CHAPTER 9

PROVISIONS CONCERNING ADVANCE TAX AND TAX DEDUCTED AT SOURCE

Question 1

Briefly discuss the provisions relating to payment of advance tax on income arising from capital gains and casual income.

Answer

The proviso to section 234C contains the provisions for payment of advance tax in case of capital gains and casual income.

Advance tax is payable by an assessee on his/its total income, which includes capital gains and casual income like income from lotteries, crossword puzzles, etc.

Since it is not possible for the assessee to estimate his capital gains, or income from lotteries etc. it has been provided that if any such income arises after the due date for any installment, then, the entire amount of the tax payable (after considering tax deducted at source) on such capital gains or casual income should be paid in the remaining installments of advance tax, which are due.

Where no such installment is due, the entire tax should be paid by 31st March of the relevant financial year.

No interest liability on late payment would arise if the entire tax liability is so paid.

Question 2

What are the due dates of instalments and the quantum of advance tax payable by companies?

Answer

The due dates of installments and quantum of advance tax payable by a company assessee are as under:

Due date of installment	Amount payable
On or before the 15th June	Not less than 15% of advance tax liability
On or before the 15th September	Not less than 45% of advance tax liability as reduced by the amount paid in earlier installment

On or before the 15th December	Not less than 75% of advance tax liability as reduced by the amount paid in earlier installments
On or before the 15th March	The whole amount of advance tax liability as reduced by the amount paid in earlier installments

Question 3

What are the consequences of failure to deduct tax at source or pay the tax deducted at source to the credit of Central Government?

Answer

Refer to pages 9.30 & 9.31 of Study Material.

Question 4

Briefly explain the provisions of section 197 in respect of obtaining certificate for deduction of tax at a lower rate.

Answer

Refer to page 9.26 of Study Material

Question 5

When will tax not required to be deducted at source under section 193 on interest payable to a resident on any security issued by a company ?

Answer

As per section 193, no tax is required to be deducted at source on any interest payable to a resident on any security issued by a company, where the following conditions are satisfied -

(i) where such security is in dematerialised form and

(ii) is listed on a recognised stock exchange in India.

Question 6

Mrs. Indira, a landlord, derived income from rent from letting a house property to M/s Vaibhav Corporation Ltd. of Rs.1,00,000 per month. She charged service tax @ 10.3% on lease rent charges. Calculate the deduction of tax at source (TDS) to be made by M/s Vaibhavi Corporation Ltd. on payment made to Mrs. Indira and narrate related formalities in relation to TDS. What are the consequences of failure to deduct or pay TDS?

Answer

(1) As per Circular No. 4/2008 dated 28th April, 2008 issued by the CBDT, the service tax paid by the tenant does not partake the nature of income of the landlord. The landlord only acts as a collecting agency for collection of service tax. Therefore, tax deducted at source under section 194-I would be required to be made on the amount of rent paid or payable excluding the amount of service tax, i.e. tax has to be deducted under section 194-I on Rs.12 lakh.

(2) Tax is deductible @ 10% under section 194-I.

(3) Hence, in the given case, TDS under section 194-I would amount to Rs.10,000, to be deducted every month.

(4) Tax deducted should be deposited within prescribed time i,.e. on or before seven days from the end of the month in which the deduction is made.

Consequences of failure to deduct or pay tax (Section 201)

Refer pages 9.30 & 9.31 of Study Material.

Question 7

Explain the difference between tax deduction at source and tax collection at source.

Answer

Tax deduction at source means any tax which has been deducted at source by the payer at the time of accrual or payment to the payee. Persons responsible for making payment of income covered by the scheme of tax deduction are required to be deducting tax at source at the prescribed rates. Tax so deducted should be deposited within the prescribed time. Tax is largely deducted on expense and not supply of goods.

Tax collection at source is effected by the seller from the buyer at the time of debiting the amount to the account of the buyer or at the time of receipt of amount, whichever is earlier. Certain specified goods when sold must be subjected to tax collection at source and taxes collected thereon must be remitted into government's account within the prescribed time.