

TAX DEDUCTED AT SOURCE

For Financial Year 2020 - 21



What is Tax Deducted at Source (TDS)?

Tax Deducted at Source (TDS)

Tax deduction at source (TDS) is an instrument designed for quick and smooth collection of tax due to the authorities from the taxpayer. The objective of TDS could be said, in general, to be maximization of revenue collection while minimizing the cost of collection

TDS is one of the modes of collection of taxes, by which a certain percentage of amounts are deducted by a person at the time of making/crediting certain specific nature of payment to the other person and deducted amount is remitted to the Government account.



Need for TDS?

- Income is earned over a period of time but the assessment/ determination of tax liability takes place much later
- Hence,
 - To avoid a liquidity problem for the tax payer and
 - to ensure a regular flow of revenue for the government
- The Income tax Act has provided for periodic recovery of tax from income liable to tax by requiring the tax to be deducted at source from certain income/payments as and when such income/payments are credited



Concept of TDS

- The concept of TDS is that the person responsible for making certain specified payments is required to deduct tax at the prescribed rates from the payments made to a specified recipient in accordance with the provisions of the Income Tax Act.
- It facilitates sharing of responsibility of tax collection between the deductor and the tax administration. It ensures regular inflow of cash resources to the Government. It acts as a powerful instrument to prevent tax evasion as well as expands the tax net.



shutterstock.com • 1021407655

Who is required to deduct TDS ?

- Every person responsible for making payment of nature covered by TDS provisions of Income Tax Act shall be responsible to deduct tax.
- However in case of payments made under sec. 194A, 194C, 194H, 194I and 194J in respect of individual and HUF, only if the turnover or professional receipt exceeds sum of Rs. 1 Crore or Rs. 50 lakh respectively in previous year, he is required to deduct tax at source.
- However, in case of rent payments made by individuals and HUF exceeding Rs 50,000 per month, are required to deduct TDS @ 5% even if the individual or HUF is not liable for a tax audit. Also, such Individuals and HUF liable to deduct TDS @ 5% need not apply for TAN.
- **These persons are mainly:**
 - Principal Officer of a company for TDS purpose including the employer in case of private employment or an employee making payment on behalf of the employer.
 - DDO (Drawing & Disbursing Officer), In case of Govt. Office any officer designated as such.
 - In the case of "interest on securities" other than payments made by or on behalf of the Central govt. or the State Government, it is the local authority, corporation or company, including the Principal Officer thereof.

Such person is called **Deductor** while the person from whom the tax is deducted is called **Deductee**.

Responsibility of Deductor/collector

- Deduct Tax at the time of payment/credit
- ✓ Any person responsible for paying any sum, on which tax is deductible, shall deduct tax at the prescribed rates at the time of payment/credit.
- ✓ Tax must be deducted at the time of payment in cash or cheque or credit to the payee's account whichever is earlier. Credit to payable account or suspense account is also considered to be credit to payee's account and TDS must be made at the time of such credit.
- Deposit deducted tax within the prescribed time limits:
 - ✓ In case of Government deductors:
 - on the same day where the tax is paid without production of an income-tax challan; and
 - 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.
 - ✓ In case of Others :
 - on or before 30th day of April where the income or amount is credited or paid in the month of March; and for TDS made in March : On or before 30th April
 - 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.



shutterstock.com • 63046336

TAN (Tax Deduction Account Number)

- TAN stands for Tax Deduction Account Number. It 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.




Payments Covered under TDS (Overview)

- Salary (Sec.192)
- Interest on Securities (Sec.193)
- Dividends (Sec.194)
- Interest other than Interest on Securities (Sec.194A)
- Winnings from Lotteries or crossword puzzles (Sec.194B)
- Winnings from Horse Races (Sec.194BB)
- Payments to Contractors and Sub-contractors (Sec.194C)
- Insurance Commission (Sec.194D)
- Payment to Non-resident sportsmen or sports association (Sec.194E)
- Payment in respect of NSC (Sec. 194EE)

Payments Covered under TDS (Overview) Contd.

- Payments in respect of Repurchase of units of Mutual Funds or UTI (Sec.194F)
- Commission on Sale of Lottery Tickets (Sec.194G)
- Commission or Brokerage (Sec.194H)
- Rent (Sec.194I)
- TDS on transfer of Immovable property (Sec. 194IA)
- Fees for Professional or Technical Services (Sec.194J)
- Payment of Compensation on acquisition of certain immovable property (Sec.194LA)
- Other Sums (Sec.195)
- Long term capital gain from units (Sec.196B)
- Income or Long term capital gain from Foreign Currency bonds/Global Depository Receipts (Sec.196C)
- Income of Foreign Institutional Investors from Securities (Sec.196D)

TDS on Salary (192)

Query	Response	<p>TDS ON SALARY <u>Section 192B</u></p> 
Who is Payer/ Deductor	Employer	
Who is recipient/ Deductee	Employee	
Payment covered	Taxable salary of employee and TDS to be deducted at time of payment.	
Maximum amount that can be paid without TDS deduction	Maximum limit not chargeable to tax i.e. Rs.2.5 Lakhs or TDS not arising in salary i.e. below Rs.5 lakhs	
Rate of deduction	TDS to computed on annual basis and amount to be distributed each month equally.	
Possibility of no tax or lower tax deduction	Yes, make an application to Assessing officer in Form 13 for no deduction or lower deduction	

TDS on Interest other than on securities (194A)

Query	Response
Who is Payer/ Deductor	Any person other than Individual and HUF paying interest other than on Securities Eg: Interest on Fd, loans etc
Who is recipient/ Deductee	Any person receiving
Payment covered	Interest other than securities
Maximum amount that can be paid without TDS deduction	Bank., co-op Soc & Post office- Rs,40,000 , senior citizen – Rs. 50,000 and other Rs.5000/-
Rate of deduction	10%
Possibility of no tax or lower tax deduction	Form 15G and 15H Form 13

TDS on Winning from lotteries or puzzles (194B)

Query	Response
Who is Payer/ Deductor	Any person paying winnings from lotteries/crossword puzzles/card games/othergames
Who is recipient/ Deductee	Any person winning
Payment covered	Winnings from lotteries/crossword puzzles/card games/other games and TDS to be deducted at time of payment
Maximum amount that can be paid without TDS deduction	If the amount payment is ` 10000/- or less than ` 10000/-
Rate of deduction	30%
Possibility of no tax or lower tax deduction	NA

TDS on Winning from Horseraces (194BB)

Query	Response
Who is Payer/ Deductor	Any person paying winnings from Horseraces
Who is recipient/ Deductee	Any person winning
Payment covered	Winnings from horse races
Maximum amount that can be paid without TDS deduction	If the amount payment is Rs.10000/- or less than Rs.10000/-
Rate of deduction	30%
Possibility of no tax or lower tax deduction	NA

TDS on Payment to Sub contractor & contractor (194C)

Query	Response
Who is Payer/ Deductor	Specified Person
Who is recipient/ Deductee	A Resident person
Payment covered	Consideration for any work contract
Rate of TDS	1% in case of Individual & HUF and 2% in any other case.
Maximum amount that can be paid without TDS deduction	If the single contract does not exceed Rs.30,000/- and aggregate amount during the year does not exceed Rs.1 Lakhs
At what time TDS has to be deducted	Payment or credit which ever is earlier
Possibility of no tax or lower tax deduction	The recipient can make application to the Assessing Officer in Form No. 13

TDS on Payment to Sub contractor & contractor (194C)

“specified person’ mentioned above means the following –

- The Central or State Government;
- The local authority;
- The Corporation established by the Central, State or Provincial Act;
- The Company;
- The Trust;
- The Co-operative Society;
- The registered Society;
- The authority engaged either for the purpose of dealing with and satisfying the need for the housing accommodation or for planning, improvement or development of cities, town and village;
- The university established / incorporated by Central, State or Provincial Act;
- The firm;
- The Government of a foreign state / a foreign enterprise or any association / body established outside India;
- The individual or HUF liable to audit under section 44AB [Clause (a) or Clause (b)] during the financial year immediately preceding the financial year in which the sum is credited or paid to the account of the contractor.

Further, it is mention here that the term ‘contract’ includes ‘sub-contract’.

Explaining the meaning of the term ‘work’ –

The term ‘work’ includes the following –

- Advertising;
- Carriage of goods / passengers by any mode of transport except railway;
- Broadcasting and telecasting (which also includes the production of programmes for such broadcasting or telecasting);
- Catering;
- Manufacturing / supplying a product based on the requirement and specification of customers by using material purchased from the customer. However, it doesn’t include when the material is purchased from any person other than the customer.



TDS on Insurance commission (194D)

Query	Response
Who is Payer/ Deductor	Person paying Insurance commission
Who is recipient/ Deductee	A Resident person
Payment covered	Insurance
Rate of TDS	10% Domestic company and 5% for other than domestic
Maximum amount that can be paid without TDS deduction	If the amount payment is Rs.15000/- or less than Rs.15000/-
At what time TDS has to be deducted	Payment or credit which ever is earlier
Possibility of no tax or lower tax deduction	The recipient can make application to the Assessing Officer in Form No. 13

TDS on Commission and Brokerage (194H)

Query	Response
Who is Payer/ Deductor	Person paying commission or brokerage
Who is recipient/ Deductee	A Resident person
Payment covered	Commission or brokerage (not being insurance commission)
Rate of TDS	5%
Maximum amount that can be paid without TDS deduction	If the amount payment is Rs.15000/- or less than Rs.15000/-
At what time TDS has to be deducted	Payment or credit which ever is earlier
Possibility of no tax or lower tax deduction	The recipient can make application to the Assessing Officer in Form No. 13

TDS on Rent (194I)

Query	Response
Who is Payer/ Deductor	Any person paying rent (not being an individual or HUF whose books of account are not required to be audited under section 44AB in the immediately preceding financial year)
Who is recipient/ Deductee	A Resident person
Payment covered	Rent
Rate of TDS	For rent of Plant and Machinery @2% and For rent of Land or Building including Furniture etc. @10%
Maximum amount that can be paid without TDS deduction	If the amount payment is Rs.2,40,000/- or less than Rs.2,40,000/-

TDS on Rent (194I) (Contd.)

At what time TDS has to be deducted	Payment or credit which ever is earlier
Possibility of no tax or lower tax deduction	The recipient can make application to the Assessing Officer in Form No. 13



TDS on Transfer of Immovable property (194IA)

Query	Response
Who is Payer/ Deductor	Any person (transferee) who purchases any immovable property (whether residential or commercial) for a consideration
Who is recipient/ Deductee	A Resident person (Transferor)
Payment covered	Amount paid for such transfer
Rate of TDS	1% of amount to resident seller
Maximum amount that can be paid without TDS deduction	Rs.50 Lakhs
At what time TDS has to be deducted	Payment or credit which ever is earlier
Possibility of no tax or lower tax deduction	The recipient can obtain certificate under section 197.

TDS on Transfer of Immovable property (194IB)

Query	Response
Who is Payer/ Deductor	Tenant who is Individual or HUF it is to extend scope of 194I
Who is recipient/ Deductee	A Resident Landlord
Payment covered	Rent Paid and Rent means any payment done under any tenancy or lease or sub-lease or any agreement or any arrangement for the use of any land or building or both.
Rate of TDS	5% of Rent
Maximum amount that can be paid without TDS deduction	Rs.50,000 Per month
At what time TDS has to be deducted	Payment or credit (or last month of vacant if vacated) which ever is earlier
Possibility of no tax or lower tax deduction	The recipient can obtain certificate under section 197.

TDS on Fees for Professional or Technical services (194J)

Query	Response
Who is Payer/ Deductor	Any person paying professional charges (not being an individual or HUF whose books of account are not required to be audited under section 44AB in the immediately preceding financial year)
Who is recipient/ Deductee	Any person
Payment covered	Professional Fees, Technical Fees or Royalty
Rate of TDS	10 % of value (Technical services call center and cinematographic films-2%)
Maximum amount that can be paid without TDS deduction	Rs.30,000

TDS on Fees for Professional or Technical services (194J)

Query	Response
At what time TDS has to be deducted	Payment or credit whichever ever is earlier
Possibility of no tax or lower tax deduction	The recipient can obtain certificate under section 197.

Every person making payment of the following notified services is required to deduct TDS under **section 194J of the Income Tax Act, 1961** –

- **Fees for professional services;**
- **Fees for technical services;**
- Royalty;
- Remuneration / fees / commission paid to director of the company (excluding salary);
- Fees paid for not carrying out any activity in relation to any business or profession;
- Fees paid for not sharing any technical know-how, copyright, trade mark, patent or any other business or commercial rights of the same nature.

TDS on Certain Payments made by Ind/HUF (194M)

Query	Response
Who is Payer/ Deductor	An individual or HUF other than required to get audited
Who is recipient/ Deductee	A Resident person
Payment covered	Paying any sum to any resident for carrying out any work (including supply of labour for carrying out any work) in pursuance of a contract, by way of commission (not being insurance commission referred to in section 194D) or brokerage or by way of fees for professional services during the financial year.
Rate of deduction	5% of payment or credit.
Maximum amount that can be paid without TDS deduction	If the aggregate amount paid or payable during the financial year to a resident exceeds 50 Lakhs.
At what time TDS has to be deducted	At the time of credit of such sum or at the time of payment of such sum in cash or by issue of a cheque or draft or by any other mode, whichever is earlier
Possibility of no tax or lower tax deduction	Recipient may apply for Nil/lower deduction certificate under section 197.

TDS on Cash Withdrawals in excess of 1Cr. (194N)

Query	Response
Who is Payer/ Deductor	Any Bank, Co-operative Bank, Post Office
Who is recipient/ Deductee	Any Person
Payment covered	When the aggregate amount of cash withdrawal during the previous year by a person from one or more of his bank or post office account, as the case may be, exceeds Rs. 1 Crore
Rate of deduction	2% on the amount of cash withdrawal exceeding Rs. 1 crore and all return filled for 3 years and return not filed: 01/07/2020 -- 20 lakhs to 1 crore -2 % Exceeding 1 crore- 5%
Maximum amount that can be paid without TDS deduction	If a person withdraws an amount of less than or equal to Rs. 1 crore.
At what time TDS has to be deducted	The tax will be deducted by the payer while making payment to any individual in cash from a taxpayer's bank account on the amount in excess of Rs 1 crore.
Possibility of no tax or lower tax deduction	NA

Due dates for filling TDS/TCS Returns

Form No.	Particulars
Form 24Q	Statement for tax deducted at source from salaries
Form 26Q	Statement for tax deducted at source on all payments except salaries
Form 27Q	Statement for deduction of tax from interest, dividend, or any other sum payable to non-residents
Form 27EQ	Statement of collection of tax at source

Quarter	Due Date for Form 24Q & Form 26Q	Form 27Q	Form 27EQ
April to June	31st July	31st July	15th July
July to Sept	31st Oct	31st Oct	15th Oct
Oct to Dec	31st Jan	31st Jan	15th Jan
Jan to March	31st May	31st May	15th May

Consequences of Non Compliances – TDS Provisions

1. Expenditure claimed disallowed

- As per section 40(a)(ia) of the IT Act, the following expenditure will be disallowed from computation of business income of the deductor, if TDS is not made or tax deducted has not been paid on or before the due date for filing return of income. Interest (TDS u/s 194A);
 - Commission or Brokerage (TDS u/s 194H);
 - Rent (TDS u/s 194I);
 - Professional/technical fee/Royalty (TDS u/s 194J);
 - Amount paid to a contractor or sub contractor (TDS u/s 194C).

30% of amount will be disallowed.

The above expenditure will be allowed as a deduction in computing the income of the previous year in which such TDS has been paid

Consequences of Non Compliances – TDS Provisions

2. Assessee in default

- An assessee shall be deemed to be in default in respect of :
 - ✓ Non deduction of tax at source
 - ✓ Non payment, in whole or in part, of the tax deducted

The Assessee shall not be treated as assessee in default if:

- The recipient has included such income in the return submitted u/s.139 and has paid tax on such income and
- The payee submits a certificate to this effect from a chartered accountant (Form No.26A)
- If any deductor who is not considered as an assessee in default as per the above provision, interest u/s.201(1A) under clause(1) shall be payable from the date on which such tax was deductible to the date of furnishing of return of income

Consequences of Non Compliances – TDS Provision

- 3. Interest under section 201(1A)

Nature of Default	Interest
<p>Non-deduction of tax at source, either in whole or part. After deduction, non payment of tax, either in whole or part. Nonpayment of tax u/s 192(1A).</p>	<ul style="list-style-type: none"> ➤ simple interest @ 1% per month from the date on which tax was deductible to the date on which tax is actually Deducted ➤ simple interest @1.5% per month from the date on which tax was deducted to the date on which tax is actually paid



Consequences of Non Compliances – TDS Provision

4. Levy of fee u/s 234E (w.e.f. 01.07.2012)

- Failure to file TDS/TCS quarterly statements shall be liable for a fee of Rs.200 per day of default and shall not exceed the amount of tax deductible or collectible. The fee shall be paid before delivering the quarterly statements.



Consequences of Non Compliances – TDS Provision

- 5. Penalty

Section	Nature of Default	Penalty
272 B	Failure to comply with provisions of Section 139A for quoting Pan	Rs.10,000/-
272BB	Failure to obtain TAN	Rs.10,000/-
272A(2)	1. Failure to issue TDS certificates 2. Failure to deliver declaration in Form 15G/15H 3. Failure to file quarterly statements (only till 30-06-2012)	Rs.100 for every day during which the failure continues but the penalty shall not exceed the amount of tax Deductible

Consequences of Non Compliances – TDS Provision

6. Prosecution

Section	Nature of Default	Prosecution
276B	Failure to pay Tax Deducted at Source	Punishable with rigorous imprisonment for minimum 3 months , maximum 7 years and with fine
276BB	Failure to pay Tax Collected at Source (TCS)	Punishable with rigorous imprisonment for minimum 3 months , maximum 7 years and with fine



Some Peculiar Issues

- **Amendment in TDS provisions do not cast a liability to deduct tax on amount already credited or paid before such amendment**

The Bangalore bench of the Income Tax Appellate Tribunal in the case of Wifi Networks Pvt. Ltd. held that if the payment is made subsequent to an amendment in TDS provisions under the Income Tax Act, there is no obligation to deduct tax where the amount is paid or credited before such amendment.

Some Peculiar Issues

An employer is under no obligation to collect and examine the supporting evidence to a declaration submitted by an employee

The Supreme Court held that an employer is under no obligation to collect and examine the supporting evidence to a declaration submitted by an employee to the effect that he has actually utilised the amounts for the specified purposes in deciding the liability to TDS u/s. 192. This was decided by SC in the case of ITI Limited v CIT. Same was also confirmed in the case of CIT v Larsen & Toubro.

Some Peculiar Issues

S. 194J applies to payments made to non-professionals such as hospitals by TPA(Third party Administrators)

It has been decided by Delhi High Court that though a hospital by itself, being an artificial entity, is not a “medical professional”, yet it provides medical services by engaging the services of doctors and qualified medical professionals. These are services rendered in the course of the carrying on of the medical profession. S. 194J applies to payments made to non-professionals such as hospitals. It was decided in the case Dedicated Health Care Services TPA vs. ACIT.

AJSH & Co LLP

C-7/227, Sector-7, Rohini,
New Delhi, India
110085

T: +91-11-4559 6689

E: info@ajsh.in

W: www.ajsh.in

Thank You!!

DISCLAIMER:

The contents of this presentation are confidential and intended for the named recipient(s) only. It shall not attach any liability on the originator or AJSH & Co LLP or its affiliates. Any form of reproduction, dissemination, copying, disclosure, modification, distribution and / or publication of this message without the prior written consent of AJSH & Co LLP is strictly prohibited. If you have received this presentation in error please delete it and notify the sender immediately.