Consequences of Non- compliance with TDS provisions

<u>Non-compliance with TDS provisions can result in:</u>

1. Disallowance u/s. 40(a) of Income Tax Act, 1961 (Act).

In case of payment to **Non Resident; any type** of payment which is **liable** to tax in india

If **not paid** before **30-April** next year.

40a(i)

In case of payment to **Resident; only these 6 payments**

1. Rent
2. Commission & brokerage
3. Royalty
4. Interest
5. Fee for professional services
6. Fee for technical services

If **not paid** before filing the return **u/s 139(1).**

40a(ia)

In case of payment of **salary** to non resident in india or outside india

If **not paid** before time limit set in **sec 200(1).**

40a(iii)

Note:- under sec 40a(i) and sec 40a(ia) deduction can be availed in that FY in which they are actually deposited in case not deposited before respective due dates. But no deduction is allowed in any subsequent year under sec 40a(iii) if not deposited on time. Even one day late deposit is barred assessee from availing deduction

2. Raising of demand u/s. 201(1) of the Act.

- Reason: - Where any person who is required to deduct any sum in accordance with the provisions of this Act does not deduct, or does not pay, or after deducting fails to pay, the whole or any part of the tax, as required by or under this Act.

3. Charging of Interest u/s. 201(1A) of the Act.

- 1% p.m. or part of the month on the amount of such tax from the date on which it was deductible to the date on which it is deducted.

- 1.5% p.m. or part of the month on the amount of such tax from the date on which it was deducted to the date on which it is actually paid.

4. Levying penalty u/s. 271C of the Act:-

- Reason: - Failure to deduct the whole or any part of the tax as required under chapter XVIIB.

- Amount: - Equal to the tax which has not been deducted.

- Imposed by: - Joint Commissioner.

- No Penalty: - for reasonable cause.

5. Levying of penalty u/s. 221 of the Act for non-payment of demand raised.

- Reason: - Failure in making the payment of tax, interest or any demand within the prescribed time- limit.

- Amount: - 1. Minimum: -Such amount as the assessing officer may impose for default or for continuing default.

  2. Maximum: - Amount of tax in arrears.

- Imposed by: - Assessing Officer.

- No Penalty: - for reasonable cause.

6. Prosecution u/s.276B of the Act involving rigorous imprisonment which shall not be less than 3 years but which may extend up to 7 years and with fine.

7. Penalty u/s. 271BB of the Act.

- Reason: - Failure to get TAN (Tax Deduction and Collection Account No.) or to quote such No. in challans, certificates and returns etc.
- Amount: - Fixed at Rs 10,000/-.
- Imposed by: - Assessing Officer.
- No Penalty: - for reasonable cause.

8. Penalty u/s. 272A (2) (k) of the Act.

- Reason: - for late-filing of TDS returns.
- Amount: - 1. Minimum: - Rs 100 per day till the default continues
  2. Maximum: - amount of TDS deductible.
- No Penalty: - for reasonable cause.
- No penalty will be charged under this section if return pertains to period for the TDS and TCS to be deducted or collected on or after 1.07.2012.

9. Fee U/s 234E.

- Reason: - for late-filing of TDS returns.
- Amount: - 1. Minimum: - Rs 200 per day till the default continues
  2. Maximum: - amount of TDS deductible.
- Penalty under this section will be charged if return pertains to period for the TDS and TCS to be deducted or collected on or after 1.07.2012.

10. Penalty u/s. 271H.

- Reason: - for late-filing of TDS returns beyond One year from the original due date.
- Amount: - 1. Minimum: - Rs 10,000.
  2. Maximum: - Rs 1, 00,000.
- Penalty under this section will be charged if return pertains to period for the TDS and TCS to be deducted or collected on or after 1.07.2012.

Thanks and Regards
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