Assessee Obligation

3.1 Assessee Obligation – An overview

- **Assessee obligation under income–tax Act:**
  - (i) Estimate the current income and pay **"advance tax"** if income exceeds 'basic exemption limit'
  - (ii) Trace the account of **"tax deducted and collected at source"** before discharging tax liability.
  - (iii) File return of income **within due date**, as specified under section 139(1)
  - (iv) Before filing **pay entire tax** due and attach proof of deposit with return of income (ROI).
  - (v) The income mentioned in the ROI by assessee is called **"taxable income or returned income"**.
- Return of income is to be filed by assessee under any of the sections namely section 139(1), 139(3), 139(4), 139(5), 142(1), 148 and section 153A.
- **Section 2(7):** Assessee means a person by whom any tax or any other sum payable under this Act and includes **(i)** every person in respect of whom any proceeding under this Act has been taken place; **(ii)** every person who is deemed to be an assessee under any provision of this Act; **(iii)** every person who is assessee is in default under this Act.

3.2 Section 207 to 219: Advance tax – Synopsis

- Since not all types of payment are not covered in the tax deducted at source, the concept of advance tax is introduced to ensure payment of taxes on the basis of "**Pay as you earn"**
- **Sec. 208:** Payment of advance tax arises where the **total tax payable is ₹ 10,000 p.a. or more.**
- Interest u/s 234B and 234C **is not liable** where tax is less than ₹10,000 p.a.
- **Exception for advance tax compliance: Section 140A (Payment at the time of filing return is sufficient compliance)**
  - ✓ The person, who **opted presumptive taxation u/s 44AD** even tax payable exceeds ₹ 10,000 p.a.
  - ✓ A resident individual who does not have any business/profession income and of age 60 years or more.
- **Sec. 210:** If assessment has already been made on an assessee for any previous year **(and)** the assessing officer is of the opinion that such person is liable to pay advance tax, then he may at any time during the FY **but not later than February by order in writing** require to pay advance tax.
  - ✓ **No appeal** is possible against an order passed u/s. 210
  - ✓ Non-compliance of order results in **assessee is in default** u/s. 220
  - ✓ Sec. 210 order is permitted **only for completed assessments**.
- An assessee has to estimate his current income and pay advance tax thereon.
- **Sec. 209:** Only TDS/TCS **actually deducted or collected** shall be reduced while computing advance tax liability.
- If last date of payment is a public holiday; next immediately following working day is the due date. Interest u/s 234B and 234C is not liable to pay.
- Where the assessee **does not pay** any installment by the due date, he shall be deemed to be **an assessee is in-default** in respect of such installment.
- Section 234A and section 234B interest were computed on the **"assessed income"**, where as section 234C interest is computed on **"returned income"**

3.2.1 Statement of due date of advance tax

Installment	due date (on or before)	Corporate assessees (not less than)	Non-corporate assessees (not less than)
I	15th June	15%	NIL
II	15th September	45% as reduced by earlier installment	30%
III	15th December	75% as reduced by earlier installments	60% as reduced by earlier installment
IV	15th March	The whole amount as reduced by earlier installments	

- **Note:** no interest would be levied if 1st and 2nd installments are **paid up to** 12% and 36% as against 15% and 45% of tax in case of corporate assessees.

3.2.2 Section 234B: Interest on non-payment of advance tax

- If assessee has not paid advance tax **(or)** payment of advance tax is less than **90% of assessed tax**.
- Assessed tax refers tax on total income u/s 143(1) **as reduced by (i)** tax deducted at source; **(ii)** relief u/s 90 or 90A; **(iii)** any deduction of tax u/s 91; **(iv) any MAT/AMT** credit **{(w.e.f. 01.04.2012)}**
- **Sec. 234B (1):** 1% per month or part of month on the amount of tax short paid (less than **90%**), starting from 1st April **following the end of the financial year** till the date of payment or assessment.
- **Sec. 234B (3):** 1% per month or part of month from next day of regular assessment to date of payment, where notice is issued u/s 147 or u/s 153A.
- **Interest = {(shortfall x 1% pm x period of default)}**
- **Provision Illustration:**

Due date for filing AY 15-16	:	30.09.2015	Tax liability	:	₹ 25,00,000
Tax deducted at source	:	₹ 340,000	Advance tax paid	:	₹ 19,00,000
Short fall in payment of tax	:	₹ 260,000	Date of filing	:	20.09.2015

- In order to check whether interest is levied or not, first check 90% of total tax liability (after netting of TDS) has been paid by way of advance tax. In this case 90% of total tax liability works out to ₹19,44,000 {(25,00,000 – 340,000) x 90%}. Advance tax made only ₹ 19,00,000. Hence liable to pay interest u/s 234B of the Act which works out as ₹ 2,60,000 x 1% x 6 months.

3.2.3 Section 234C: interest on deferment of advance tax

- Advance tax installments are not properly paid **(or)** if payment is deferred over other installments.
- In case of corporate assessee, no interest would be levied if 1st and 2nd installments are paid up to 12% and 36% as against 15% and 45% of tax due on the **returned income.** (80% of returned income)
- **Interest = {(shortfall x 1% pm x period of default)}**
- Tax credit relating to tax liability u/s 115JC **has to be reduced** for computing tax due on the returned income.
- **Provision Illustration:**

Due date for filing AY 15-16	:	30.09.2015	Tax liability	:	₹ 25,00,000
Tax deducted at source	:	₹ 340,000	Advance tax payable	:	₹ 21,60,000
Advance tax actually paid	:	₹ 19,10,000	Date of filing	:	20.09.2015

Statement of interest u/s 234C computation					
Due date for advance tax	**Tax due %**	**Cumulative tax payable**	**Cumulative taxes paid**	**Shortfall in taxes**	**Interest at 1%**
(a)	**(b)**	**(c)=21,60,000 x b**	**(d)= 19,10,000 x b**	**(e) = d-c**	**(f) = e x 1% x months**
15.06.2014	12	2,59,200	2,29,200	30,000	900
15.09.2014	36	7,77,600	6,87,600	90,000	2,700
15.12.2014	75	16,20,000	14,32,500	1,87,500	5,625
15.03.2015	100	21,60,000	19,10,000	2,50,000	2,500
Interest u/s 234C					**11,725**

Best wishes from **Chakravarthi Murali**
quickinsightdt@gmail.com