer in the case of a company, prescribed person in case of Government Office and local authority or public body, and every other person responsible for deducting tax at source, within a prescribed time after the end of Financial Year, shall prepare and deliver or cause to be delivered, a prescribed return in prescribed form, verified and containing prescribed particulars. This return is commonly referred as the annual return of TDS. ***However the Finance Act 2006 provides that annual return of TDS is to be furnished only for deductions made before 1st of April 2005.***

The law also provides for filing of annual return in computer readable media, referred as e-filing of annual return. The provisions of e-filing of annual return of TDS are being given below.

8.4 Filing of Annual Return on Computer Readable Media

Section 206(2) permits the deductor to file the annual return of TDS on computer readable media including a floppy, diskette, magnetic cartridge tape or CD ROM. However, the Finance Act 2003

has provided that w.e.f. 01.06.2003, a return in computer readable media is to be filed only in accordance with such scheme and subject to such conditions and manner, as may be specified by the Board by notification in official gazette.

Further where the assessing officer considers a return filed u/s 206(2) to be defective, then he may intimate the defect to the deductor/employer filing the return, giving him an opportunity to rectify the defect. This must be rectified within a period of 15 days from the date of intimation or within such further period which the assessing officer allows, on an application made by the employer/deductor. However, on failure to rectify the defect within the period specified above, the return shall be treated to be invalid and the provisions of the Act shall apply as if the person had failed to deliver the return.

As per proviso to section 206(2) , w.e.f. 1.4.2005, the prescribed person in the case of every office of the government and the principal officer in the case of every company, responsible for deducting tax , is mandatorily required to deliver such returns on the computer readable media, after the end of each financial year and within the prescribed time.

The scheme of electronic filing of return of the Tax Deducted at Source (e-TDS) has been notified vide notification no. S.O. 974(e)dt. 26.08.03. Now the Government and the Corporate deductors are required to file the annual TDS return in electronic form only with the e-TDS intermediary at any of the TIN Facilitation Centres (particulars available at the websites, www.incometaxindia.gov.in and <http://www.tin-nsdl.com>)

Vide **Notification No.238/2007, dated 30.08.2007** of CBDT the scope of mandatory filing of e-TDS returns has been expanded. This notification comes into force w.e.f. 1.9.2007. Hence it is applicable from the second quarter of the F.Y. 2007-08 and for all subsequent quarters. As per this notification the following classes of deductors are required to furnish quarterly statements in computer readable media(e-tds) where the deductor is;

(a) An office of the Government

- (b) A company
- (c) A person required to get its accounts audited u/s. 44AB in the immediately preceding financial year.
- (d) Where the number of deductees records in quarterly statement for any quarter during the immediately preceding financial year is equal to or more than fifty.

8.5 Quarterly statement of TDS

The provisions of quarterly statements of TDS have been introduced in the statute vide section 200(3) w.e.f. 01/04/2005. Every person responsible for deducting tax is required to file quarterly statements of TDS for the quarters ending on 30th June, 30th September, 31st December and 31st March in each Financial Year. This statement is to be prepared in Form No.26 Q for TDS other than salaries, Form No.27 EQ (for Tax collection at source) and 24Q(for salaries) (relevant rule 31A and 31AA) and is to be delivered with prescribed income-tax authority or the person authorized by such authority on or before the 15th July, the 15th October and the 15th January in respect of the first 3 quarters of the Financial Year and on or before the 15th June following the last quarter of the Financial Year. However the statement of last quarter in form 27EQ is to be furnished by 30th April.

With respect to the quarterly statements of TDS, the following points are noteworthy :-

- Every deductor is required to file the quarterly statement of TDS in prescribed form for each quarter as per the dates specified above.
- In case of every Government and Corporate deductor, the quarterly statements are to be delivered on computer readable media (3.5", 1.44 MB floppy diskette or CD-Rom of 650 MB capacity). The statement in computer readable media is to be prepared as per data structure provided by the e-filing Administrator(DGIT Systems) designated by the Board for purposes of e-TDS Scheme : 2003. Further, a declaration in

Form 27A or 27B is also to be submitted in paper format. This scheme has been extended to apply to categories of entities/ persons mentioned earlier at para 8.4.

- A person other than a corporate or government deductor or that specified in para 8.4 may at his option deliver the quarterly statements in computer readable media as specified above. However, it is not mandatory for him to do so.
- The quarterly statements are to be furnished in accordance with the provisions of rule 31A and rule 31AA.
- The persons referred to in Rule 37A (who are making payment to a non-resident or a foreign company) are required to file quarterly statements in accordance with provisions of rule 37A and rule 37B.
- It is mandatory for the deductor to quote TAN and PAN in the quarterly statements. However, where the deduction has been made by or on behalf of the Government, PAN shall not be required to be quoted in the quarterly statement.
- In the quarterly statements, the deductor is also required to quote the Permanent Account Number (PAN) of all persons in respect of whom Income-tax has been deducted. However, PAN of those persons is not required to be quoted who are specified under second proviso to sub section (5B) to section 139A. These persons include those who are not required to obtain PAN under any provisions of this Act or those whose total income is not chargeable to Income-tax.
- The deductor is also required to furnish the particulars of tax paid to the Central Government in the quarterly statements.

Quarterly statement of collection of tax under sub-section(3) of section 206C

- Every person, being a person responsible for collecting tax under section 206C shall, in accordance with the proviso to sub-section(3) of Section 206C, deliver or cause to be delivered to [the Director General of Income-tax(Systems) or the person

authorized by the Director General of Income-tax(Systems)], quarterly statement in Form No. 27EQ on or before the 15th July, the 15th October, the 15th January in respect of the first three quarters of the financial year and on or before the 30th April following the last quarter of the financial year :

- The person responsible for collecting tax at source on behalf of Government and the principal officer in the case of every company responsible for collecting tax at source shall deliver or cause to be delivered such quarterly statements on computer media(3.5" 1.44 MB floppy diskette or CD-ROM of 650 MB capacity):

It is pertinent to note that for quarter ending 30.9.2007 and thereafter form No. 26Q and 27Q with less than 70% of correct PAN data will not be accepted and penal consequences under the I.T. Act will follow(circular No. 8/2007 dt. 15/12/2007). This limit has been further increased to 85%(from 70%) for and from quarter ending 31.3.2008.

- A person other than a person referred to in the first proviso, responsible for collecting tax at source, may at his option, deliver or cause to be delivered the quarterly statements on computer media(3.5" 1.44 MB floppy diskette or CD-ROM of 650 MB capacity).
- The person responsible for collecting tax at source and preparing quarterly statements shall, -
 - (i) quote his tax deduction and collection account number(TAN) and permanent account number(PAN) in the quarterly statement.
 - (ii) provided that the permanent account number shall not be required to be quoted where tax has been collected by or on behalf of the Government ;
 - (iii) furnish particulars of the tax paid to the Central Government;
- The person responsible for collecting tax at source and

preparing quarterly statements on computer media shall, in addition to the provisions in sub-rule(2), - prepare the quarterly statement as per the data structure provided by the e-filing administrator designated by the Board for the purposes of administration of Electronic Filing of Returns of Tax collected at Source Scheme, 2005 supported by a declaration in Form No. 27A in paper format; Provided that in case any compression software has been used for preparing the quarterly statement on computer media, such compression software shall be furnished on the same computer media.

Chapter - 9

RIGHTS OF TAX-PAYER

If tax has been deducted at source in accordance with the provisions of Chapter XVII-B of Income Tax Act, 1961, the person from whose income (payment) the tax has been deducted i.e. Payee or assessee shall not be asked upon to pay the tax himself to the extent tax has been deducted (Sec.205). Moreover u/s.199 such tax deducted at source shall be treated as payment of tax on behalf of the payee (assessee).

U/s. 203, payee (tax-payer) is entitled to obtain a certificate from the payer (tax deductor) specifying the amount of tax deducted and other prescribed particulars. *As per the sub section 203(3), where the tax has been deducted or paid on or after the 1st day of April, 2010 there shall be no requirement to furnish a TDS Certificate as required by section 203 (1) or 203(2).*

Further, as per section 203AA the prescribed income tax authority or the person authorized by such authority (as referred in section 200(3)) will be required to deliver to the person from whose income the tax has been deducted/paid, a statement of deduction of tax in the prescribed form. Such statement as per rule 31AB will be required to be furnished in Form no.26AS by the 31st July following the financial year during which the taxes were deducted/paid (also refer Notification no. 928 E dt. 30.6.2005 of CBDT)

Form 16A: This form is certificate of deduction of tax under section 193 from "Interest on securities", under section 194 from "Dividends", under section 194A from "Interest

other than interest on securities”, under section 194B from “Winnings from lotteries or crossword puzzles”, under section 194BB from “Winnings from horse races”, under section 194C from “Payments to any contractor or sub-contractor”, under section 194D from “Insurance commission”, under section 194E from “Payments to non-resident sportsmen or sports associations”, under section 194EE from “Payments in respect of deposits under the National Savings Scheme, etc.”, under section 194F from “Payments on account of repurchase of units by Mutual Fund or Unit Trust of India”, under section 194G from “Commission, etc., on sale of lottery tickets”, under section 194H from “Commission or brokerage”, under section 194I from “Rent”, under section 194J from “Fees for professional or technical services”, under section 194K from “Income in respect of units” and under section 194LA from “Payment of compensation on acquisition of certain immovable property” etc.

Chapter - 10

PENALTY, PROSECUTION AND OTHER CONSEQUENCES OF NON DEDUCTION AT SOURCE

10.1 Prosecution etc. : U/s. 276B If a person deducts tax at source etc. but fails to pay the same to the credit of Central Government as prescribed, he can be sentenced to rigorous imprisonment for a term not less than 3 months and extendable upon 7 years with fine as well. Moreover, u/s **276BB**, **similar punishment is provided for a person who fails to pay to the credit of Central Government taxes collected at source u/s. 206C being a seller of alcoholic liquor for human consumption, Tendu leaves, timber merchant, dealer in forest produce and dealer in scrap etc.**

If a person fails to collect tax, he shall be liable to pay the tax to the Central Government account and also required to pay simple interest @ 1% per month from the date of such amount of tax was collectable to the date on which the tax was actually paid. Moreover, the tax and interest thereon shall be a charge upon the assets of the seller.

Rule 37E prescribes return regarding tax collected at source. Like T.D.S, the tax collected at source will also be deemed as payment on behalf of the person (assessee) from whom the amount has been collected and certificate will be given by the person (seller) who has collected the tax at source to the assessee (buyer) from whom the tax has been collected at source within one month from and of the month during which buyer's account is debited or payment is received by him.

A person collecting any amount under this provision is required to pay the same within 7 days from the last day of the month to the credit of Central Government after the same has been collected from the buyer.

10.2 Penalty on Default : In case a person fails to deduct tax at source or after deducting fails to pay the tax to the Central Government account as prescribed by the Income-tax Act, he may be deemed to be an assessee in default in respect of this tax. In case of a Company, the Principal Officer shall also be treated to be an assessee in default.

10.3 Penalty : U/s. 221 of the Income-tax Act in such circumstances can be levied on such defaulter. Of course before levying any such penalty the defaulter will be given a reasonable opportunity of being heard and no penalty shall be charged, if such person/Principal Officer/Company satisfies the Assessing Officer that the failure to deduct the tax, or pay the same, was not without good and sufficient reason.

The penalty leviable shall not exceed the amount of tax in arrears i.e. Tax which was deductible at source as per prescribed rate of tax so deducted but not paid to the credit of Central Government Account.

If a person responsible for making TDS fails to deduct either whole or part of the tax required to be deducted under sections 192 to 195, or fails to furnish appropriate returns of TDS within prescribed time or fails to issue the TDS certificate to the person from whose income TDS is made within prescribed time, he will be liable to the following penalties :

10.4 Section	Nature of Default	Minimum Penalty	Maximum Penalty
271C	Failure to deduct or pay the whole or any part of tax as required by or under chapter XVIIIB or section 115-O or section 194B.	Amount of tax which such person has failed to deduct or pay.	*

272A(2)(C)	Failure to furnish appropriate return of TDS within prescribed time.	Rs.100/- for every day during which default continues.	(the amount of penalty shall not exceed the amount of tax Deductible or collectible at source)
272A(2)(g)	Failure to issue the TDS certificate to the person from whose income TDS is made within prescribed time.	-do-	-do-
272A(2)(K)	Failure to deliver the statement u/s 200(3) or the proviso to sub-section 3 of section 206C within prescribed time (quarterly statement of tax collection and deduction)	-do-	-do-
272A(2)(L)	Failure to deliver the statement u/s 206A(i) within prescribed time. (quarterly return in respect of payment of interest to residents without deduction of tax)	-do-	-do-

10.5 U/s. 203A, every person making TDS shall obtain Tax Deduction Account No. (TAN) from his/her Assessing Officer by making an application in duplicate in Form No.49B within one month from the end of the month in which the tax is first deducted. Failure to comply with this provision entails penalty u/s. 272 BB of Rs.10,000.

In addition to the penalty, the failure to deduct the tax or failure to pay the same after deduction also invites payment of simple interest @ 12% per annum on the amount of such tax from the date it was deductible to the date on which it is actually paid (Sec.201(A)).

The tax which has not been paid after it has been deducted, alongwith the amount of simple interest thereon shall be a charge upon all the assets of the person/company who has failed to deduct

or failed to pay the same to the credit of Central Government after deduction.

It has also been clarified that in addition to deduction at source the power to recover the taxes extends to any other mode of recovery provided under the Act. It means deduction at source is only one of the several modes of collection and recovery of taxes (Section 202).

Other consequences of non deduction

10.6 Interest on borrowed capital : In computing Business Income any expenditure laid out exclusively and wholly for the purposes of business or profession is allowed as a deduction against the profit and gain from business or profession. This may cover Royalties, technical fees or other sums.

Moreover, U/s.36(1)(iii) specific provision is made to allow deduction in computing the income, of the amount of interest paid in respect of capital borrowed for purposes of business or profession. This also includes recurring subscription paid periodically by shareholders or subscriber in Mutual benefit Societies.

10.7 Disallowance of deduction : But if such interest, royalty, technical fees or other sums are payable outside India and the assessee has failed to deduct tax on it under Chapter XVII-B, the assessee shall not be allowed to deduct such payment while computing his own income. However if such tax is deducted and paid in any subsequent year then, in that year while computing his income the assessee can claim deduction.

Further as per Sec.40(a)(i), any interest, royalty, commission or brokerage, fees for professional service or fees for technical services payable to a resident, or amounts payable to a contractor or sub-contractor, being resident for carrying out any work (including supply of labour for carrying out any work), on which tax is deductible at source and such tax has not been deducted or, after deduction, has not been paid during the previous year, or in the subsequent year before the expiry of the time prescribed under sub-section (1) of Section 200, shall not be allowed to deduct such payment while computing his own income.

Provided that where in respect of any such sum, tax has been deducted in any subsequent year or, has been deducted in the previous year but paid in any subsequent year after the expiry of the time prescribed under sub-section (1) of Section 200, such sum shall be allowed as a deduction in computing the income of the previous year in which such tax has been paid.

Similarly for computing income under the Head “ other sources” u/s.56 and 57 - interest and salaries payable outside India shall be disallowed if tax at source has not been deducted (Sec.58(1)(a)(ii)(iii)). It may also be clarified that income of a non-resident by way of interest on notified securities or bonds including premium on redemption of bonds is not taxable. Same applies to interest income on Non-resident (External) account in any bank in India.

10.8 The Finance Act, 2008 has introduced an amendment in Section 201(w.e.f. 1.6.2002) which clarifies that, in case any employer or a principal officer of a company

- (a) does not deduct,
- (b) or does not pay
- (c) or after so deducting fails to pay the whole or any part of the tax, then such person shall be deemed to be an assessee in default. Further penalty to be charged u/s. 221 shall not be levied by the assessing officer unless he is satisfied that such failure to deduct and pay tax was without good and sufficient reasons.

Chapter - 11

e-TDS & QUARTERLY STATEMENTS OF TDS

11.1 Introduction

e-TDS implies, filing of the TDS return in electronic media as per prescribed data structure in either a floppy or a CD ROM.

The aforesaid requirement is essentially a part of the process of automation of collection, compilation and processing of TDS returns. Preparation of returns in electronic forms or e-TDS will eventually be beneficial to the deductor, by cutting down the return preparation time, reducing the volume of documentation and thereby economizing the compliance cost. At the same time, it will also facilitate the Government in better co-relation of taxes deducted with the taxes finally deposited in the banks and credits of TDS claimed by the deductees.

11.2 Statutory Requirement of Preparation of e-TDS

As per proviso to section 206(2), w.e.f. 01/04/2005, a deductor is required to prepare the return of TDS in electronic form. The comprehensive scheme of e-TDS has been notified vide Notification No. S.O. 974 (E) dated 26/08/2003. The present statutory provisions mandate the Government and Corporate deductors to file the TDS returns in electronic form with the designated e-TDS Intermediary at any of the TIN facilitation centres. However, for the other deductors filing of e-TDS is optional.

11.3 e-Administrator, e-Intermediary, TIN Facilitation Centres

For the purpose of administering the scheme of e-TDS, the Central Board of Direct Taxes has appointed Director-General of Income-tax (Systems) as **the e-Filing Administrator**. The e-TDS return is mandatorily to be prepared in data format issued by the **e-Administrator**.

The e>Returns are to be submitted at Centres referred as TIN Facilitation Centres (or TIN FCs) which have been opened by National Security Depository Ltd. (NSDL) which has also been designated as **e-Intermediary**.

11.4 Data Structure of e-TDS, Procedure for filing

The e-TDS return has to be prepared in the data format issued by the e-Filing Administrator. This format/software is available on the website of the Income-tax Department at <http://www.incometaxindia.gov.in> and that of NSDL at <http://www.tin-nsdl.com>

There is also a validation software which is available along with the data structure. This is required to be used to validate the data structure of the e-TDS return prepared. Each e-TDS return filed should also be accompanied by a control chart which should be in the newly prescribed **form 27A or 27B (for tax collection at source)**. The same has to be duly signed by the deductor and submitted alongwith e-TDS to the e-Intermediary. The following specific points must also be noted in filing of e-TDS returns.

- (a) Reformatted TAN : All deductors required to e-File TDS returns have to quote their reformatted Tax Deduction Account Number (TAN) in their respective TDS returns. Wherever, reformatted TANs have not been allotted, application in form 49B should be filed with NSDL for obtaining the same.
- (b) Each e-TDS return file should be in a separate CD or floppy and should not span across multiple floppies.

Further, label must be affixed on each CD/floppy mentioning the name of the deductor, his stamp, form number and the period to which the return pertains.

- (c) There should not be any overwriting, striking on form 27 A or 27 B and if there is, then the same should be ratified by the authorized signatory. Further if any of the controlled totals mentioned in form No. 27A or 27B) (control chart) does not match with that in the e-TDS return, then such returns will not be accepted at the TIN Facilitation Centres.
- (d) While filing form no. 24Q and 26Q, deductor should furnish physical copies of certificates of no deduction or deduction at a lower rate of TDS, if any, received from the deductees.
- (e) No bank challan, copy of TDS certificate should be furnished alongwith e-TDS return filed.

The e-TDS prepared by the deductor has to be submitted at the TIN Facilitation Centres opened by NSDL which is the e-TDS Intermediary. The addresses of the TIN Facilitation Centres are available at websites of Income-tax Department <http://www.incometaxindia.gov.in> and of NSDL at <http://www.tin-nsdl.com>. It is also to be noted that quarterly TDS returns are also to be filed in Electronic file with e-TDS Intermediary.

11.5 Checklist for Deductor

After preparing the e-TDS return deductor should check the following to ensure that the e-TDS return is complete and is ready for furnishing to TIN-FC :

- e-TDS return is in conformity with the file format notified by ITD.
- Each e-TDS return (Form 24Q and 26Q) is furnished in a separate CD/floppy alongwith duly filled and signed Form 27A in physical form.

- Separate Form 27A or 27 B in physical form is furnished for each e-TDS return.
- Form 27A or 27 B duly filled and signed by an authorized signatory.
- Striking and overwriting, if any, on Form 27A or 27B ratified by the person who has signed the Form .
- More than one e-TDS return is not furnished in one CD/ floppy.
- More than one CD/floppy is not used for furnishing one e-TDS return.
- Label is affixed on CD/floppy containing details of deductor/collector like name of deductor/collector, TAN, Form no. and period to which return pertains.
- e-TDS return is compressed using Winzip 8.1 or ZipltFast 3.0 compression (or higher version) utility only.
- TAN quoted in e-TDS return and stated on Form 27A or 27 B (for tax collection at source) is same. Confirm new TAN by using search facility on ITD website .
- Carry copy of TAN allotment letter from ITD or screen print from ITD website as proof of TAN to avoid inconvenience at time of furnishing due to minor variation in way of transcribing the new TAN in e-TDS return.
- In case of Government deductors if TAN is not available at the time of furnishing return, application for TAN (Form 49B) should be made along with e-TDS return or copy of acknowledgement of TAN application to be submitted.
- Control totals, TAN and name mentioned in e-TDS return match with those mentioned on Form 27A or 27 B.
- In case of Form 24Q and 26Q, copies of certificates of no deduction of TDS and deduction of TDS at concessional rate, received from deductees are attached.

- e-TDS return has been successfully passed through the FVU.
- CD/floppy furnished is virus free.

11.6 Quarterly Statements of TDS :

The provisions of quarterly statements of TDS have been introduced in the statute vide section 200(3) w.e.f. 01/04/2005. Every person responsible for deducting tax is required to file quarterly statements of TDS for the quarter ending on 30th June, 30th September, 31st December, and 31st March in each Financial Year. This statement is to be prepared in Form No.26 Q (for TDS other than salaries), Form No.27 EQ (for Tax collection at source) and 24Q (for salaries), 27Q (for payments other than salary to non-residents) (relevant rule 31A and 31AA) and is to be delivered with prescribed income-tax authority or the person authorized by such authority on or before the 15th July, the 15th October and the 15th January in respect of the first 3 quarters of the Financial Year and on or before the 15th June following the last quarter of the Financial Year. However the statement of last quarter in Form 27EQ is to be furnished by 30th April.

With respect to the quarterly statements of TDS, the following points are noteworthy : -

- Every deductor is required to file the quarterly statement of TDS in form specified above for each quarter and as per the dates specified above.
- In case of every Government and Corporate deductor, the quarterly statements are to be delivered on computer readable media (3.5", 1.44 MB floppy diskette or CD-Rom of 650 MB capacity). The statement in computer readable media is to be prepared as per data structure provided by the e-filing Administrator (DGIT Systems) designated by the Board for purposes of e-TDS Scheme : 2003. Further, a declaration in Form 27A or 27B is also to be submitted in paper format.
- A person other than a Corporate or Government deductor may at his option deliver the quarterly statements in computer

readable media as specified above. However, it is not mandatory for him to do so. The scheme has been extended to certain other deductors vide notification 238/2007 dt. 30.8.2007 of CBDT (as discussed at para 8.4 of this booklet).

- The quarterly statements are to be furnished in accordance with the provisions of rule 31A and rule 31AA.
- It is mandatory for the deductor to quote TAN and PAN in the quarterly statements. However, where the deduction has been made by or on behalf of the Government, PAN shall not be required to be quoted in the quarterly statement.
- In the quarterly statements, the deductor is also required to quote the Permanent Account Number (PAN) of all persons in respect of whom Income-tax has been deducted. However, PAN of those persons is not required to be quoted who are specified under second proviso to sub section 5B to section 139A. These persons include those who are not required to obtain PAN under any provisions of this Act or those whose total income is not chargeable to Income-tax.
- The deductor is also required to furnish the particulars of tax paid to the Central Government in the quarterly statements.

11.7 Frequently Asked Questions

1. What is e-TDS Return?

e-TDS return is a TDS return prepared in form No.24Q, 26Q, 27EQ or 27Q in electronic media as per prescribed data structure in either a floppy or a CD ROM. The floppy or CD ROM prepared should be accompanied by a signed verification in Form No.27A or 27B.

2. Who is required to file e-TDS return?

As per Section 206 of Income Tax Act all corporate and government deductors are compulsorily required to file their TDS return on electronic media (i.e. e-TDS returns). However for other Deductors, filing of e-TDS return is optional.

3. Under what provision the e-TDS return should be filed?

An e-TDS return should be filed under Section 206 of the Income Tax Act in accordance with the scheme dated 26.8.03 for electronic filing of TDS return notified by the CBDT for this purpose. CBDT Circular No.8 dated 19.9.03 may also be referred.

4. What are the forms to be used for filing annual/quarterly TDS/TCS returns?

Following are the returns for TDS and TCS and their periodicity:

Form No.	Particulars	Periodicity
Form 24	Annual return of "Salaries" under Section 206 of Income Tax Act, 1961	Annual
Form 26	Annual return of deduction of tax under section 206 of Income Tax Act, 1961 in respect of all payments other than "Salaries"	Annual
Form 24Q	Quarterly statement for tax deducted at source from "Salaries"	Quarterly
Form 26Q	Quarterly statement of tax deducted at source in respect of all payments other than "Salaries"	Quarterly
Form 27EQ	Quarterly statement of tax collection at source	Quarterly
Form 27Q	Quarterly statement of deduction of tax from interest, dividend or any other sum (other than salary) payable to non-residents	Quarterly
Form 27 A and 27B	Forms for furnishing information with the statement of deduction / collection of tax at source filed on computer media	Quarterly

11.8 Who is the e-Filing Administrator?

The CBDT has appointed the Director General of Income-

tax(Systems) as e- Filing Administrator for the purpose of the Electronic Filing of Returns of Tax Deducted at Source Scheme,2003.

11.9 Who is an e-TDS Intermediary?

CBDT has appointed National Securities Depository Ltd., Mumbai as e-TDS Intermediary.

11.10 How will the e-TDS returns be prepared?

e-TDS return has to be prepared in the data format issued by e-Filing Administrator. This is available on the websites of Income-tax Department at i.e. <http://www.incometaxindia.gov.in> and of NSDL at <http://www.tin-nsdl.com/>. There is a validation software available along with the data structure which should be used to validate the data structure of the e-TDS return prepared. The e-TDS return should have following features:

- Each e-TDS return file (Form 24, 26 or 27Q or 27EQ) should be in a separate CD/floppy.
- Each e-TDS return file should be accompanied by a duly filled and signed (by an authorised signatory) Form 27A/27B in physical form.
- Each e-TDS return file should be in one CD/floppy. It should not span across multiple floppies.
- In case the size of an e-TDS return file exceeds the capacity of one floppy, it should be furnished on a CD.
- In case the e-TDS return file is in a compressed form, it should be compressed using Winzip 8.1 or ZipItFast 3.0 compression utility only to ensure quick and smooth acceptance of the file
- Label should not be affixed on each CD/floppy mentioning name of the deductor, his TAN, Form no. (24, 26) and period to which the return pertains.
- There should not be any overwriting / striking on Form 27A/

27B. If there is any, then the same should be ratified by an authorised signatory.

- No bank challan, copy of TDS certificate should be furnished alongwith e-TDS return file.
- In case of Form 26 a deductor need not furnish physical copies of certificates of no deduction or lower deduction of TDS received from deductees.
- In case of Form 24 deductor should furnish physical copies of certificates of 'no deduction or deduction of TDS at lower rate', if any, received from deductees.
- e-TDS return file should contain TAN of the deductor without which the return will not be accepted.
- CD/floppy should be virus free.
- In case any of these requirements are not met the e-TDS return will not be accepted at TIN- FCs.

11.11 Can more than one e-TDS return of the same Deductor be prepared in one CD/floppy?

No, separate CD/floppy should be used for each return.

11.12 Where can the e-TDS return be filed?

e-TDS returns can be filed at any of the TIN-FC opened by the e-TDS Intermediary for this purpose. Addresses of these TIN-FCs are available at the website on <http://www.incometaxindia.gov.in> or at www.tin-nsdl.com

11.13 What are the basic details that should be included in the e-TDS return?

Following information must be included in the e-TDS return for successful acceptance. If any of these essential details is missing, the returns will not be accepted at the TIN - Facilitation Centres -

- Correct Tax deduction Account Number (TAN) of the Deductor is clearly mentioned in Form No.27A/27B as also in the e-TDS return, as required by sub-section (2) of section 203A of the Income-tax Act.
- The particulars relating to deposit of tax deducted at source in the bank are correctly and properly filled in the table at item No.6 of Form No.24 or item No.4 of Form No.26, as the case may be.
- The data structure of the e-TDS return is as per the structure prescribed by the e-Filing Administrator.
- The Control Chart in Form 27A/27B is duly filled in all columns and verified and is enclosed in paper form with the e-TDS return on computer media.
- The Control totals of the amount paid and the tax deducted at source as mentioned at item No.4 of Form No.27A tally with the corresponding totals in the e-TDS return in Form No. 24 or Form No. 26 or Form No.27, as the case may be.

11.14 What happens if any of the control totals mentioned in Form 27A does not match with that in the e-TDS return?

In such a case the e-TDS return will not be accepted at the TIN Facilitation Centre.

11.15 What happens in a situation where a deductor does not have TAN or has a TAN in old format?

The Deductor will have to file an application in Form 49B at the TIN Facilitation Centre along with application fee (Rs. 50/-) for TAN.

11.16 Whether any charges are to be paid to the e-TDS Intermediary?

The assessee is to pay following charges as upload charges at the time of filing of e-TDS return to M/s NSDL.

Category of e-TDS return

Upload charges

Returns having up to 100 deductees records

Rs.25/-

Returns having 101 to 1000 deductees records

Rs. 150/-

Returns having more than 1000 deductees records

Rs.500/-

Tax as applicable will also be paid by the deductor.

11.17 How to find address of the office where e-TDS return can be filed?

Addresses of the TIN FCs are available on www.incometaxindia.gov.in or at www.tin-nsdl.com.

11.18 What are the due dates for filing quarterly TDS Returns?

The due dates for filing quarterly TDS returns, both electronic and paper are as under:

Quarter	Due date	Due date for 27Q
April to June	July 15	14 July
July to September	October 15	14 October
October to December	January 15	14 January
January to March	June 15	14 June

11.19 E-TDS returns have been made mandatory for Government deductors. How do I know whether I am a Government deductor or not?

All Drawing and Disbursing Officers of Central and State Governments come under the category of Government deductors.

11.20 Whether the particulars of the whole year or of the relevant quarter are to be filled in Annexures I and II of Form 24Q?

- In Annexure I, only the actual figures for the relevant quarter are to be reported.
- In Annexure II, estimated/actual particulars for the whole financial year are to be given. However, Annexure II is optional in the return for the 1st, 2nd and 3rd quarters but in the quarterly statement for the last quarter, it is mandatory to furnish Annexure II giving actual particulars for the whole financial year.

11.21 In Form 24Q, should the particulars of even those employees be given whose income is below the threshold limit or in whose case, the income after giving deductions for savings etc. is below the threshold limit?

- Particulars of only those employees are to be reported from the 1st quarter onwards in Form 24Q in whose case the estimated income for the whole year is above the threshold limit.
- In case the estimated income for the whole year of an employee after allowing deduction for various savings like PPF, GPF, NSC etc. comes below the taxable limit, his particulars need not be included in Form 24Q.
- In case due to some reason estimated annual income of an

employee exceeds the exemption limit during the course of the year, tax should be deducted in that quarter and his particulars reported in Form 24Q from that quarter onwards.

11.22 How are the particulars of those employees who are with the employer for a part of the year to be shown in Form 24Q?

- Where an employee has worked with a deductor for part of the financial year only, the deductor should deduct tax at source from his salary and report the same in the quarterly Form 24Q of the respective quarter(s) up to the date of employment with him. Further, while submitting Form 24Q for the last quarter, the deductor should include particulars of that employee in Annexures II & III irrespective of the fact that the employee was not under his employment on the last day of the year.
- Similarly, where an employee joins employment with a deductor during the course of the financial year, his TDS particulars should be reported by the current deductor in Form 24Q of the relevant quarter. Further, while submitting Form 24Q for the last quarter, the deductor should include particulars of TDS of such employee for the actual period of employment under him in Annexures II.

11.23 Form 24Q shows a column which requires explanation for lower deduction of tax. How can a DDO assess it? Please clarify.

Certificate for lower deduction or no deduction of tax from salary is given by the Assessing Officer on the basis of an application made by the deductee. In cases where the Assessing Officer has issued such a certificate to an employee, deductor has to only mention whether no tax has been deducted or tax has been deducted at lower rate on the basis of such a certificate.

11.24 Can I file Form 26Q separately for contractors, professionals, interest etc.?

No, A single Form 26Q with separate annexures for each type of payment has to be filed for all payments made to residents.

11.25 From which financial year will the Annual Statement under Sec. 203AA (Form No.26AS) be issued?

The annual statement (Form No 26AS) will be issued for all tax deducted and tax collected at source from F.Y 2008-09 onwards after the expiry of the financial year.

11.26 How will the PAN wise ledger account be created by the intermediary i.e. NSDL in respect of payment of TDS made by deductors in Banks.

The PAN wise ledger account will be created after matching the information in the TDS/TCS returns filed by the deductor/ collector and the details of tax deposited in banks coming through OLTAS.

11.27 What essential information will be required to be given in the quarterly statement to enable accurate generation of PAN wise ledger account?

The accuracy of PAN wise ledger account will depend on:-

- Correct quoting of TAN by the deductor.
- Correct quoting of PAN of deductor
- Correct and complete quoting of PAN of deductee.
- Correct quoting of CIN (challan identification number) wherever payment is made by challan.

11.28 Will a deductee be able to view his ledger account on TIN website?

Yes.

11.29 If a deductee finds discrepancy in his PAN ledger account, what is the mechanism available for correction?

The details regarding the help required for filing of e-TDS are available on the following two websites:

- <http://www.incometaxindia.gov.in/>
- <http://www.tin-nsdl.com/>

The TIN Facilitation Centers of the NSDL at over 270 cities are also available for all related help in the e-filing of the TDS returns.

11.30 Whether the e-TDS can be filed online?

Yes, e-TDS return can be filed online under digital signature.

11.31 Will the Paper TDS data be available online on TIN database?

Yes, the Paper TDS data will also be available in TIN database after the digitalization of the Paper TDS return by the e-intermediary.

11.32 I do not know the Bank branch code of the branch in which I deposited tax. Can I leave this field blank?

Bank Branch code or BSR code is a 7 digit code allotted to banks by RBI. This is different from the branch code which is used for bank drafts etc. This no. is given in the OLTAS challan or can be obtained from the bank branch or from <http://www.tin-nsdl.com/>. It is mandatory to quote BST code both in challan details and deductee details. Hence, this field cannot be left blank. Government deductors

transfer tax by book entry, in which case the BSR code can be left blank.

11.33 What should I mention in the field “paid by book entry or otherwise” in deduction details?

If payment to the parties (on which TDS has been deducted) has been made actually i.e. by cash, cheque, demand draft or any other acceptable mode, then “otherwise” has to be mentioned in the specified field. But if payment has not been actually made and merely a provision has been made on the last date of the accounting year, then the option “Paid by Book Entry” has to be selected.

11.34 What is the “Upload File” in the new File Validation Utility?

Earlier the “Input file” of the File Validation Utility (FVU) had to be filed with TIN FC. Now “Upload File” which has some additional information such as the version no. of FVU has to be filed with TIN FC. This is a file which is generated by the FVU after the return/file prepared by the Return Preparation Utility (RPU) is validated using the FYU.

11.35 By whom should the control chart Form 27A be signed?

Form 27A is the summary of the TDS return. It has to be signed by the same person who is authorized to sign the TDS return in paper format.

11.36 What are the Control Totals appearing in the Error / response File generated by validating the text file through File Validation Utility (FVU) of NSDL?

The Control Totals in Error response File are generated only when a valid file is generated. Otherwise, the file shows the kind of errors. The control totals are as under:

- No. of deductee/party records: In case of Form 24, it is equal to the number of employees for which TDS return is being prepared. In case of Form 26/27, it is equal to the total number of records of tax deduction. 10 payments to 1 party would mean 10 deductee records.
- Amount Paid: This is the Total Amount of all payments made on which tax was deducted. In case of Form 24, it is equal to the Total Taxable Income of all the employees. In case of Form 26/27, Amount Paid is equal to the total of all the amounts on which tax has been deducted at source.
- Tax Deducted: This is the Total Amount of Tax actually Deducted at source for all payments.
- Tax deposited: This is the total of all the deposit challans. This is normally the same as Tax Deducted but at times may be different due to interest or other amount.

11.37 Are the control totals appearing in Form 27A same as that of Error/ response File?

Yes, the control totals in Form 27A and in Error/ response File are same.

11.38 What if e-TDS return does not contain PANs of all deductees?

In case PANs of some of the deductees are not mentioned in the e-TDS return, the Provisional Receipt will mention the count of missing PANs in the e-TDS return. The details of missing PANs (extent it can be collected from the deductees) may be furnished within seven days of the date of Provisional Receipt to TIN- FC. e-TDS return will be accepted even with missing PANs. However, if PAN of deductees is not given in the TDS return, tax deducted from payment made to him cannot be posted to the statement of TDS to be issued to him u/s. 203AA.

11.39 Is the bank challan number compulsory?

Yes. Challan identification number is necessary for all non government deductors.

11.40 Will the quarterly paper returns be accepted by the Income tax department?

No, All quarterly paper TDS/TCS returns will be received at TIN-FCs

11.41 Is PAN mandatory for deductor and employees/ deductees ?

PAN of the deductors has to be given by non government deductors. It is essential to quote PAN of all deductees failing which credit of tax deducted will not be given.