Complied by: CA Siddhi Rajani

DON'T TAKE TDS LIGHTLY

TDS payment and Return Filing.

The provision of TDS is getting stringent and from now it is becoming very necessary for all to comply the same and understand the importance of TDS.

As per the provision of TDS is to be deducted on payment or credit whichever is earlier. So for e.g. If bill date is 15/4/13 amounting to 25000/- but advance payment is made on 05/04/2013 amounting to Rs. 85,000/- than TDS has to be deducted on 85,000/- on 05/04/2013 and to be paid either on same day or next day. Though the due date of payment is 7th of next month but that is not to be considered as due date, it is just grace days provided by department for the convenience of the assessee. Hence as soon as you deduct TDS it has to be paid. Even if we pay the TDS on 7th, the challan would get process with 24-48 hours as per banking terms. Hence as per Income tax department the date would not be considered as 7th but it would 8th or 9th as per the bank processing. Hence late payment interest would be charged for 2 months i.e. from date of deduction to date of payment.

If TDS is paid after 7th, Interest is charged at 1.5% p.m. (18% p.a.) from date of deduction till date of payment. For e.g. if TDS is deducted on 15th April and paid on 9th May than interest would be calculated for 2 months i.e. April and May. Hence, it is advisable to pay TDS on date of deduction itself rather than waiting for 7th of next month for payment. **It is from now compulsory to pay online TDS for all assessee whose payment exceeds Rs. 1,00,000/- for the whole year. Hence if the assessee does not have online payment facility kindly get the same.**

The chart for payment of TDS is as follows:

S. No.	Particulars	Due Date
1.	Tax Deductible in March	30th April
2.	Other Months and Tax opted to be deposited by the employer	7th of next month

Even if PAN is incorrect, TDS @ 20% needs to be deducted. Hence, always take PAN copy of the party and file return. Now, only 2 digits and 2 letters of PAN are allowed to be changed in revised return which would cause more difficulties as if whole PAN is in correct it would be difficult to change the same. Hence from now it is advisable that PAN copies is taken from all clients and then send all details.

The due date of filing of TDS return is as follows:

Quarter	Form Nos. 24Q & 26Q	Form No. 27Q	Form No. 27EQ
April to June	**15 July**	**15 July**	**15 July**
July to September	**15 October**	**15 October**	**15 October**
October to December	**15 January**	**15 January**	**15 January**
January to March	**15 May**	**15 May**	**15 May**

Late filing consequences

Fees for delay in furnishing the statements: (refer section 234E of Income Tax Act)
Effective from 1st July 2012, any delay in furnishing the eTDS statement will result in a **mandatory fees of Rs. 200 per day**, the total fees should not exceed the total amount of TDS made for the quarter. The late filing fee should be paid before filing such delayed eTDS statement.

Penalty for failure to furnish statements and furnishing incorrect statements: (refer section 271H of Income Tax Act)

Failure to file eTDS statement delaying more than an year or furnishing incorrect details in the statement filed like PAN, Challan and TDS Amount etc, **will result in a penalty ranging from Rs. 10,000 to one lac.**

Due date for furnishing TDS certificate to the employee or deductee or payee is revised as under :

Sl. No.	**Category**	**Periodicity of furnishing TDS certificate**	**Due date**
1.	Salary (Form No.16)	**Annual**	**By 31st day of May** of the financial year immediately following the financial year in which the income was paid and tax deducted
2.	Non-Salary (Form No.16A)	**Quarterly**	**Within fifteen days** from the due date for furnishing the 'statement of TDS'

Failure to issue TDS certificate within the time allowed, **attracts penalty of Rs. 100/-** per day of default **(Sec 272A(2)(g))**. However, penalty will not exceed the amount of tax deductible or collectible, as the case may be.

As per Circular No. 01/2012 dated 09.04.2012, it mandatory for all deductors to issue TDS certificate in Form No. 16A after generating and downloading the same from TRACES website.

The TDS chart for the F.Y. 2013-14 is as below:

TDS Rate on Payment of Salary and Wages

Section 192	Payment of Salary and Wages
Criterion of Deduction	TDS is deducted if the estimated income of the employee is taxable. Employer must not deduct tax on non-taxable allowances like conveyance allowance, rent allowance, medical allowance and deductible investments under sections like 80C, 80CC, 80D, 80DD, 80DDB, 80E, 80GG and 80U. No tax is required to be deducted at source if the estimated total income of the employee is less than the minimum taxable income (Rs. 2,20,000/- in case of Individual, HUF, AOP, BOD and AJP. Nil for others.)
TDS Rate	As per Income Tax, Surcharge and Education Cess rates applicable on the estimated income of employee for the year.

TDS Rates on Payments other than Salary and Wages to Residents (including domestic companies)

Section	For Payment of	On Payments Exceeding	Individual/HUF	Others
194 A	Interest other than on securities by banks	Rs. 10000/-	10%	10%
194 A	Interest other than on securities by others	Rs. 5000/-	10%	10%
194 C (1)	Payment to Contractors	Rs. 30000/- for single	1%	2%

		payment		
194 C (2)	Payment to Sub-Contractors / for Advertisements	Rs. 75000/- for aggregate payment during Financial Year		
194 D	Payment of Insurance Commission	Rs. 20000/-	10%	10%
194 H	Commission or Brokerage	Rs. 5000/-	10%	10%
194 I	Rent of Land, Building or Furniture	Rs. 180000/-	10%	10%
	Rent of Plant & Machinery	Rs. 180000/-	2%	2%
194 IA	Transfer of Immovable Property (w.e.f. 01.06.2013)	Rs. 50 lacs	1%	1%
194 J	Professional / technical services, royalty	Rs. 30000/-	10%	10%
194J (1)	Remuneration / commission to director of the company	-	10%	10%
194J (ba)	Any remuneration / fees / commission paid to a director of a company, other than those on which tax is deductible u/s 192.	-	10%	10%
194 L	Compensation on acquisition of Capital Asset	Rs. 100000/-	10%	10%
194 LA	Compensation on acquisition of certain immovable property	Rs. 200000/-	10%	10%

Notes:

No surcharge or education cess is deductible / collectible at source on payments made to residents {Individuals / HUF / Society / AOP / Firm / Domestic Company) on payment of incomes other than salary or wages.

TDS at higher rate of 20% has to be deducted if the deductee does not provide PAN to the deductor.(section 206AA)

All persons who are required to deduct tax at source or collect tax at source on behalf of Income Tax Department are required to apply for and obtain Tax Deduction or Tax Collection Account Number (TAN).

The following are the list of consequences of TDS:

Consequences of TDS defaults

Failure to deduct taxes or wrong deduction of TDS (non deposit, short deposit or late deposit):

Default/ Failure	**Section**	**Nature of Demand**	**Quantum of demand or penalty**
Failure to deduct tax at source	201(1)	Tax demand	Equal to tax amount deductible but not deducted
	201(1A)	Interest	@1 % p.m. of tax deductible
	271C	Penalty	Equal amount of tax deductible but not deducted
Failure to deposit tax at source	201(1)	Tax demand	Equal to tax amount not deposited
	201(1A)	Interest	@1.5% p.m. of tax not deducted
	276B	Prosecution	Rigorous imprisonment for a term for a minimum of 3 months which may extend to 7 years and with fine
Failure to apply for TAN No. u/s 203A	272BB	Penalty	Rs. 10000
Failure to furnish prescribed statements u/s 200(3)	272A(2)(k)	Penalty	Rs. 100 every day during which the failure continues subject to maximum of TDS amount
Failure to issue TDS certificate u/s 203	272(A)(g)	Penalty	Rs. 100 every day during which the failure continues subject to maximum of TDS amount.
Failure to furnish statement of perquisite or profit in lieu of salary u/s 192(2C)	272(A)(i)	Penalty	Rs. 100 every day during which the failure continues subject to maximum of TDS amount
Failure to mention PAN of the deductee in the TDS statements and certificates	272B	Penalty	Rs. 10000

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Now we can even get the refund of excess TDS paid by us in the following manner:

GUIDELINES- REQUEST FOR REFUND

It is mandatory to register digital signature on TRACES to submit the refund request.

Request for refund can be submitted only if there is no outstanding demand against the TAN. Refund request can be submitted after total outstanding demand is closed.

A refund request can contain maximum of five challans. For claiming more challans, submit new request. Maximum refund amount will be the minimum challan balance amount in the challan history.

Available amount per challan must be greater than Rs.100/- Ensure that all statement in which the challan has been claimed have been processed before claiming refund for the challan.

Hence now it is becoming necessary to comply with the provisions of TDS timely and with extra care.

If you require any assistance or have any query regarding the same kindly contact us.