REFUND OF EXCESS TDS

Q1. Refund of Excess TDS Paid?

Yes one can get refund of excess tds paid/deposited. CBDT had issued circular in April 2011 which lays down the procedure on getting tds refund prior to 1st April, 2010 and to deal with refunds after 1st April, 2010, finance act 2009 has inserted a new section 200A.

✓ **Prior to 1st April, 2010 and after 1st April, 2010:-**

- Refund of excess TDS deducted on or after 01/04/2010 (i.e 1st April, 2010)
- Refund of Excess TDS paid is covered under the Provisions of 200A of the Income Tax Act which is very similar to section 143(1) (deemed intimation) under which every return filed by a tax payer is processed and intimation is generated. The tax payer also gets refund, if any.
- The Section 200A now makes it mandatory for Income Tax Department to process every TDS return and if refund is due on such processing of TDS return, shall be sent by the department to deductor.
- The excess payment to be refunded would be the difference between:
  - The actual payment made by the deductor to the credit of the Central Govt and
  - The tax deductible at source.
- Section 200A provides power to Income Tax Authority to adjust any arithmetical errors/mistakes/ incorrect claims apparent from any information in the statement and compute actual TDS deductible.
- Excess TDS Refund Procedure Compute interest on based on the details provided in the statement for deductions and challans.
- **EXCESS PAYMENT DISCOVERED DURING FINANCIAL YEAR**
  - In case such excess payment is discovered by the deductor during the financial year concerned, the present system permits credit of the excess payment in the quarterly statement of TDS of the **next quarter** during the financial year.
- **EXCESS PAYMENT DISCOVERED AFTER FINANCIAL YEAR**
  - In case, the detection of such excess amount is made beyond the financial year concerned, such claim can be made to the Assessing Officer (TDS) concerned.
  - However no claim of refund can be made after two years from the end of financial year in which tax was deductible at source.

✓ **Refund of excess TDS deposited before 01/04/2010 (i.e. prior to 1st April, 2010)**

- The claim of such excess TDS is governed by CBDT Circular no 2/2011 dated 27/04/2011 which lays down following procedure for claiming refund.

✓ **<u>SAFEGUARDS EXERCISE BY AO TO AVOID DOUBLE CLAIMS</u>**

- The applicant deductor shall establish **before** the AO that:
  - It is a case of genuine error and that the error had occurred inadvertently.
  - That the TDS certificate for the **refund amount requested has not been issued** to the deductee(s).
  - That the credit for the excess amount has not been claimed by the deductee(s) in the return of income or the deductee(s) undertakes not to claim such credit.

<u>GENERAL POINTS</u>

- This circular covers **only residents** having deducted TDS under section **192 to 194LA** of the Income Tax Act.
- Prior approval of the Additional Commissioner is required for refund up to Rs. 1 Lakh
- Prior approval of the Commissioner is required for refund in excess of Rs. 1 Lakhs
- After meeting any existing tax liability of the deductor, the balance amount may be refunded to the deductor.
- <u>**FORM 26B** is a form for making refund electronically by deductor to IT department.</u>

K K AGGARWALA & COMPANY
(Chartered Accountants)
UG 9&10 Suneja Tower-2
District Centre Janak Puri
New Delhi-110058.
+91-08527145819