UNDERSTANDING

TAX DEDUCTED AT SOURCE

UNDER INCOME TAX ACT, 1961

PEEYUSH SHARMA & Co., *Chartered Accountants*

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About the Author

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TAX DEDUCTED AT SOURCE (TDS)

PREAMBLE

Tax Deducted at Source (TDS) is one of the modes of collecting income tax in India at the very source of income, governed under the Indian Income Tax Act of 1961. It is controlled by the Central Board for Direct Taxes (CBDT) and is part of the Department of Revenue in-charge of Indian Revenue Service (IRS).

TDS is simply an indirect method of collection of tax which combines the concepts of “pay as you earn” and “collect as it earned.” Its importance to the government lies in the fact that it prepones the collection of tax, provides a greater reach and wider base for tax. At the same time, it benefits to the tax payer also, it distributes the incidence of tax and provides a simple and convenient mode of payment of taxes.

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.
In the concept of TDS, Income Tax Act requires specified persons to deduct tax on specified nature of payments being made by them. An Individual or an H.U.F. is not liable to deduct TDS on such payment except where the individual or H.U.F. is carrying on a business/profession where accounts are required to be audited u/s 44AB, in the immediately preceding financial year. A person is liable to get its accounts audited u/s 44AB if during the relevant financial year its gross sales, turnover or gross receipts exceeds Rs. 1 Crore in case of a business, or Rs. 25 lacs in case of a profession.

There are also some conditions also where there is no liability of deductor to deduct TDS which are as follows.

- On declaration furnished by payee on Form 15G or 15H as the case may be.
- On certificate issued by ITO.
- Payment to Government/RBI/Statutory Corporation etc.
- Exempt Incomes.
- Interest Payment by Offshore Banking Units.
- Payment to New Pension System Trust.
- Notified payment to Notified Institutions / Associations.

Deduction of Tax at Correct Rate:

Deduction of Tax at correct rate is very important for deductor and minor mistake in deduction leads to penalty in shape of Interest on late deposit and dis allowance of Expenses.

I have provided the Tax deduction rates chart (TDS rate chart) for Financial year 2014-15. Minor changes has been made in TDS rates for FY 2014-15 by Finance Minister in Budget .

1. A new section 194DA has been inserted wef 01.10.2014 relating to payment in respect of life insurance policy

2. TDS u/s section194A ,the interest income payable by special purpose vehicle to a business trust has been withdrawn wef 01.10.2014.

3. TDS u/s 194LBA for income distributed u/s 115UA TDS is required to be deducted on 10% in case of resident and 5 % in case of payment to non resident.

4. Disallowance of expenses under section 40(a)(ia) has been extended to all sections of TDS. However Disallowance % has been reduced to 30% from earlier 100%. Means if tds has not been deducted and deposited on 100 Rs then only 30 Rs will be disallowed in that year. Further disallowed amount will be allowed as exp.in year in which tds has will be deducted & Paid.

Complete details Of TDS rate changes for financial year 2014-15, TCS rate changes, Due date to deposit TDS , Due date for Form 16, Due date for Form 16A , Due date for ETDS return Form 24Q,Penalty and interest provision for late deposit of TDS ,consequences for default in filing of Etds Return , TDS rate applicable in case of Non submission of PAN ,TDS rate applicable on service tax or not , on job work or not , which rate is applicable to individual , HUF , who should deduct TDS , who should not deduct tds ,whether tds should be deducted on service tax on rent or professional services all such topics has been covered here under.

TDS Rate Chart Financial Year 2014-15

Nature of Payment Made To Residents		Company / Firm / Co-operative Society / Local Authority	Individual / HUF	If No / Invalid PAN
Section - Description	**Threshold(Rs.)**	**Rate (%)**	**Rate (%)**	**Rate (%)**
192 - Salaries	-	NA	Average rates	30
193 - Interest on securities	-	10	10	20
194 - Dividends	-	10	10	20
194A - Interest other than interest on securities - Others	5000	10	10	20
194A - Banks	10000	10	10	20
194B - Winning from Lotteries	10000	30	30	30
194BB - Winnings from Horse Race	5000	30	30	30
194 C - Payment to Contractors				
- Payment to Contractor - Single Transaction	30000	2	1	20
- Payment to Contractor - Aggregate During the F.Y.	75000	2	1	20
- Contract - Transporter who has provided valid PAN	-	-	-	20
194D - Insurance Commission	20000	10	10	20
194DA-Pament of Taxable Life Insurance Policy wef 01.10.2014	100000	2	2	20
194E - Payment to Non-Resident Sportsmen or Sports Association				
- Applicable up to June 30, 2012	-	10	10	20
- Applicable from July 1, 2012	-	20	20	20
194EE - Payments out of deposits under NSS	2500	20	-	20
194F - Repurchase Units by MFs	1000	20	20	20
194G - Commission - Lottery	1000	10	10	20

194H - Commission / Brokerage	5000	10	10	20
194I - Rent - Land and Building	180000	10	10	20
194I - Rent - Plant / Machinery	180000	2	2	20
194J - Professional Fees	30000	10	10	20
194LA - Immovable Property	100000	10	10	20
194LB - Income by way of interest from infrastructure debt fund (non-resident)	-	5	5	20
194LBA Income paid Under section 115UA we f 01.10.2014				
Resident	-	10	10	20
Non resident	-	5	5	20
Sec 194 LC - Income by way of interest by an Indian specified company to a non-resident / foreign company on foreign currency approved loan / long-term infrastructure bonds from outside India (applicable from July 1, 2012)	-	5	5	20
195 - Other Sums	-	Average rates	-	20
196B - Income from units		10	10	20
196C-Income from foreign currency bonds or GDR (including long-term capital gains on transfer of such bonds) (not being dividend)	-	10	10	20
196D - Income of FIIs from securities	20	20	20	20

Note:

1. No TDS on service Tax :As per circular 01/2014 dated 13.01.2014 TDS is not applicable on service tax part if service tax is shown separately.
2. TDS at higher rate ie., 20% has to be deducted if the deductee does not provide PAN to the deductor.(read detail u/s 206AA)
3. No TDS on Goods Transport :No deduction shall be made from any sum credited or paid or likely to be credited or paid during the previous year to the account of a contractor during the course of business of plying, hiring or leasing goods carriages on furnishing of his

Permanent Account Number, to the person paying or crediting such sum.(read details here [No TDS on Goods Transport](#))

4. Surcharge on tax is not deductible/collectible at source in case of resident individual/ HUF /Firm/ AOP / BOI/Domestic Company in respect of payment of income other than salary.
5. Surcharge on TDS is applicable on payment made to non resident other than company ,if payment is in excess of one crore.(10 %)
6. Surcharge on TDS on salary is applicable if taxable salary is more than one crore @ 10 %
7. In the case of Company other than Domestic Company,
    - (i) at the rate of two per cent. of such tax, where the amount or the aggregate of such amounts collected and subject to the collection exceeds one crore rupees but does not exceed ten crore rupees;
    - (ii) at the rate of five per cent. of such tax, where the amount or the aggregate of such amounts collected and subject to the collection exceeds ten crore rupees.
8. [No Cess on payment made to resident:](#) Education Cess is not deductible/collectible at source in case of resident Individual/HUF/Firm/ AOP/ BOI/ Domestic Company in respect of payment of income other than salary.Education Cess @ 2% plus secondary & Higher Education Cess @ 1% is deductible at source in case of non-residents and foreign company.

Various situations and Surcharge /Cess applicable on TDS/TCS

PAYMENT TO		PAYMENT	SURCHARGE	CESS
Resident	Non-corporate	salary(up to 1 crore)	No	yes(3%)
	Non-corporate	salary(> I crore)	yes (10%)	yes (3%)
	Non-corporate	other than salary	No	No
	Corporate	other than salary	No	No
Non-Resident	Non-corporate	salary(up to 1 crore)	No	yes (3%)
	Non-corporate	salary(> I crore)	Yes (10 %)	yes (3%)
	Non-corporate	other than salary up to 1 Crore	No	yes (3%)
	Corporate	other than salary (> 1 Crore to 10 crore)	yes(2%)	yes (3%)
	Corporate	other than salary > 10 Crore	yes(5%)	yes (3%)

TDS by Individual and HUF (Non Audit) case not deductible:

An Individual or a Hindu Undivided Family whose total sales, gross receipts or turnover from business or profession carried on by him does not exceeds the monetary limits(Rs.100,00,000 in case of business & Rs.25,00,000 in case of profession) under Clause (a) or (b) of Sec.44AB during the immediately preceding financial year shall not be liable to deduct tax u/s.194A,194C, 194H, 194I & 194J.So no tax is deductible by HUF/Individual in first year of operations of business even sales/Fees is more than 100/25 Lakh.

TCS (tax collection at source rates Fy 2014-15)(read more details by Tax collection at source)

TCS Rates for F. Y. 2014-15			
Section		F. Y. 2014-15	
		Individual / HUF	Other
206C	Scrap	1	1
206C	Tendu Leaves	5	5
206C	Timber obtained under a forest lease or other mode	2.5	2.5
206C	Any other forest produce not being a timber or tendu leave	2.5	2.5
206C	Alcoholic Liquor for human consumption	1	1
206C	Parking Lot, toll plaza, mining and quarrying	2	2
206C	Minerals, being coal or lignite or iron ore (applicable from July 1, 2012)	1	1
206C	Bullion if consideration (excluding any coin / article weighting 10 grams or less) exceeds Rs. 2 Lakhs or jewellery if consideration exceeds Rs. 5 Lakhs (and any amount is received in cash) (applicable from July 1, 2012)	1	1

Due date to Deposit TDS and TCS

"Time and mode of payment to Government account of tax deducted at source or tax paid under sub section (1A) of section 192.

Rule :30.

(1) All sums deducted in accordance with the provisions of Chapter XVII-B by an office of the Government shall be paid to the credit of the Central Government -

(a) on the same day where the tax is paid without production of an income-tax challan; and

(b) on or before seven days from the end of the month in which the deduction is made or income-tax is due under sub-section (1A) of section 192, where tax is paid accompanied by an income-tax challan.

Tax to be deducted/collected by Govt Office		
1	Tax deposited without challan	Same day
2	Tax deposited with challan	7th of next month
3	Tax on perquisites opt to be deposited by the employer	7th of next month

(2) All sums deducted in accordance with the provisions of Chapter XVII-B by deductors other than an office of the Government shall be paid to the credit of the Central Government -

- (a) on or before 30th day of April where the income or amount is credited or paid in the month of March; and
- (b) in any other case, on or before seven days from the end of the month in which- the deduction is made; or income-tax is due under sub-section (1A) of section 192.

Tax deducted/collected by other		
1	tax deductible in March	30th April of next year In case of TCS 7th April
2	other months & tax on perquisites opted to be deposited by employer	7th of next month

Person required to file ETDS Return Filing due Dates

Following person are liable to file etds/etcs return.
1. All Government department/office or
2. All companies. or
3. All person required to get his accounts audited under section 44AB in the immediately preceding financial year; or
4 The number of deductees' records in a quarterly statement for any quarter of the immediately preceding financial year is equal to or more than fifty,

Update:Deductor can adjust excess tds deposited in one section /an assessment year with another section /assessment year

DUTIES OF TAX DEDUCTOR/COLLECTOR

1. To apply for Tax Deduction Account Number (TAN) in form 49B, in duplicate at the designated TIN facilitation centers of NSDL, within one month from the end of the month in which tax was deducted.

2. To quote TAN (10 digit reformatted TAN) in all TDS/TCS challans, certificates, statements and other correspondence.

3. To deduct/collect tax at the prescribed rates at the time of every credit or payment, whichever is earlier, in respect of all liable transactions.

4. To remit the tax deducted/collected within the prescribed due dates by using challan no. ITNS 281 by quoting the TAN and relevant section of the Income-tax Act.

5. To issue TDS/TCS certificate, complete in all respects, within the prescribed time in Form No.16(TDS on salaries), 16A(other TDS) 27D(TCS).

6. To file TDS/TCS quarterly statements within the due date.

7. To mention PAN of all deductees in the TDS/TCS quarterly statements.

CONSEQUENCES OF DEFAULT

Failure to deduct or remit TDS /TCS(full or part)

- Interest: Interest at the rates in force (18% p.a.) from the date on which tax was deductible /collectible to the date of payment to Government Account is chargeable.

- In case of failure to remit the tax deducted/collected, rigorous imprisonment ranging from 3 months to 7 years and fine can be levied.
- Failure to apply for TAN in time or Failure to quote allotted TAN or Wrong quoting of TAN :Penalty of Rs.10,000 is leviable u/s.272BB(for each failure)
- Failure to issue TDS/TCS certificate in time or Failure to submit form 15H/15G in time or Failure to furnish statement of perquisites in time or Failure to file Quarterly Statements in time: For each type of failure, penalty of Rs.200/- per day for the period of default is leviable. Maximum penalty for each failure can be up to the amount of TDS/TCS.

DUE DATES FOR ETDS RETURNS (FORM 24Q FOR SALARY AND 26Q FOR CONTRACTORS OTHERS ,27Q FOR NON-RESIDENT

Due date ETDS return 24Q, 26Q 27Q and Form16 ,Form 16A					
		From 01.11.2011 on wards For Govt offices		For other deductors	
Sl. No.	Quarter ending	Etds return	Form 16A	Etds return	Form 16A
1	30th June	31st July	15th August	15th July	30th July
2	30th September	31st October	15th November	15th October	30th October
3	31st December	31st January	15th Feburary	15th January	30th January
4	31st March	15th May	30th May (31st May for form 16)	15th May	30th May (31st May for form 16)

Issuance Of TDS certificate Form 16 and Form 16A

Tax deducted on or after 01.04.2012, it is mandatory for all type of deductors to issue quarterly form 16A (non salary tds certificate) only after downloaded the same from the TDSCPC website. So manually field form 16A cannot be issued for tax deducted on or after 01.04.2012.

GENERAL INFORMATION

1. Deduction at lower or nil rate requires certificate u/s.197, which will take effect from the day it is issued. It cannot be used retrospectively.
2. If TDS/TCS certificate is lost, duplicate may be issued on a plain paper giving necessary details marking it as duplicate.
3. Refund can be claimed by the deductee on filing of return of income.
4. Even if the recipient of payment has shown it in his income-tax return and paid the taxes thereon, the deductor/collector who has failed to deduct/collect tax will be liable to pay interest and penalty.

Frequently Asked Questions:

1.What is TDS?

TDS means Tax Deducted at Source. It is the amount withheld from payments of various kinds such as salary, contract payment, commission etc. This withheld amount can be adjusted against your tax due.

2.In case the deductee comes back stating that the original TDS certificate is lost, whether a duplicate certificate can be issued?
Yes. The deductor will have to issue the certificate in a plain paper giving necessary details of deduction and remittance.

3.I have made some deposits with a bank on which annual interest is around Rs.15000. My income is below taxable limit. The banker wants to deduct tax. What do I do?
You can file a self-declaration to the banker in form 15H stating that your income is below taxable limit. The form is available with your banker, the local Income-Tax office and can be downloaded from the websitehttp://www.incometaxindia.gov.in/. This form should be filed before the interests begin to accrue in the fixed deposit account, since the declaration has no retrospective effect.

4.I have let out a property for Rs.20,000 per month. The tenant is deducting tax that is more than my tax liability. What can I do under this circumstance?
If you compute your tax liability and find it to be lower than the tax being deducted, you may approach your assessing officer by filing Form 13. He will issue a certificate directing the tenant to make TDS at a lesser rate. This form is available with the local Income tax office or can be downloaded from the website www.incometaxindia.gov.in.

5.I have deducted tax from payments disbursed but used the same for some urgent financial needs. What are the consequences?

It is an offence to misuse the tax deducted at source. It should have been remitted to government account within the time allowed. The failure attracts tax, interest, penalty and also rigorous imprisonment up to seven years

6.What can I do if I am unable to get the TDS certificate [form-16 or 16A]?
It is the duty of every person deducting tax to issue TDS certificate. In spite of your asking if you are denied the certificate then there is a chance that the tax deducted has not been deposited by the deductor to the government account. Please inform the department [PRO or TDS section] which will then do the needful.

7.I have not received TDS certificate from my employer. Can I claim TDS deducted from my salary?
Yes. The claim can be made in your return. Department however will raise a demand which will not be enforced on you but on your employer.

8.If the employer does not deduct tax and employee also does not pay his due tax, who will be held responsible for tax payment?
The ultimate responsibility to pay tax rests on the person who has earned income. If the employee deposits such tax then the employer will be liable for interest and penalty for failure to deduct tax.

9.I am buying a property from a person residing in USA. Should I deduct tax while making payment?
Yes u/s 195. In case you have any doubt regarding the amount on which TDS is to be made, you may file an application with the officer handling non-resident taxation who will pass an order determining the TDS to be made. Alternatively, if the recipient feels that the TDS is more he may file an application with his Assessing officer for non-deduction.

10.Can I use PAN to pay the TDS deducted into government account?
No. You are required to take a separate Tax Deduction Account Number [TAN] by making an application in form 49B with the Tin facilitation centre of NSDL.
11.How to surrender the duplicate TAN or the TAN which is not being used?
Application along with relevant support documents has to be made to concerned AO.

Due Dates for submitting Quarterly Statements of Tax Deducted at Source (Rule 31A)

Date of ending of the quarter of the financial year	**Due date, if deductor is an office of the Government**	**Due Date for others**

30th June	31st July of the financial year	15th July of the financial year
30th September	31st October of the financial year	15th October of the financial year
31st December	31st January of the financial year	15th January of the financial year
31st March	15th May of the financial year immediately following the financial year in which deduction is made	15th May of the financial year immediately following the financial year in which deduction is made.

Penal Provisions for failure / default in submitting returns / statements		
Section 272A(2)	Failure to submit returns prescribed under Section 200(3)	**Penalty** of Rs. 100/- every day during which the failure continues upto a maximum of TDS amount.
Section 234E	Failure to TDS return in time	**Fine** of Rs. 200/- every day during which the failure continues will be levied on deductor as long as the default continues, subject to a maximum of TDS amount.
Section 271H	(i) If deductor defaults for more than 1 year in filing TDS Statement(ii) If deductor furnishes incorrect details like PAN, TDS amount, Challan particulars etc.	**Penalty** which shall not be less than ten thousand rupees but which may extend to one lakh rupees.

S 192: TDS ON SALARY

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