

All about Tax Deducted at Source (TDS)

VIJAYYADAV

Introduction

The concept of **TDS** was introduced with an aim to collect tax from the very source of income. As per this concept, a person (deductor) who is liable to make payment of specified nature to any other person (deductee) shall deduct tax at source and remit the same into the account of the Central Government. The deductee from whose income tax has been deducted at source would be entitled to get credit of the amount so deducted on the basis of **Form 26AS** or **TDS certificate** issued by the deductor.

TAX DEDUCTED AT SOURCE (TDS) is a system introduced by Income Tax Department, where person responsible for making specified payments such as salary, commission, professional fees, interest, rent, etc. is liable to deduct a certain percentage of tax before making payment in full to the receiver of the payment. As the name suggests, the concept of TDS is to deduct tax at its source.

TDS helps in reducing tax filing burdens for a deductee and ensures stable revenue for the government.

Advantages of TDS:

TDS is based on the principle of 'pay as and when you earn'. TDS is a win-win scenario for both the taxpayers and the government. Tax is deducted when making payments through cash, credit or cheque, which is then deposited with the central agencies

Let us take an example of TDS assuming the nature of payment is professional fees on which specified rate is 10%.

Uflex Ltd makes a payment of Rs 60,000/- towards professional fees to **Mr. Shyam Agarwal (Chartered Accountant)**, then **Uflex Ltd** shall deduct a tax of Rs 6,000/- and make a net payment of Rs 54,000/- (60,000/- deducted by Rs 6,000/-) to **Shyam Agarwal**. The amount of 6,000/- deducted by **Uflex Ltd** will be directly deposited by **Uflex Ltd** to the credit of the government.

General terms of TDS Concept

What Is TAN and How to apply for TAN?

TAN stands for Tax Deduction Account Number. It is a unique identification number which is 10 digit alpha numeric number required to be obtained by all persons who are responsible for deducting or collecting tax. Under Section 203A of the Income Tax Act, 1961, it is mandatory

to quote Tax Deduction Account Number (TAN) allotted by the Income Tax Department (ITD) on all TDS returns. The procedure for application of TAN is very simple and can be done online by filling up Form 49B.

What is TDS Certificate?

TDS certificates are issued by the deductor (the person who is deducting tax) to the deductee (the person from whose payment the tax is deducted). There are mainly two types of TDS certificates issued by the deductor.

1. Form 16: which is issued by the employer to the employee incorporating details of tax deducted by the employer throughout the year, and
2. Form 16A: which is issued in all cases other than salary.

Your certificate will have total validation, unless the officer cancels it.

As TDS is collected on an ongoing basis, it can be difficult to keep track of deductions by an individual. As per Section 203 of the ITA, the deductor has to furnish a certificate of TDS payment to the deductee/payee. This certificate is also offered by banks making deductions on pension payments etc. The certificate is typically issued at the deductor's own letterhead. Individuals are advised to request for TDS certificate wherever applicable, and if not already provided.

For example, Mr. Gupta is working as a salaried employee at a company and tax is deducted on his salary @ 15%. The company shall provide Mr. Gupta with a Form 16 describing particulars in detail regarding the amount of salary paid and tax deducted on the same.

However, had Mr. Gupta been working as a professional and received professional fees from an organization which is subject to TDS, then he will be provided Form 16A for the same.

When TDS should be deducted?

The concept of TDS is based on a simple principle i.e. tax is to be deducted **at the time of payment getting due or actual payment whichever is earlier**. A set of scenarios for will be helpful in understanding the concept:

Say, ABC Private Limited has to make payment of Rs 50,000/- to Mr. XYZ in exchange of professional services.

Scenario

1: Mr. XYZ was paid Rs 30,000/- in advance on 15th July. XYZ raised invoice after completion of work on 31st July and rest of payment is to be made.

In such case the company should have deducted tax in the following manner: On 15th July: Rs 3000/- (@ 10% on advance of Rs 30000/-)

On 31st July: Rs 2000/- (@ 10% of total invoice amount as deducted by tax already deducted i.e. Rs 5000/- deducted by Rs 3000/-)

Scenario

2: Mr XYZ raised the invoice on 15th July and was paid whole consideration at one go on 31st July.

In such whole amount of Rs 5000/- shall be deducted on 15th July, the date when payment got due, and a net payment of Rs 45000/- shall be made on 31st July.

Scenario

3. Mr. XYZ is to receive the whole amount of Rs 50,000/- well in advance before completion of the assignment.

In such particular case tax of Rs 5000/- shall be deducted right at the time of payment of advance and no tax is to be deducted at the time of making an entry for the bill due.

Can I request tax deductors to not subtract tax from an amount and pay the whole amount to me?

Non-deduction of tax at source is possible only if your income is going to be below the minimum income tax slab. If that is the case with you, then you can declare your income as being **lower than Rs. 2.5 lakh** (or others as applicable to various category of citizens) through Form 15G/15H and provide the form to the deductor. **Form 15G is for individuals** and **Form 15H for senior citizens**. You can also apply to the Assessing Officer of the Income Tax Department through **Form 13 and get a certificate approving deduction of lower taxes or nil deduction of taxes**. But if your income is above the minimum tax rate slab, then you cannot seek exemption from TDS.

One major difference between **Form 13 and Form 15G/15H is Form 15G/15H** can be issued only by individuals assesses, whereas request in Form 13 can be submitted by any person i.e. individual, partnership firm, company, etc. to the ASSESSING OFFICER to get approval for deduction of taxes at lower or NIL rate.

How much tax should be deducted from salary?

Persons responsible for paying salary are liable to deduct tax on estimated salary at prescribed rate of 15% subject to following:

1. Exemption Limit: No tax is required to be deducted at source unless the estimated salary exceeds basic exemption limit.
2. Exempt allowances: Allowances such as LTC, HRA, conveyance, travelling exempt as per prescribed limits and other perquisites not forming part of salary should be deducted from total salary while calculating taxable salary.

3. Other deductions: Other deductions such as deductions under section 80C, 80CCC, 80CCD, 80CCG, 80D, 80DD, 80DDB, 80E, 80EE, etc. should be considered before the calculation of tax on salary.

Minimum salary one should have for TDS to be deducted by the employer.

If after comprehensive calculation of allowable allowances, taxable perquisites and deductions under chapter VI-A, income from salary head exceeds a sum of basic exemption limit, then tax has to be deducted by the employer @ 15% on the amount over and above the basic exemption limit. For example, the salary of Mr. A arrives at Rs 2,80,000/- assuming that all the allowances, perquisites, and deductions have been taken into consideration, tax @ 15% on Rs 30000/- (2,80,000 – 2,50,000) shall be deducted by the employer.

Salary needs to be subject to TDS only if the employee falls under the Income Tax Slab. This means that an individual earning less than Rs. 2.5 lakh, senior citizens with a salary of less than Rs. 3 lakh and super seniors (above the age of 80) earning less than Rs. 5 lakh, do not need to pay tax and hence no TDS has to be deducted from their remuneration.

Hence, provisions of TDS shall attract only if minimum salary is above the basic exemption limit.

TDS on income from salaries. are deducted on an estimation made at the start of the financial year. The employer is responsible for deducting taxes every month in equal instalments. In case the deductee has switched jobs during the fiscal year, the employer will deduct taxes on the basis of all accrued income in the fiscal year. Deductees should be very careful when mentioning their overall income as tax avoidance will be penalised by relevant authorities

TDS Rates

[For Assessment year 2019-20]

Rates for tax deduction at source

Particulars	TDS Rates (in %)
1. In the case of a person other than a company	
1.1 where the person is resident in India –	
Section 192: Payment of salary	Normal Slab Rate
Section 192A: Payment of accumulated balance of provident fund which is taxable in the hands of an employee.	10
Section 193: Interest on securities	
Section 194A: Income by way of interest other than “Interest on securities”	10
Section 194B: Income by way of winnings from lotteries, crossword puzzles, card games and other games of any sort	30

Section 194C: Payment to contractor/sub-contractor	1
a) HUF/Individuals	2
b) Others	
Section 194D: Insurance commission	5
Section 194DA: Payment in respect of life insurance policy	1
Section 194G: Commission, etc., on sale of lottery tickets	5
Section 194H: Commission or brokerage	5
Section 194-I: Rent	2
a) Plant & Machinery	10
b) Land or building or furniture or fitting	
Section 194-IA: Payment on transfer of certain immovable property other than agricultural land	1
Section 194-IB: Payment of rent by individual or HUF not liable to tax audit Note: This provision is applicable from June 1, 2017	5
Section 194J: Any sum paid by way of	10
a) Fee for professional services,	
b) Fee for technical services	
c) Royalty,	
d) Remuneration/fee/commission to a director or	
Note: With effect from June 1, 2017 the rate of TDS would be 2% in case of payee engaged in business of operation of call center.	
1.2 where the person is not resident in India*-	
Section 192: Payment of Salary	Normal Slab Rate
Section 192A: Payment of accumulated balance of provident fund which is taxable in the hands of an employee.	10
Section 194B: Income by way of winnings from lotteries, crossword puzzles, card games and other games of any sort and horse races	30
Section 194E: Payment to non-resident sportsmen/sports association	20
Section 195: Payment of any other sum to a Non-resident	20
a) Income in respect of investment made by a Non-resident Indian Citizen	10
b) Income by way of long-term capital gains as referred to in Section 112A	15
c) Income by way of short-term capital gains referred to in Section 111A	

Section 196B: Income from units (including long-term capital gain on transfer of such units) to an offshore fund	10
--	----

2. In the case of a company-

2.1 where the company is a domestic company-

Section 193: Interest on securities	10
-------------------------------------	----

Section 194: Dividend	10
-----------------------	----

Section 194B: Income by way of winnings from lotteries, crossword puzzles, card games and other games of any sort	30
---	----

Section 194C: Payment to contractor/sub-contractor	1
a) HUF/Individuals	2

b) Others

Section 194D: Insurance commission	10
------------------------------------	----

Section 194DA: Payment in respect of life insurance policy	1
--	---

Section 194G: Commission, etc., on sale of lottery tickets	5
--	---

Section 194H: Commission or brokerage	5
---------------------------------------	---

Section 194-I: Rent	2
a) Plant & Machinery	10

b) Land or building or furniture or fitting

Section 194-IA: Payment on transfer of certain immovable property other than agricultural land	1
--	---

Section 194J: Any sum paid by way of	10
a) Fee for professional services,	

b) Fee for technical services

c) Royalty,

d) Remuneration/fee/commission to a director or

Note: With effect from June 1, 2017 the rate of TDS would be 2% in case of payee engaged in business of operation of call center.

2.2 where the company is not a domestic company*-

Section 194B: Income by way of winnings from lotteries, crossword puzzles, card games and other games of any sort and horse races	30
---	----

Section 194E: Payment to non-resident sports association	20
--	----

Section 194G: Commission, etc., on sale of lottery tickets	5
--	---

Section 195: Payment of any other sum	10
a) Income by way of long-term capital gains referred to in sub-clause (iii) of clause (c) of sub-section (1) of Section 112	10
b) Income by way of long-term capital gains as referred to in Section 112A	15
c) Income by way of short-term capital gains referred to in Section 111A	

Section 196D: Income of foreign Institutional Investors from securities (not being dividend or capital gain arising from such securities)	20
---	----

* The rate of TDS shall be increased by applicable surcharge and Health & Education cess.

How to calculate TDS?

Numerous transactions are covered under the purview of TDS sections and calculation of TDS can be tricky in some sections. Here, we shall discuss some examples of different sections to make the calculation clear.

Example

1: Under the section, 194A tax is to be deducted on payment of interest other than interest on securities. However, no tax is required to be deducted if amount of such interest paid or credited or is likely to be paid or credited does not exceed Rs 10,000/- in case of banking company, co-operative society engaged in the business of banking and post office deposits and Rs 5,000/- in any other case in a financial year. Also, note that no tax is to be deducted on savings account interest.

- Scenario 1: Suppose interest paid or credited or is likely to be paid or credited by a banking company to a person in a financial year is Rs 9,000/-, then no tax is required to be deducted as the amount has not exceeded the cap of Rs 10,000/-.
- Scenario 2: Say interest paid or credited or is likely to be paid or credited by a banking company to a person in a financial year is Rs 12,000/-, then tax is required to be deducted on the whole amount of Rs 12,000/- @ 10% i.e. TDS of Rs 1200/-.

Please note that Rs 10,000/- is a cap just for fixing responsibility of banking company for TDS and is not an exemption limit i.e. tax is to be deducted from the whole amount of Rs 12,000/- as soon as the amount exceeds the cap amount of 10,000/-

Similar examples are relevant for other interest, except in those cases the cap amount shall be Rs 5,000/- instead of Rs 10,000/-.

Example

2: Under the section, 194C tax is to be deducted on payment or credit to a resident contractor/sub-contractor. The definition of a contract is derived from the Indian Contract Act, 1872 and covers almost all type of contracts under its purview. However, no tax is to be deducted where:

- the sum is credited or paid in pursuance of any contract, the consideration for which

does not exceed Rs. 30,000/-, or,

- where the aggregate of the amounts of such sums credited or paid or likely to be credited or paid during the financial year does not exceed 75,000/-

Applicable @ 1% if payment/credit is made to resident individual or HUF, @ 2% if payment/credit is made to any resident person other than individual / HUF and @ 20% if PAN is not available.

Scenario 1: Mr. A, an individual provided contractual services to a firm and was made payments in 3 installments, 1st installment of Rs 25,000/- and the second installment of Rs 26,000/- and last installment of Rs 28,000/-.

In this case, the firm need not deduct tax on installments since the amount hasn't exceeded the cap of Rs 30,000/-. But, if we sum up all 3 installments the total arrives at Rs 79,000/- which exceeds the yearly cap of Rs 75,000/-. Hence, in this case, the tax is to be deducted from the whole amount of Rs 75,000/- @ 1% (being an individual), which arrives at Rs 750/-.

Please note that once the total amount exceeds Rs 75,000/- in a financial year, the tax is to be deducted from each and every payment irrespective of the fact whether such part payments are more or less than Rs 30,000/-.

Scenario 2: M/s ABC, a partnership firm provided some contractual services to Mr. A and was made payments in 3 installments of Rs 50,000/-, Rs 12,000/- and Rs 14,000/-.

In this case, tax @ 2% (being a partnership firm) shall be deducted at the time of payment of Rs 50,000/- as the sum exceeds the cap of a single payment of Rs 30,000/-.

No tax shall be deducted when the sum of Rs 12,000/- is paid as the sum is far below the cap of a single payment of Rs 30,000/- and the total payment during hasn't exceeded the yearly cap of Rs 75,000/-.

Tax @ 2% shall be deducted from the whole amount of Rs 12,000/- and Rs 14,000/- as they might not have exceeded the cap of single payments, but the yearly cap of Rs 75,000/- is exceeded as and when the final installment of Rs 14,000/- is paid to M/s ABC.

Due dates for TDS:-

Payment of TDS each month and filing of quarterly return of TDS are 2 separate processes and due dates for these processes are different

The due dates for the payment of the deducted TDS are on or before 7th of next month and for the month of March due date is on or before 30th April. It means, if the deductor has deducted tax from payments in month of November, then he has to pay the TDS on or before 7th of December.

Different forms prescribed for TDS Return?

Form	Deductor type
------	---------------

Form 24 Q Deductions made in a salaried case

Form 26 Q Deductions made in the non-salaried case

Form 27 Q Deductions made in the case of NRIs

Due dates for different forms and different quarters as well:

Quarter	Form 24Q & 26Q	Form 27Q
April to June	15 July	15 July
July to September	15 October	15 October
October to December	15 January	15 January
January to March	15 May	15 May

Penalty provisions for non-deduction of TDS.

There are several instances where interest, fees, and penalty are levied on non-compliance of TDS provisions. The same are discussed here step by step:

1. Consequences of non-deduction of TDS

If a person who was responsible for deducting tax at source fails to do so, then the ASSESSING OFFICER has powers to disallow whole of such expenditure for ascertaining taxable profits. For example, ABC Limited paid a commission of Rs 2,00,000/- during the year to a single person and omitted to deduct tax on the same, then the Assessing Officer has powers to disallow deduction whole of such expenses while ascertaining taxable profits.

2. Late deduction of TDS

Tax is to be deducted at the time of payment/credit getting due or payment whichever is earlier. In the terms of income tax, even a single day is counted as a month for the purpose of calculating interest. In cases of late deduction of tax, interest @ 1% per month of the TDS amount subject to maximum amount of TDS is levied.

For example, ABC company was supposed to deduct tax of Rs 20000/- on 15th July but instead the same was deducted by the company on 1st August. In this case interest of Rs 200/- (@1% for one month) is required to be paid by the assessee.

3. Late payment of TDS

Tax is to be deducted and paid to the credit of government on every 7th day of the succeeding month in which the tax has been deducted; otherwise, interest @ 1.5% per month of TDS amount subject to maximum amount of TDS is levied. For example, ABC Ltd was supposed to

deposit TDS of Rs 20000/- deducted in the month of April by 7th of May but fails to deposit the same on time and actually deposited the same in the following month. In this case interest of Rs. 300/- (@ 1.5% for one month) is required to be paid by the assessee.

4. Late filing of return of TDS

TDS returns are required to be filed in the last month of following quarter i.e. 31st July, 31st October, 31st January and in the case of March it is 31st May. Fees under section 234E are levied @ **Rs 200/- per day** subject to maximum amount of TDS until the return is filed.

Example, M/s ABC, a partnership deducted and paid a total TDS of Rs 40000/- in the first quarter of FY and was supposed to file its TDS return by 31st July but filed its return on 31st August. Total fees of Rs 6200 (200/- per day for 31 days) shall be paid before filing of return.

5. Penalty for late filing of TDS return

Assessing officer may direct a person who fails to file the statement of TDS within due date to pay penalty minimum of Rs. 10,000 which may extend to Rs.1,00,000. The penalty under this section is in addition to the penalty u/s 234E and also covers the cases of incorrect filing of TDS return.

How do I know how much TDS has been deducted and whether it has been credited to me?

Step 1: Log on to Income Tax India e-Filing website and click on the link “Register Yourself”

Step 2: Enter your details as per PAN and generate a password

Step 3: Once you have logged into the portal, click on the option “View Tax Credit Statement (26 AS)”

Step 4: After clicking on this link you will be directed to another website called TRACES (TDS Reconciliation Analysis and Correction Enabling System) where you can know about complete details of your tax deducted at source, advance tax paid and other important details.

26AS is a **tax credit statement** and covers all the amounts of TDS deducted by others. This might happen that someone has deducted your tax but the same isn't appearing in your tax credit statements, which may be simply due to non-filing of TDS return by the deductor. In such cases, please make sure to obtain a TDS certificate as this will be an ultimate proof that your tax has been deducted at source.

How to apply for TDS refund

There is this major misconception that refund of excess TDS is different from income tax refund and is called as TDS refund. However, the fact is that there is only one kind of return which you claim while filing your annual income tax return. Nowadays, it is compulsory to quote bank account details such as account number and IFSC code while filing of return and non-

entering of such details will not generate a valid .xml file. In case if someone has deducted more tax than he should have deducted, then income tax refund will arise which can be claimed upon the filing of your annual income tax return.

For example, you own a goods transport agency and yours is a proprietorship firm. You presented an invoice of Rs 50,000/- and the person paying freight paid you a net amount of Rs 49,000/- (after deducting tax of Rs 1,000/- @ 2% under section 194C). In this case, the deductor deducted tax @ 2% instead of 1% and hence deducted excess TDS by Rs 500/-. This excess TDS will arise as a refund in the income tax return.

Applicability of TDS on transactions of immovable property.

There are mainly two sections that prescribe for deduction of taxes on transactions related to an immovable property:

1. Section 194-I: Section 194-I requires for deduction of tax at source on rental income @ 10% for rent on land & building if the total amount of rent paid/credited or to be paid/to be credited exceeds the cap of Rs 1,80,000/- during a financial year. Please note that individuals and HUFs who are not subject to tax audits under section 44AB need not deduct tax at source on such rental expenses.
2. Section 194IA: Section 194IA came into effect from June 2013 which required deduction of tax by the transferee before making payment to transferor @ 1% of the consideration for immovable property. Any sum paid by way of consideration for the transfer of any immovable property (other than agricultural land) is covered under section 194-IA, provided the consideration for the transfer of an immovable property is not less than Rs. 50 lakhs.
3. Section 194LA: Section 194LA provides for deduction of tax at source @ 10% for the payment to be made to the assessee as a compensation on account of compulsory acquisition of immovable property. Please note that no deduction shall be made under this section where the amount of such payment or, as the case may be, the aggregate amount of such payments to a resident during the financial year does not exceed Rs 250000/-.

Follow the instruction below for the e-filing of TDS return:

Choose the appropriate file format.

The file should be in a clean text ASCII format with 'txt' as the filename extension. You can also download the free software to prepare the return file using the Return Preparation Utility provided by NSDL or any other third party software.

Once the file is prepared, validate the file using the File Validation Utility (FVU) provided by NSDL.

Rectify the errors, if found by FVU.

Generated .fvu file can either be submitted at TIN-FC or uploaded at www.tin-nsdl.com website

Challan for TDS Payment

Challan ITNS 281 is the Challan form for payment of TDS (Tax Deducted at Source) and TCS (Tax Collected at Source). **Challan No. 281** is applicable for Tax Deducted at Source / Tax Collected at Source (TDS/TCS) from corporates as well as non-corporates.

Challan TDS 281

The challan no. 281 is used for deposits of TDS/TCS. By using the form, you will need to mention the correct 10-digit Tax Deduction Account Number (TAN), name, and address of the deductor on each challan used for depositing tax. You can verify the TAN details from Income Tax Department website – www.incometaxindia.gov.in prior to depositing TDS/TCS. As a taxpayer, you will require using separate challans to deposit tax deducted under each section and indicate the correct nature of payment code in the relevant column in the challan.

The author is the founder of Compliance Educom (csvjyadav.blogspot.com) a consultancy firm in Sector 18 (Noida) for filing income tax returns, company incorporation, Post Incorporation compliances, Accounting/Bookkeeping, audits, FEMA, Brand Registrations, Digital Signatures and related compliances etc. He can be contacted at: csvjyadav@gmail.com or Mobile: +91-9810759250.

DISCLAIMER: The information is based on the analysis of the facts and our understanding and interpretation of applicable laws as on date. We expressly disclaim any financial or other responsibility arising due to any action taken by any person on the basis of this note.

Author Bio

Name: Vijay Yadav

Qualification: Student - CA/CS/CMA

Company: Compliance Educom

Location: Noida, Uttar Pradesh, IN

