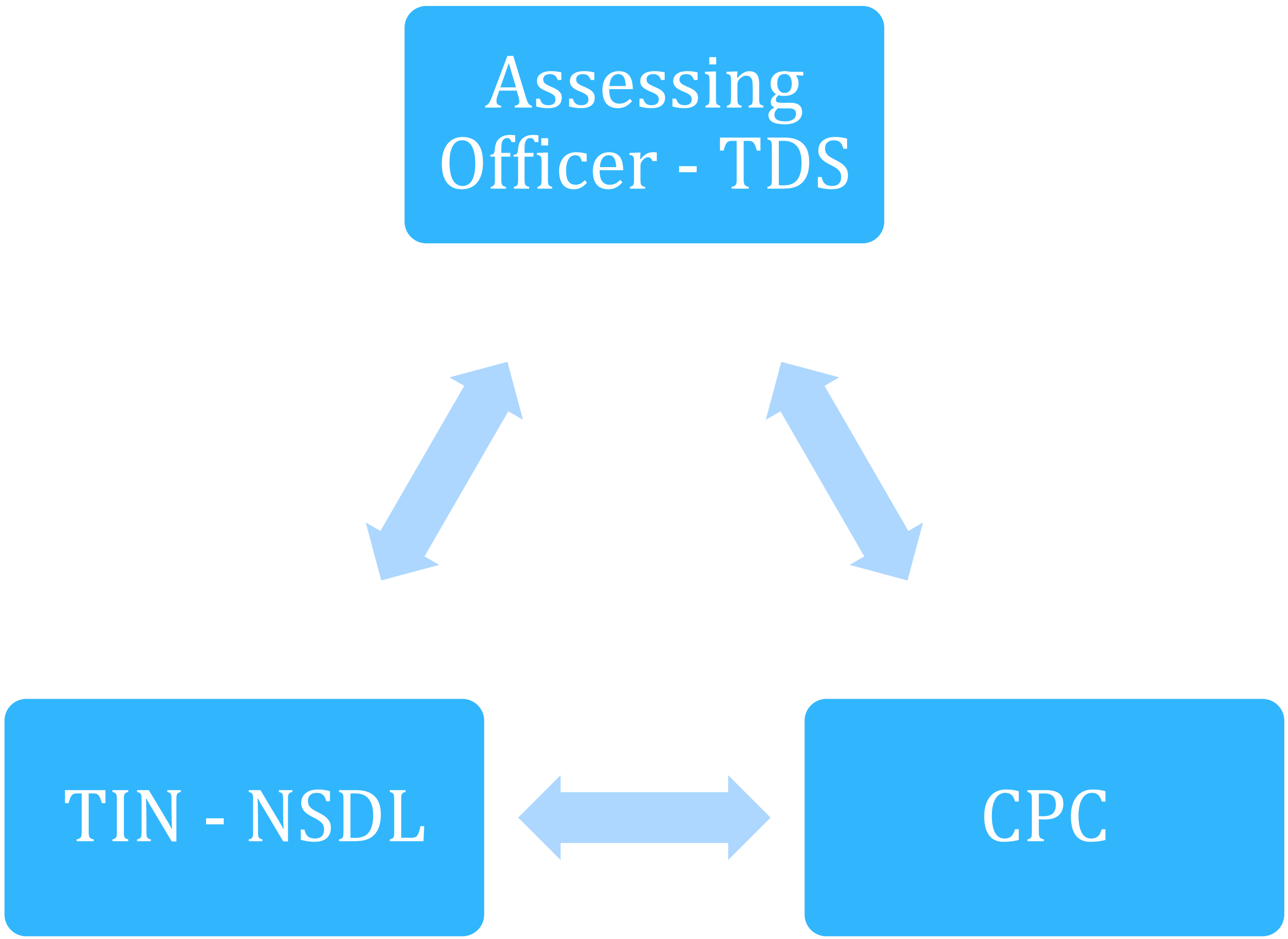
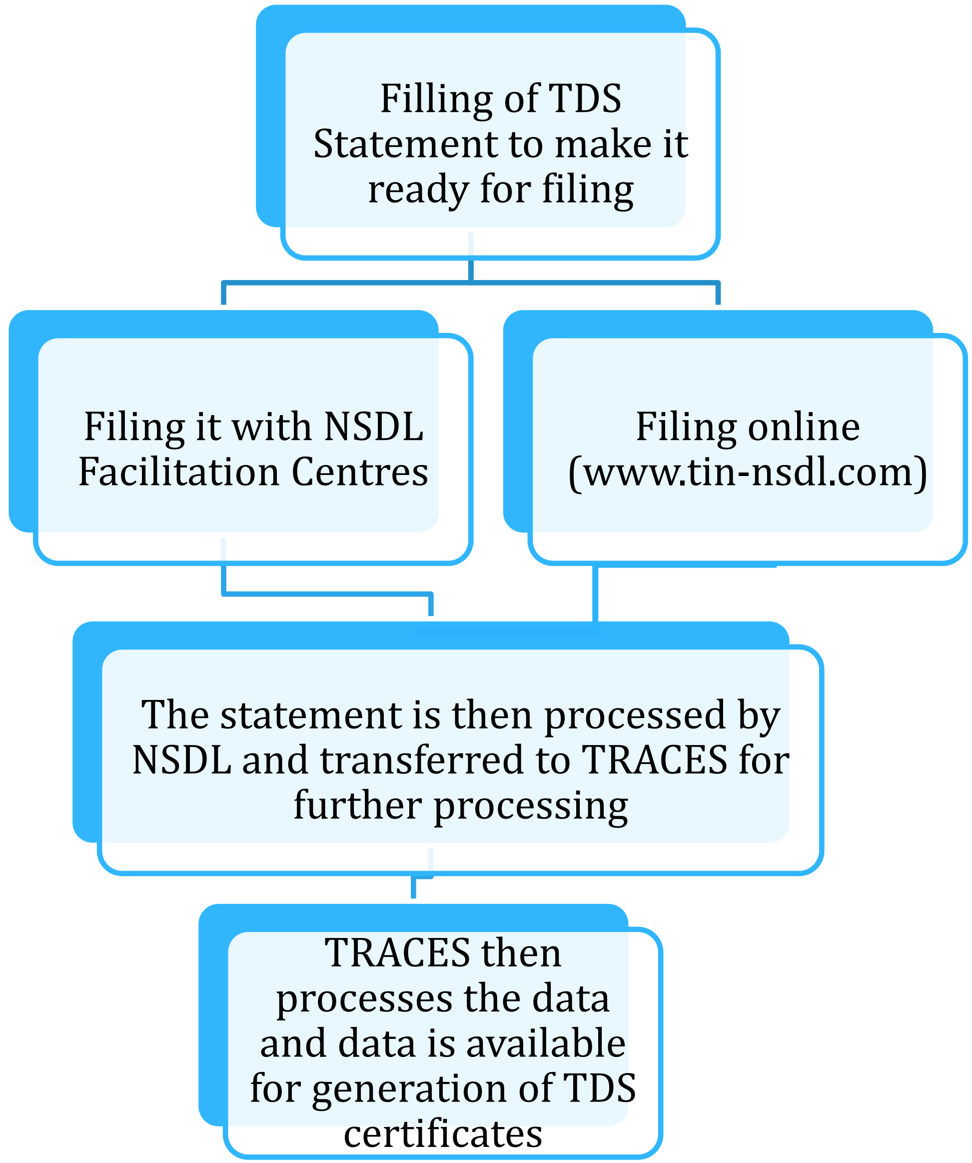
TDS – an Update

Date: 31/10/2014

TDS : Authorities



Filing


Filling of TDS Statement to make it ready for filing
Filing it with NSDL Facilitation Centres
Filing online (www.tin-nsdl.com)
The statement is then processed by NSDL and transferred to TRACES for further processing
TRACES then processes the data and data is available for generation of TDS certificates

Filing...

In case of errors, Intimation will be received from TRACES

The correction statement can be filed online for details relating to PAN or challan details on www.tds-cpc.gov.in (registration of digital signature mandatory)

TRACES processes the correction statement

The correction statement can be filed with NSDL Facilitation Centres

The correction statement is then processed by NSDL and transferred to TRACES

???

- Payment pertaining to a particular section is fully deposited in the other section?
- Payment pertaining to two different sections is deposited through one single challan?
- TDS not deducted as the payment does not exceed the threshold limit. Is it need to be reported?
- In case when tax was deducted on 12/02/2014 and tax is paid on 10/03/2014, for how many months should the interest be paid – 1 or 2?
- What if you have obtained the TAN but no deduction of tax is required under a particular quarter and hence you have not filed the return and an entry is subsequently passed?
- What to do if on analysing the justification report, it is seen that there is no mistake?
- Actual liability : tax – 50000, interest – 2000, in challan: tax – 51000, interest – 1000. what to do?
- Lower deduction Certificate for Rs. 500000 @ 1%. Total amount is 5.6 lakhs. TDS is Rs. 11,000. how to show it in the return to avoid notice?

Recent changes

- Online facility to revise e-TDS returns – need to use DSC
- Facility of online correction of challans without DSC
- Facility to verify section 197 certificate online
- Transaction report for non-residents without PAN
- Declaration for non-filing of e-TDS return
- Organisation PAN level verification – aggregated TDS compliance
- Govt. deductors to quote AIN (Accounts office Identification Number) in the E-tds return
- Only 1 challan required for TDS under different sections
- No TDS on service tax portion

Facilities available in TRACES

- Challan status – can verify if the amount is fully utilised or not
- PAN verification
- Statement status
- View TDS/TCS credit – can verify the credit available to any deductee for the F.Y
- Download consolidated file – used for revision of return
- Download justification report – to see the computation of the demand raised in the notice
- View default summary
- TAN-PAN master

TDS CPC Communications

- Not reporting Form 15G/H cases
- Filed return for Q2 in last year, why it is not filed this year?
- Reminder to file the return – why return not filed though you have paid TDS during the period?
- Why return not filed despite collecting 197 certificate from deductees?
- PAN:
  - Invalid PAN reported consistently?
  - Valid PAN to valid PAN change after significant time?
  - Structurally valid but actually invalid PANs?
- 15G/H claimed though income exceeds the limit?
- Submitting C9 corrections (adding challan+ deductees) repeatedly?
- Reminder to download TDS certificates
- Nil TDS during the Financial Year?
- Substantial reduction in TDS during the period in comparison to previous year?

Default Notices

- Intimation u/s. 200A is to be treated as a notice of demand as per the deeming provision u/s. 156
- these statements are received from TRACES and are computer generated
- The Intimation u/s. 200A does not contain much details and information about the calculations of the amount of demand raised except for basic classification
- Intimation u/s 200A (1) shall not be sent after expiry of 1 year from the end of the F.Y in which statement is filed

What to Do:

- Demand the "Justification Report" from TRACES
- Analyse the default
- Revise the TDS statement if the errors intimated in the notice are valid and intimate the officer in this regard. Intimation to the officer is advisable but not mandatory as per the Act
- File an application for rectification if errors shown are invalid

Excess payment in challan

Adjusting challan across different quarter

- Challan – quarterly adjustment and yearly adjustment
- –If challan pertaining to the past quarter adjusted against an entry in the current quarter – such an adjustment is allowed.
- –If challan pertaining to last financial year adjusted against an entry in the current quarter – such an adjustment is allowed.

Refund of Tax deposited would be the course of action when:

- Excess is paid in a challan pertaining to the previous financial year
- No further transaction liable for TDS are expected in the current financial year
- The business of the deductor is closing

Refund can be requested online. However the process requires a Digital Signature Certificate (DSC)

Challan mistakes - Remedy

- In case of online payment of challan, request for rectification can be made with the jurisdictional TDS A.O.

- In case of physical challan, request for rectification can be made to the bank within the specified time-frame as given below:

Correction required in Field name	Period of Correction Request (from Challan Deposit Date)
TAN	7 days
Assessment Year	7 days
Amount	7 days
Other fields (Major head, Minor head, Nature of payment)	Within 3 months

After the specified number of days as mentioned in the above table, rectification application can be filed with the jurisdictional TDS A.O.

Challan mistakes - Remedy

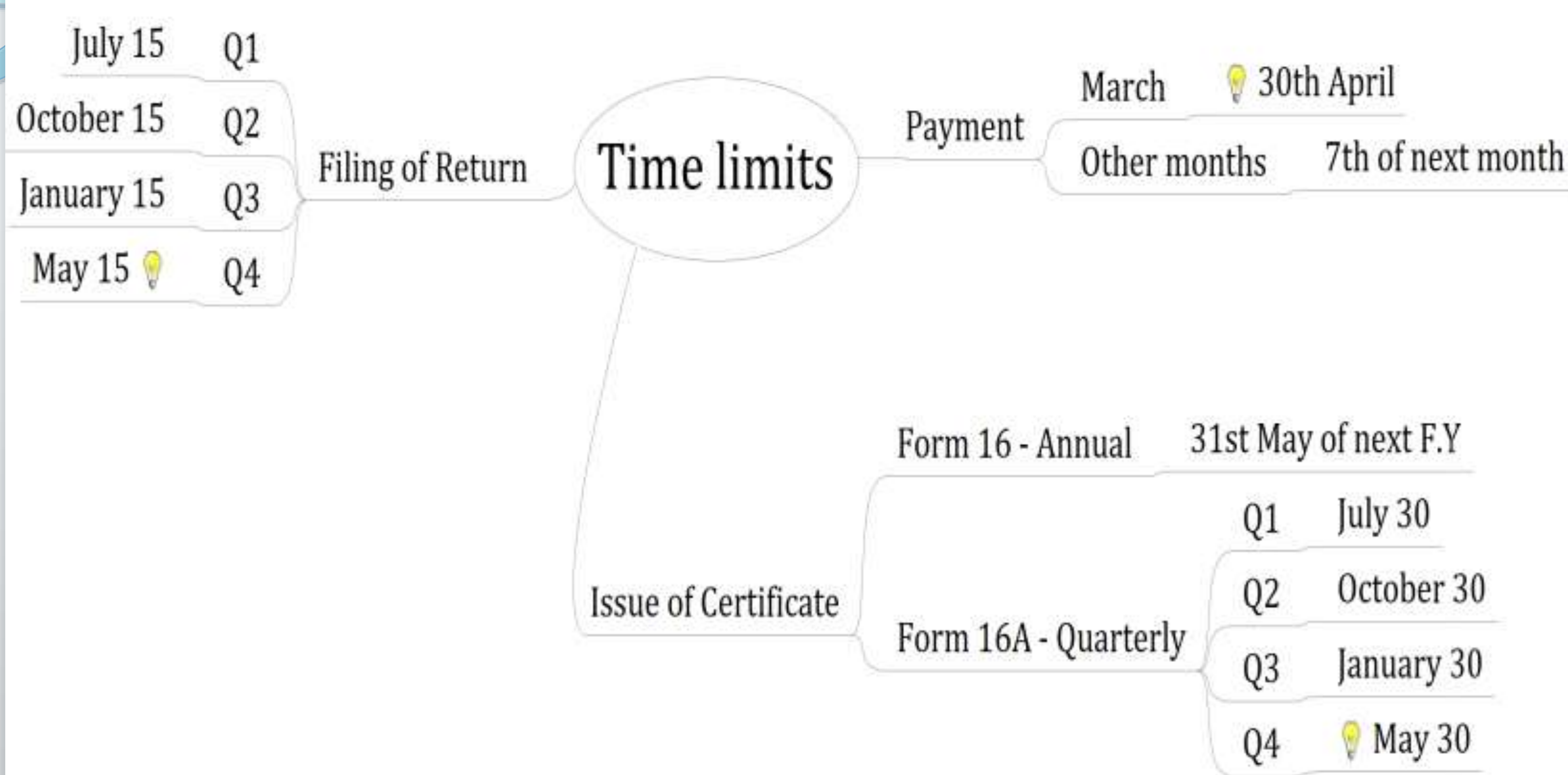
The changes can be made by banks, subject to following conditions:

- Correction in Name is not permitted.
- Combination of correction of Minor Head and Assessment Year together is not allowed.
- TAN correction will be allowed only when the name in the challan matches with the name as per the new TAN.
- The change of amount will be permitted only on the condition that the amount so corrected is not different from the amount actually received by the bank and credited to Govt. Account.
- For a single challan, correction is allowed only once. However, where 1st correction request is made only for amount, a 2nd correction request will be allowed for correction in other fields.
- There will be no partial acceptance of change correction request, i.e. either all the requested changes will be allowed, if they pass the validation, or no change will be allowed, if any one of the requested changes fails the validation test.

Important Sections

- TDS: Governed by sections 192 to 196D
- 197, 197A – lower/no deduction certificates
- 200 – Duty of person deducting tax
- 200A – processing of TDS returns
- 201 – consequences of non deduction/payment – interest, assessee in default
- 203 – certificate of tax deducted
- 220 (2) – interest if demanded amount is not deposited in time
- 221 – penalty payable as assessee in default
- 271C – penalty for failure to deduct/pay TDS
- 272A – penalty for not filing TDS return/non- issue of TDS Certificate
- 272BB – penalty for not obtaining TAN
- 276B – prosecution if TDS deducted but not remitted
- 40 (a) (ia) – disallowance if TDS not deducted/remitted – disallowance restricted to 30%

Time limits



Time limits
Filing of Return
July 15
Q1
October 15
Q2
January 15
Q3
May 15
Q4
Payment
March
30th April
Other months
7th of next month
Issue of Certificate
Form 16 - Annual
31st May of next F.Y
Form 16A - Quarterly
Q1
July 30
Q2
October 30
Q3
January 30
Q4
May 30

Deemed to be Assesse in default

- If failure to deduct or pay TDS
- Shall not be deemed as assessee in default if:
  - Payment to resident
  - He furnished return of income u/s 139
  - Has taken into account such amount
  - Has paid tax on declared income
  - Furnishes certificate from CA in form no. 26A
- Interest @ 1% pm for deductible date to date of furnishing of return by resident
- No order in virtue of deeming provision after the expiry of 7 years from the end of the F.Y

Consequences of Non-Compliance

Deduction and Payment			
	Not Deducted	**Late Deduction**	**Non-Payment**
Interest	1% pm from deductible date to order date	1% pm from deductible date to deducted date	1.5% pm from deducted date to payment date
Penalty	Upto amount not deducted	Upto amount not deducted	Upto amount not paid
Imprisonment			3 months to 7 years

Consequences of Non-Compliance

	Non-Filing of Return	Non-Issue of TDS Certificate
Fee **S. 234E**	Rs. 200 per day Limited to TDS amount in the Return	
Penalty	Rs. 200 per day Limited to TDS amount in the Return Further penalty of Rs. 10,000 to Rs. 1,00,000	Section: 272A(2)(g) Rs. 100 per day limited to the maximum of TDS amount

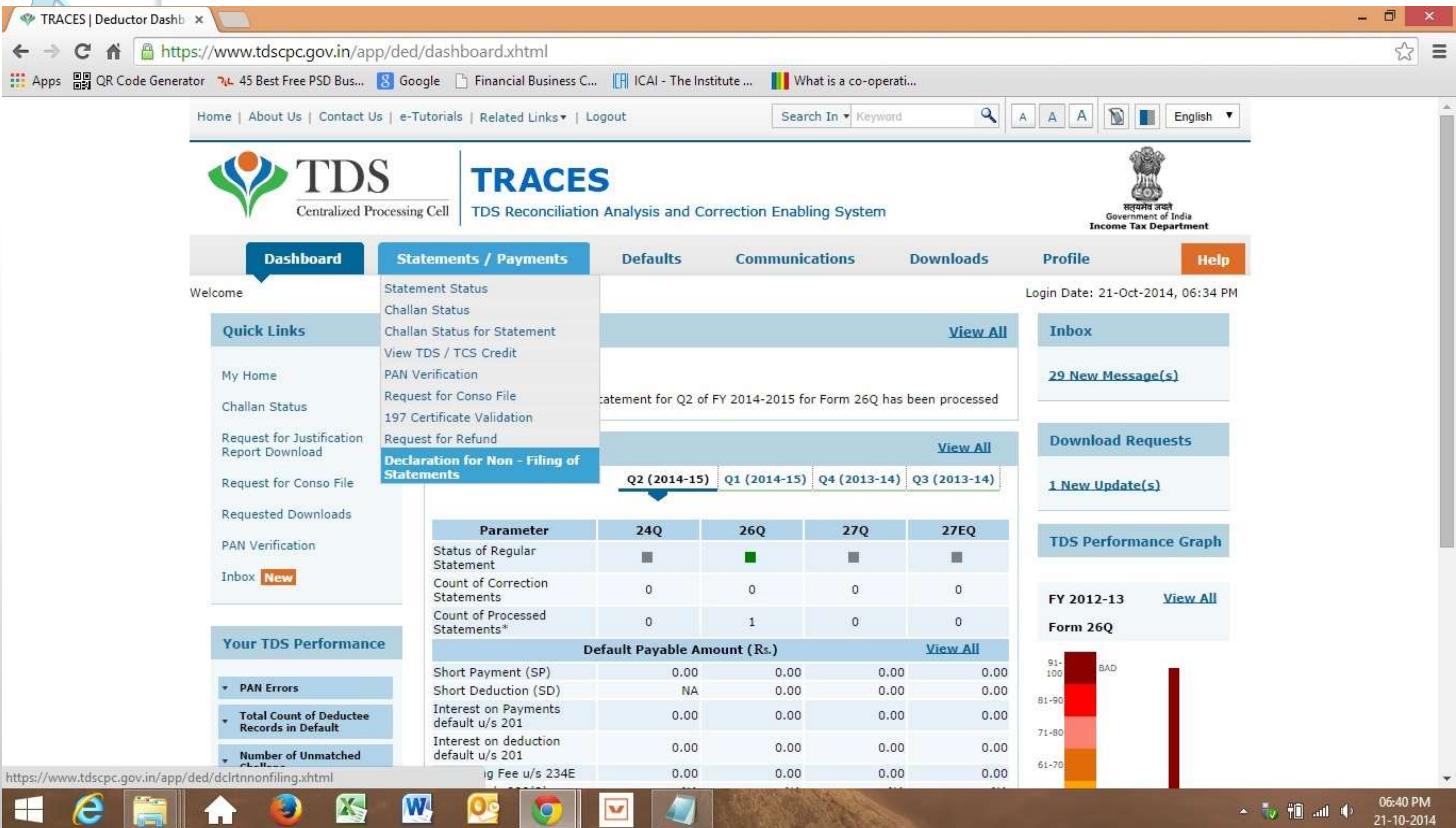
Constitutional validity of this section has been challenged
-Aditya Bizorp Solutions Pvt. Ltd v/s. Union of India (Karnataka HC)
-Narath Mapila LP School v/s Union of India (Kerala HC)

In both cases, the courts have granted a stay on the recovery of fees charged u/s. 234E

Other Penalties/interest

- Failure to apply for TAN – Rs. 10,000
- Failure to mention PAN of the deductee in the TDS statements and certificates – Rs. 10,000
- Furnishing of incorrect information – ranging from Rs. 10,000 to 1,00,000
- Interest u/s 220 (2) if amount as per demand notice is not deposited in time – 1% p.m

Declaration for non-filing of TDS Return



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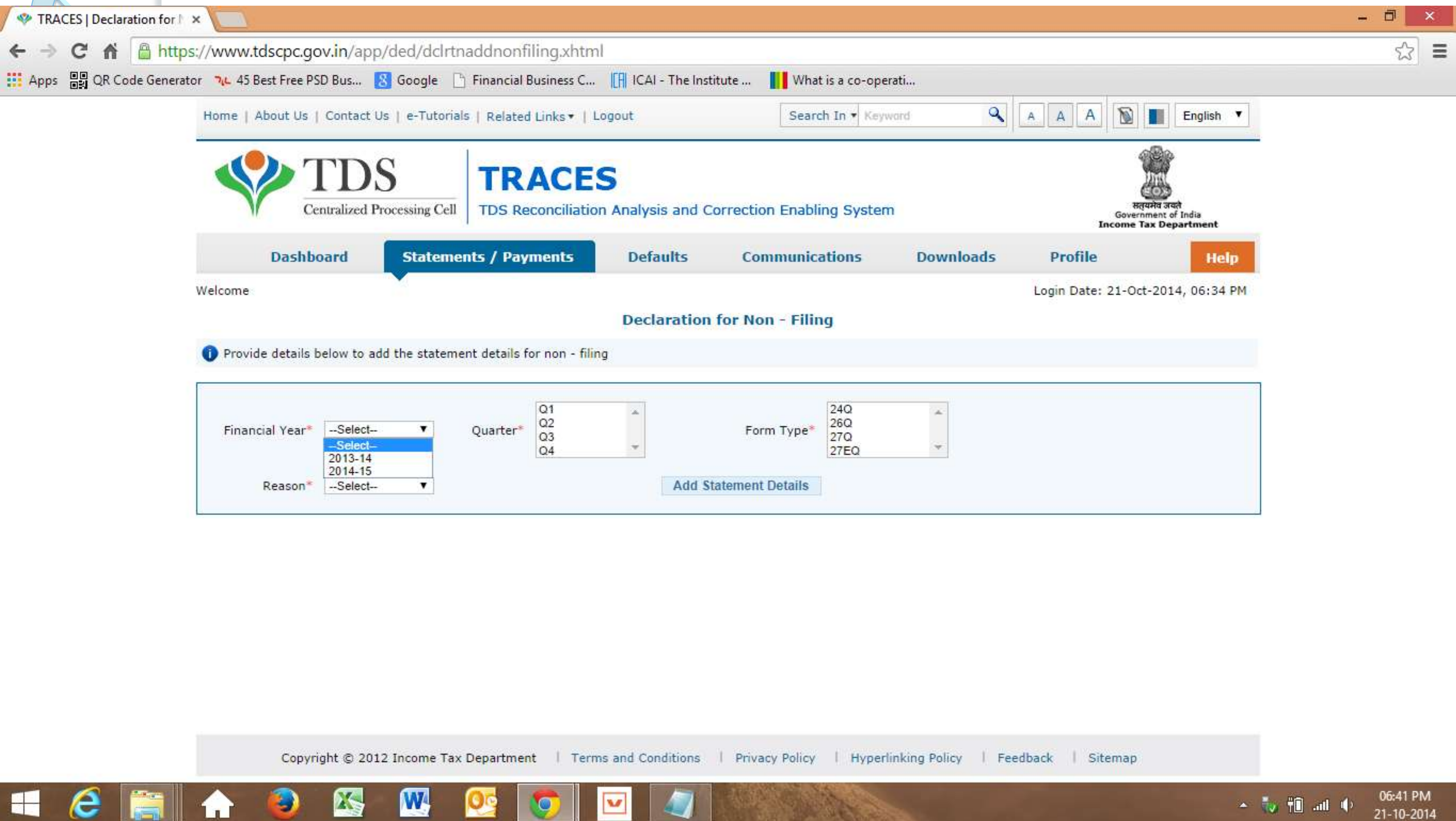

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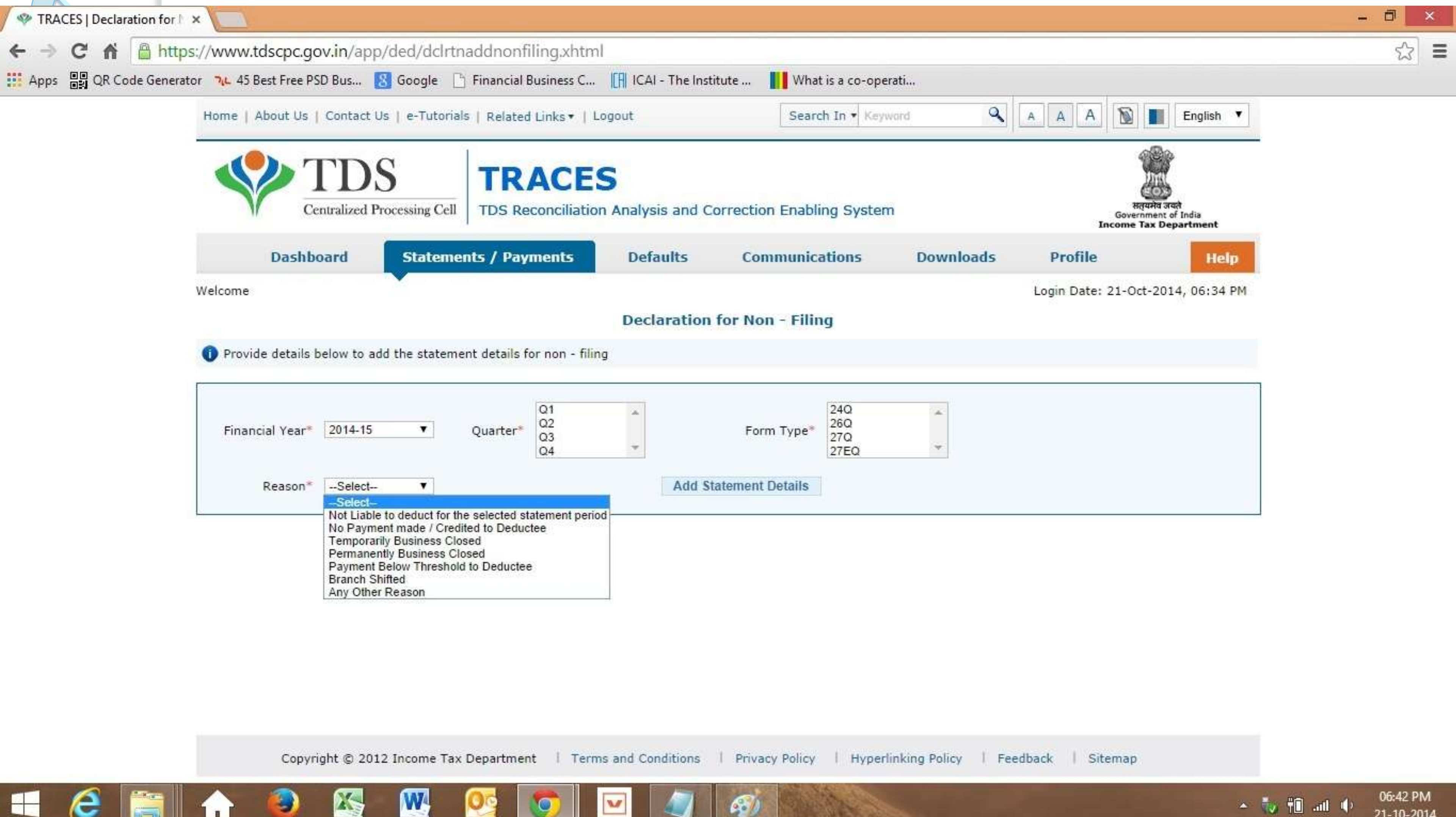

S. 192: TDS on Salary

- Deduct at Average rate of Income Tax compute on the basis of rate in force
- TDS has to be deducted at the time of Payment (Not on due basis)
- Employee may furnish details of other income to employers to deduct higher tax. (Losses will not be adjusted other than loss from House property)
- Two employer or more employer ⍰ details of previous employer may be collected in prescribed format.
- 80G deduction to be ignored while calculating avg. tax rate.

S 193: TDS on Interest on Securities

- Resident
- 10%
- Exception:
  - **Non Listed -** Amount of Interest < Rs 5000 & payment through account payee cheque
  - **Listed Co.** –
    - Security in demat form
    - SG & CG Security
    - Interest Payable to Insurance co.

S 194A: TDS on other Interest

- 10%
- Limit – Rs. 10,000/- for Bank, Co-Op Soc., Post Office
- Limit – Rs. 5,000/- for any other case
- Accrual basis

S 194C : Payment to Contractors

Tax is to be deducted at source:

- On the invoice value excluding the value of material, if such value is mentioned separately in the invoice; or
- On the whole of the invoice value, if the value of the material is not mentioned separately in the invoice.

TDS rate:

  - 1% where payment/credit is to an individual/HUF
  - 2 % where recipient is any other person.

No TDS if:

- credit/payment of single contract **≤ Rs.30,000/-**
- the aggregate of all amounts paid/credited or likely to be paid/credited in F. Y. **≤ Rs. 75,000/-**
- Transporter with valid PAN

S 194C ...

Work' shall **include:**

- Advertising;
- Broadcasting and telecasting including production of programmes for such broadcasting or telecasting ;
- carriage of goods or passengers by any mode of transport other than by railways; (No TDS of transport operators if PAN is provided)
- catering ;
- manufacturing or supplying a product according to the requirement or specification of a customer by using material purchased from such customer , but
- **does not include** manufacturing or supplying a product according to the requirement or specification of a customer by using material purchased from a person, other than such customer .

S 194 IA : TDS on Property

- On sale of immovable property if consideration ≥ 50 lakhs
- W.e.f 1st June 2013
- Tax @ 1% to be deducted by the purchaser of the property
- PAN of the seller and buyer is mandatory

Other TDS Sections

Section	Nature of Payment	TDS %
194	TDS on Dividend to residents	10
194B	Lottery/Crossword Puzzle > Rs.10,000	30
194BB	Winnings from Horse Race > Rs. 5,000	30
194D	Insurance Commission > Rs.20,000 to resident	10
194E	Sportsmen, Sport Association, Entertainer to non-resident	20
194G	Commission on Sale of Lottery Tickets > Rs.1,000	10
194H	Commission or Brokerage > Rs.5,000 to reident	10
194I	Rent > Rs.1,80,000 p. a. to resident •Rent of Plant & Machinery •Rent of Land, Building, Furniture, etc •Accrual Basis	 2 10

Other TDS Sections

Section	Nature of Payment	TDS %
194J	Professional or Technical Fess or Royalty > Rs.30,000 to resident Any remuneration or commission paid to director of the company. Other than those covered under section 192	10
194LA	Compensation on Compulsory Acquisition of immovable property >Rs.2,00,000 to resident	10
194LB	Interest on Infrastructure debt Fund to non-resident	5
194LC	Interest from Indian company to non-resident •Under loan agreement •Infrastructure Bond	5
195	Interest , royalty or any sum chargeable under provision of act (Except Salary)	Rate in Force
196C	FCB or share of Indian co.	10
196D	Income of FII from Securities	20

Deduction at Lower Rate

Section	Income	Certification	Deduction
197	Lower Income (All)	AO Certification Form 13	Lower Deduction OR No Deduction
197 A (1A)	Pervious Year Total Income is Nil / Below limit (Individual)	Self Declaration Form 15G/15H	No Deduction
197 A (1B)	Pervious Year Taxable Income is NIL (Individual)	AO Certification Form 13	Lower Deduction OR No Deduction

Points to remember

- 195A – When any amount is paid net of tax, the TDS has to be calculated by grossing up the amount, since the tax itself (Borne by the payer) represent income of assessee
- Education cess only in case of salary and for non-residents
- If the due date is a public holiday, tax can be paid on the next day following such a date. **However, the system does not recognize such a clause and notices for interest on delay in payment may be received.**

  -Rectification application will then have to be filed with the jurisdictional TDS officer
- Round off the tax to higher side – ie, Rs. 10,000.04 to 10,001
- Mention tax and interest portion correctly
- If mistake in PAN, treated as no PAN. Online facility available for PAN verification
- Interest calculation is not prompted. Check it yourself


Thank You!