

TDS (Tax Deducted at Source)

Introduction

TDS is only payment of tax on ad hoc basis by the payer of income on the behalf of recipient. The concept of TDS was introduced in order to collect tax from the payer of income who is liable to make payment of any specified nature to any other person (recipient) after deducting TDS and remit the same into central Government's account.

Note - While doing practical questions students will have to take 2019-2020 as previous year and 2020-2021 as assessment year.

Payments covered by TDS scheme

Following payments are covered under TDS scheme

1. Salary (to resident/non-resident)
2. Payments other than salary to residents (interest, dividend, rent, commission/brokerage, lottery winnings, winning of races, Technical/ professional fees, royalty etc.)
3. Payment to non-resident/ Foreign companies.

Payments not covered under TDS

- 1) Under sec 196, tax is not deductible in respect of amount payable to the following:-
 - Central Government or State Government.
 - RBI
 - A statutory corporation whose income is exempt from income tax
 - A mutual trust
- 2) Under Sec 197A(1D) Tax is not deductible by off- shore banking unit from interest paid to non-resident or not ordinarily resident.
- 3) Under Section 197A (1E)- No tax is deductible from any payment to any person for, or on behalf of, the new pension system trust.
- 4) Under Section 197A(1F) Tax is not deductible from specified payment mentioned below to a notified institution/ association
 - Certain payments given by person to a bank
 - Payments relating to software, if a few conditions given in notification no.21/2012, dated June 13,2012 are satisfied.
 - Any income given to investment trust which is exempt under section 10(23FBA)
 - Payment of rent to Tirumala TirupatiDevasthanams, Tirupati, Andhra Pradesh
 - Payments of nature specified in section 10(23DA) to securitisation trust.

Tax Deducted to be treated as income of deductee and available for tax credit (under Section 198 and 199)

- Credit of TDS and paid to Central government, shall be given to the deductee for the assessment year for which such income is assessable.
- Where tax has been deducted at source and paid to Central government and the income is assessable over no. of years, credit of TDS shall be allowed across those years in the same proposition in which the income is assessable to tax.

- If income on which tax has been deducted is assessable in the hands of a person other than the deductee, then tax credit will be given to such other person if

TDS Rates

- Normal TDS rates are applicable if recipient provides with PAN details. But if recipient doesn't provide PAN details to the deductor then tax will be deducted at normal rates or 20%, whichever is higher.
- Under section 94A(5), if payment of credit is made or given to a deductee who is located in notified jurisdictional area, tax is deductible at the rates given in the provisions of the act or at 30%, whichever is higher.

Surcharge on TDS(FY 2019-20)

- Payment of salary to a resident or non- resident.
- Payment/ credit (other than salary) to a non- resident (other than company)

(In both the cases stated above surcharge will be applicable at below mentioned rates.)

Amount Subject to TDS During FY 2019-20	Surcharge rate
Exceeds Rs 50 Lakh but doesn't exceed Rs1 crore	10%
Exceeds Rs 1 crore but doesn't exceed Rs2 crore	15%
Exceeds Rs 2 crore but doesn't exceed Rs5 crore	25%
Exceeds Rs 5 crore	37%

- In case of Payment/ credit (other than salary) to foreign company below mentioned rates of surcharge are applicable

Amount Subject to TDS during FY 2019-20	Surcharge rate
Exceeds Rs 1 crore but doesn't exceeds Rs 10 crore	2%
Exceeds Rs 10 crore	5%

Health & Education Cess (FY 2019-20)

Health and education cess is applicable at the rate of 4% in cases mentioned below

- Tax Deduction from payment of salary (Recipient/ Non-Resident)

- Tax Deduction from payment/ credit of any some (other than salary) to a non-resident or a foreign company.

(Note- In case of payment/credit other than salary (to a resident no surcharge and HEC is applicable)

Time of Deposit

S. no.	Situation	Time of deposit of TDS								
1	Tax is deducted by an office of Government and tax is paid without production of an IT challan	On the date of deduction of TDS								
2	Tax is deducted by an office of Government and tax is accomplished production of an IT challan	Within 7 days from the end of month in which tax is deducted.								
3	Tax is deducted by a person not (not being office of government)	Where income or amount is paid in the month of March- Tax should be deposited by April 30. Where income or amount is paid before 1 st March- Tax should be deposited within 7 days from the end of month in which tax is deducted.								
4	Tax is deducted by a person under section 194-IA (challan no. :Form 26QB)	Within 30 days from the last date of the month in which tax is deducted								
5	Tax is deducted by a person under section 194-IB (challan no. :Form 26QC)	Within 30 days from the last date of the month in which tax is deducted								
6.	Tax is deducted by a person (not being an office of the government) and assessing officer (with prior approval of joint commissioner) has permitted quarterly deposits of TDS under sec 192,194A, 194D and 194H	<table border="1"> <thead> <tr> <th>For the quarter ending on</th> <th>Tax should be deposited by</th> </tr> </thead> <tbody> <tr> <td>30th June</td> <td>7th July</td> </tr> <tr> <td>30th September</td> <td>7th October</td> </tr> <tr> <td>31st December</td> <td>7th January</td> </tr> </tbody> </table>	For the quarter ending on	Tax should be deposited by	30 th June	7 th July	30 th September	7 th October	31 st December	7 th January
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30 th June	7 th July									
30 th September	7 th October									
31 st December	7 th January									

		31 st March	30 th April
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Due date of Submission of quarterly returns

For the quarter ending on	TDS Returns
30 th June	31 st July
30 th September	31 st October
31 st December	31 st January
31 st March	31 st May

Consequences of Default

1. Disallowance under section 40(a) will be applicable.
2. Where a person who is required to deduct tax at source, doesn't deduct or after deducting, the whole or part of tax required by the act, then such person shall be deemed to be an assessee in default in respect of such tax under section 201(1).
3. Person shall be liable for payment of tax, interest, penalty, prosecution.

Relevant provisions of TDS

The following table summarises the relevant provisions related to TDS

S. No.	Section-Nature of Payment	Payer-Payee	When to deduct?	Threshold limit up to which no TDS obligation (in RS.)	Rates of TDS	Payment w/o TDS or lower TDS	Other points
1	Sec. 192 – Salary	Employer-Employee	Payment	Basic exemption limits (as per age of employee)	Slab rates, as applicable+ SC & HEC(if applicable)	Permissible u/s 197 * Also by furnishing form 12BB to employer	Note 1
2	Sec. 192A- withdrawal from EPF scheme (w.e.f. 1.6.2015)	Trustees of EPF scheme or any other person authorized to make payment - Employee	Payment	50,000 (30,000 prior to 1.6.2016)	10% (plus SC & HEC-if recipient is non- resident)	Permissible u/s 197A **	Tax is deductible from “ taxable premature withdrawal (Note-2)
3	Sec. 193- Interest on securities	Payer of such interest- A resident person holding securities	Earlier of Credit or Payment	5000 on debentures by widely-held company 10,000 on 8% Saving(taxable) Bonds, 2003 or 7.5% Relief Bonds, 2018	10% (No SC & HEC)	Permissible u/s 197 Permissible u/s 197A (with few conditions)	Exceptions (Note-3)
4	Sec. 194- Dividend (other than dividend referred to in sec 115-O)	Domestic Company- Resident Shareholder	Payment	Rs. 2,500 for individual payee (paid by an account payee cheque)	10% (No SC& HEC)	Permissible u/s 197 Permissible u/s 197A (with few conditions)	Exceptions (Note 4)
5	Sec. 194 A – Interest other than interest on securities	Any person paying interest –A resident person	Earlier of Credit or Payment	10,000 (50,00 if recipient is SC) paid by Bank/co-operative society/post office (For FY 2018-19) 40,000 (50,000 if recipient is SC) paid by Bank/co-operative society/post office(from April 1, 2019) 5,000 paid by any other person	10% (No SC& HEC)	Permissible u/s 197 Permissible u/s 197A (with few conditions)	Exceptions(Note 5)
6	Sec. 194B- Winnings from lotteries etc.	Any person paying winnings from Lotteries etc.- Any person	Payment	10,000	30%(No SC& HEC)	Not possible	-

7	Sec 194BB- Winning from Horse Races	Person paying Winning from Horse races – any person	Payment	10,000	30%(No SC& HEC)	Not Possible	-
8	194D- Insurance Commission	Any person paying insurance commission- A resident person	Earlier of Credit or Payment	15,000 in aggregate	5% in case recipient is a person other than company 10% otherwise(No SC& HEC)	Permissible u/s 197 Permissible u/s 197A (with few conditions)	-
9	194DA-	Any person paying sum under life insurance policy-A resident person	Payment	1,00,000 in aggregate	1% up to 31.8.19 5% (w.e.f. 01.09.19) (No SC& HEC)	Permissible u/s 197 Permissible u/s 197A (with few conditions)	No TDS applicable if the payment is exempt in the hands of receipt under section 10(10D)
10	194H- Commission or Brokerage	Any person paying commission or brokerage (not being individual/HUF covered u/s 44AB in preceding PY)- Any resident person	Earlier of Credit or Payment	15,000	5% (No SC& HEC)	Permissible u/s 197 Permissible u/s 197A (with few conditions)	-
11	194I-Rent- land, Building, Furniture, Fittings	Any person paying rent (not being individual/HUF covered u/s 44AB in preceding PY)- Any resident person	Earlier of Credit or Payment	1,80,000 (up to AY 2018-19) 2,40,000 (w .e.f. April 1, 2019)	2%- Plant and Machinery 10%- Land , Building, Furniture and Fittings	Permissible u/s 197 Permissible u/s 197A (with few conditions)	No TDS when rent is paid to real estate investment trust

***section 197-Certificate for NO/ or Lower TDS-**The recipient of the income may make an application in Form 13 for no deduction or lower deduction of tax to AO. The AO shall give him certificate for NO or deduction at lower rate as may be appropriate when satisfied that the total income of the recipient justifies no or deduction at lower rate than the specified rates. Thereupon, the payer of such income of the recipient shall deduct tax at the rates specified in such certificate until such certificate is cancelled.

**** Section 197A- Self Declaration for No TDS-**The recipient of income may make self declaration in form 15G or 15H (for SC) for no deduction of tax if tax on his total income of the PY will be NIL. This declaration is submitted by recipient to the payer (like in case of Saving Bank holder to his Bank).

Note -1

While computing TDS liability, employer is required to consider :

- HRA exemptions (if employee is paying rent and provide supporting documents to his employer)
- Any deduction available under sec 80 C, 80CCC, 80CCD, 80CCG, , 80D , 80DD, 80DDB, 80E, 80EE, 80EEA, 80EEB, 80G, 80GG, 80GGA, 80TTA, 80TTB, 80U. (if informed by employee other than PPF, NPS contribution which employer already know)

- Income other than salary (like –ve HP income, interest income)-though it is optional on the part of employee, employee can state these income in his return at the time of filing the return. However, employee having substantial –ve HP income can reduce his TDS liability by stating these incomes to his employee.

In case employee is employed by two or more employer during the PY, tax shall be deducted by all the employers. Employee is under obligation to declare salary received from previous employer and TDS in form 12B.

Note 2

Tax is deductible from accumulated lump sum payment (at the time of retirement or at the time of leaving job) in case the employee has not rendered continuous service of 5 years and he does not fall in any of the following cases-

- (1) If the employee has rendered continuous service with his employer for 5 years.
- (2) If the employee has been terminated because of certain reasons which are beyond his control (like ill health, discontinuous of business, completion of projects etc)
- (3) If employee has resigned before the completion of five years but he joins another employer and transferred PPF account to new employee.
- (4) If the entire amount in PPF account is invested in NPS.

Note -3

No tax is deductible from the amount of interest payable in the following case:

- (1) Any Security of Central/ State govt. (except interest exceeding Rs. 10,000 on 8% Saving (taxable) Bonds, 2003 or 7.5% Relief Bonds, 2018)
- (2) Debentures issued by any co-operative society or any other institution/ authority/ a public sector company notified by the central govt.
- (3) Any debenture issues by a widely-held company (a company in which the public is substantially interested), to an individual or a HUF, who is resident in India, where the aggregate of interest made by an account payee cheque and the amount (or aggregate amount) does not exceed Rs. 5000.
- (4) Any securities owned by the following or in which following have full interest:
 - LIC of India
 - GIC of India
 - Any of the four companies formed by the virtue of scheme formed u/s 16(1) of The General Insurance Business (Nationalisation) Act, 1972
 - Any other Insurer
- (5) Any listed security in India issued by a company if it is in dematerialized form.

Note 4

No tax is deductible from the amount of dividend payable in the following case:

- (1) Dividend is paid to an individual by an account payee cheque up to Rs. 2500 (in aggregate) during the PY.
- (2) Dividend is credited or paid to:
 - LIC of India
 - GIC of India
 - Any of the four companies formed by the virtue of scheme formed u/s 16(1) of The General Insurance Business(Nationalisation) Act, 1972
 - Any other Insurer

Note 5

Tax is not deductible in the following cases (major cases):

- (1) Interest is paid or credited to any banking company, co-operative bank, public financial institutions, LIC, UTI, an insurance company, co-operative society carrying on the business of insurance, or notified institutions;
- (2) Interest is credited or paid by the firm to its partners;
- (3) Interest is paid or credited by a co-operative society to its members or to any other co-operative society;
- (4) Interest is paid or credited in respect of deposits under the scheme of Post Office (time deposit or recurring deposit or monthly deposit scheme), Kisan Vikas Patra, NSC VIII issue, and Indira Vikas Patra;
- (5) Interest is paid or credited in respect of deposits with a primary agricultural society;
- (6) Interest is paid or credited by central govt. under different provisions of direct taxes (eg interest on refund).

Note – Few more provisions shall be covered in next module.