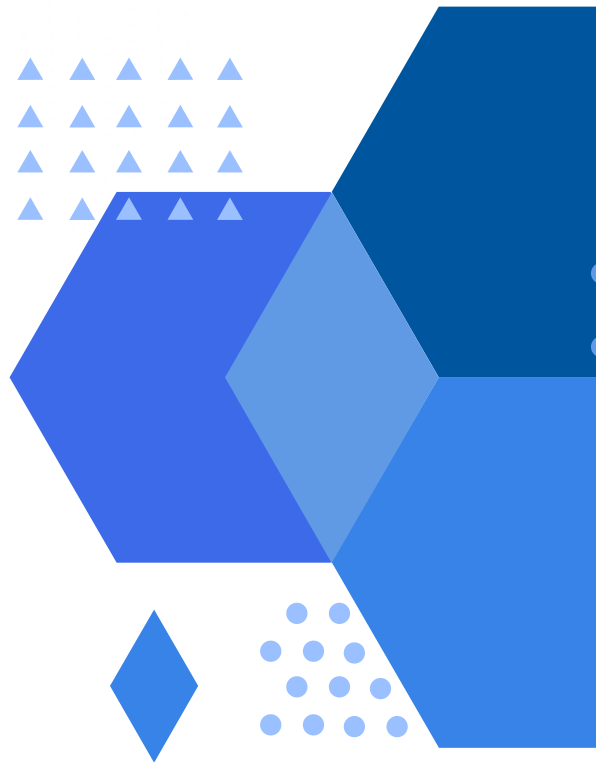




# **TAX DEDUCTION AT SOURCE ON PAYMENT & INCOME**



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# TAX DEDUCTION AT SOURCE ON PAYMENT & INCOME

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### SUMMARISED OVERVIEW

**1.1.01** Under the Income-tax Act, every person, including NGOs are required to deduct taxes at source (TDS) at the time of making payment or giving credit for various services. The important types of payment against which deduction of tax is mandatory are as under:

- Salaries if the amount of salary is above taxable limit, the TDS shall be at average rate to be computed specifically.
- Payment made to contractor & sub contractor if the amount exceeds Rs.30, 000/- in a single payment or Rs. 75,000/- in aggregate during the year. The TDS shall be at 1% for individuals/ HUF/ and 2% for others.
- Payment of rent if the amount exceeds Rs. 1, 80,000/- per year, the TDS shall be at 10%.
- Payment of fees for professional/ technical services, the TDS shall be at 10%.

**1.1.02** All organisations required to deduct TDS should apply for Tax Deduction Account Number in Form 49B. Every such person shall have to apply to the Assessing Officer for allotment of a Tax Deduction Account Number (TAN) under section 203A.

**1.1.03** All organisations should deduct tax at the rate specified. However, if the PAN number of the recipient is not available, then TDS should be deducted @ 20% of the amount paid.

**1.1.04** The TDS deducted should be deposited to the credit of the Central Government, within one week from end of the month in which deduction has been made.

**1.1.05** The organization should also file quarterly returns providing the TDS details.

**1.1.06** Failure to deduct TDS may attract interest, penalty and punishment.

**1.1.07** TDS is also required to be deducted on income of the organization against various investments. Normally, the banks deduct TDS against the interest income of the organization. An organization may apply to the Income Tax Officer in Form 13 for non

deduction of tax. It may be noted, earlier, it was permissible to file self declaration but w.e.f. 01.06.2002 any such self declaration is not acceptable. The organization has to obtain a certificate from the Income Tax Officer for non deduction of Tax.

## PROCEDURE FOR OBTAINING TAX DEDUCTION ACCOUNT NUMBER (TAN)

**1.2.01** All organisations which are required to deduct tax at source are required to obtain TAN from the Assessing Officer by making an application for the allotment of TAN in Form 49B of Income Tax Rules.

## MANDATORY NATURE OF PROVISIONS

**1.3.01** Under the income-tax law, it is mandatory to apply for and obtain TAN if an organisation is liable to deduct tax at source on certain payments which are

discussed in the following paras and the organisation deducting tax is required to quote the TAN in the following documents:

- (i) all challans while depositing the tax so deducted.
- (ii) all certificates issued against the tax deducted.
- (iii) all returns furnished in respect of tax deducted at source.
- (iv) all other documents pertaining to such transaction as may be prescribed.

## TYPES OF PAYMENTS REQUIRING TAX DEDUCTION AT SOURCE

**1.4.01** Section 200 of the Act specifies a list of payments which requires deduction of tax at source. From the viewpoint of voluntary organisations, the following are the important payments, in respect of which tax must be deducted at source:

Nature of payment	Amount above which TDS will operate in (Rs.)	Rate of Deduction
Salary	Salary incomes must be more than exemption limit after deductions.	Average Rate
Contract/Sub -contract**	30,000	Individual/HUF 1% other 2%
Interest	-	-
Rent (Land & Building)	1,80,000	10%
Rent (P&M, Equipment, Furniture & Fittings)	1,80,000	2%
Fees for Professional or Technical Service	30,000	10%
Any remuneration or commission paid to director of company (w.e.f.1 July 2012)	Any Amount	10%

**\*\* Tax shall be deducted at source where the amount credited/paid to a contractor/sub-contractor exceeds Rs. 30,000 in a single payment or Rs. 75,000 in the aggregate during the financial year.**

Note: If deductee's PAN is not available or invalid then 20% TDS will be deductible. TCS (Tax collected at source) by seller on bullions or jewellery (if sale consideration is paid in cash exceeding INR 2 Lakh) is 1% w.e.f. 1 July 2012.

## DEPOSIT OF TAX DEDUCTED AT SOURCE

**1.5.01** The tax deducted at source is required to be deposited to the credit of the Central Government within the stipulated time limit. Such deposit can be made in various specified scheduled banks with the help of TAN challans. Whenever a TDS is deposited, one should not forget to quote the TAN on challan.

**1.5.02** The time limit for depositing the amount of TDS is as under:

- For salaries as well as for other payments: within one week from the end of the month in which deduction has been made.

**1.5.03** However, in case of 'other payments' when amount is credited by a person to the payee's account as on the date up to which the accounts of such person are made : Within 2 months from the end of the month in which such date falls.

**1.5.04** With effect from 1-6-2004, the income-tax department has introduced OLTAS (online tax accounting system) wherein a single copy of Challan No. 281 is required to be filed.

## ISSUE OF CERTIFICATE

**1.6.01** Under section 203, the organization deducting TDS is required to issue a certificate to the person from whose income, tax has been deducted. This certificate will enable the person to claim credit for such tax deducted in his/her return of income. Organisations can prepare the certificate in their own stationery but in the prescribed form. The prescribed form is Form No.16/16AA for deduction of tax from salary. For all

other cases, it is Form No. 16A. Form 12BA is a statement showing particulars of perquisites, other fringe benefits or amenities and profits in lieu of salary with value thereof.

**1.6.02** Where the tax has been deducted or deposited on or after 1-4-2008, there is no requirement to furnish this certificate. However, the TDS certificate shall be issued by the prescribed income-tax authority or the person authorized by such authority within the prescribed time after the end of each financial year beginning on or after 1-4-2008 to the person from whose income, tax has been deducted at source or in respect of whose income, tax has been paid.

## RETURNS TO BE FURNISHED BY THE ORGANISATION

**1.7.01** All organisations responsible for deduction of tax at source are required to submit to the prescribed income-tax authority; a return(s) within a stipulated period after the end of the quarter. The relevant return form and the month by which it should be filed are as under :

## INTEREST, PENALTIES AND PUNISHMENT

**1.8.01** Failure to deduct income-tax at source on various payments as discussed may attract interest, penalty and even severe punishment.

- If an organization does not deduct tax or deducts tax but does not deposit the same then interest at the rate of 1 per cent for every month or part of a month on the amount of

Types of Return	Form No	Last date for Submission
Quarterly return for salaries and perquisites	24Q	15th July, 15th Oct., 15th Jan. & 15th May
Quarterly return for others	26Q	15th July, 15th Oct., 15th Jan. & 15th May

such tax from the date on which such tax was deductible to the date on which such tax is deducted and at the rate of 1.5 per cent for every month or part of a month on the amount of such tax from the date on which such tax was deducted to the date on which such tax is actually paid, under section 201(1A).

- Now from 1 July 2012 if TDS return is a filed late then late fee of Rs. 200 per day will have to be deposited before filing TDS/TCS return. However it is specified that late fees should not exceed TDS/TCS for that quarter. In addition to this, if TDS and interest due thereon is not deposited within one year from the due date, then penalty ranging from 10 thousand to 1 lakh rupees may be imposed.
- The Income-tax Department may also levy penalties to the extent of the amount of tax not deducted in cases of failure to deduct tax, under section 271C (1).
- If deductee's PAN is not available or invalid, then 20% TDS will be deductible.
- On furnishing wrong information (like wrong PAN & amount) in TDS return, penalty ranging from 10 thousand to 1 lakh rupees may be imposed.

## HOW TDS IS EXEMPTED ON INCOME OF NGOS

**1.9.01** TDS is also required to be deducted on income of the organization against various investments. Normally the banks deduct TDS against the interest income of the organization. An organization may apply to the Income Tax Officer in Form 13 for non deduction of tax.

**1.9.02** On payee's application in Form No. 13, if the Assessing Officer is satisfied that total income of payee justifies no deduction or deduction of tax at lower rate, he may issue an appropriate certificate to that effect to the payer.

**1.9.03** It may be noted that, earlier, it was permissible to file self declaration but w.e.f. 01.06.2002 any such self declaration is not acceptable.

**1.9.04** Under sub-section (1B) of section 197A, inserted by the Finance Act, 2002 w.e.f. 1-6-2002, the provisions of section 197A shall not apply where the amount of income on the following items, or the aggregate of such income, exceeds the maximum amount which is not chargeable to tax :

- (a) Interest on securities
- (b) Dividends
- (c) Interest other than interest on securities
- (d) Payments in respect of

deposits under National Savings Scheme

(e) Income in respect of units.

**1.9.05** In other words, if the income of a trust under any of the above items, or the aggregate income of the trust under all the above items, exceeds the prescribed limit, such a trust cannot *ab initio* file any declaration in respect of the above items, and even if it files a declaration, the payer cannot act on the same and make the payment without deducting tax at source. The payer has to just ignore the declaration and deduct tax at source. The organization has to obtain a certificate from the Income Tax Officer for non deduction of Tax.

**1.9.06 Persons covered** - The following persons are covered in this regard i.e. they have to apply to be the Income Tax Officer:

- (a) Persons in receipt of income or deemed income derived from property held under trust wholly for charitable purposes and who claim exemption under section 11 or section 12
- (b) Persons mentioned below who are required to file a return of income under section 139(4C) & (4D) :
  - (i) Scientific research association referred to in section 10(21);
  - (ii) News agency referred to in section 10(22B);
  - (iii) Association or institution referred to in section 10(23A);
  - (iv) Institution referred to in section 10(23B);
  - (v) Fund or trust referred to in section 10(23C)(iiia);
  - (vi) Fund or trust referred to

in section 10(23C)(iv);

(vii) Trust or institution referred to in section 10(23C)(v);

(viii) University or other educational institution referred to in section 10(23C)(vi);

(ix) Hospital or other medical institution referred to in section 10(23C)(vii);

(x) Trade Union or association referred to in section 10(24)(a)(b).

**1.9.07 Form of Application:** The persons mentioned above may make an application in Form No. 13 to the Assessing Officer for grant of a certificate under section 197(1) authorizing them to receive income of any type without deduction of tax at source, if the conditions mentioned below are satisfied.

**1.9.08 Conditions to be satisfied:** The persons must satisfy the following conditions in order to make the application in Form No. 13:

- (i) The persons must have furnished the returns of income for all the assessment years for which such returns became due on or before the date on which the application in Form No. 13 is made;
- (ii) the entity is for the time being approved for the purpose of exemption from income-tax;
- (iii) the applicant must give a list of deductors from whom amounts are to be received without deduction of tax at

source every six months along with the names, address and the amounts received.

**1.9.09 Issue of Certificate:** The Assessing Officer may issue a certificate authorizing payment of income without deduction of tax at source, if he is satisfied that all the conditions are fulfilled and that the issue of any such certificate will not be prejudicial to the interests of revenue. The certificate is to be handed over to the applicant.

**1.9.10 Validity of the Certificate:** The

certificate shall be valid for the financial year specified therein unless it is cancelled by the Assessing Officer at any time before the expiry of the period of validity of the earlier certificate.

**1.9.11 Issue of fresh Certificate:** If the assessee desires, he can make an application for a fresh certificate, after the expiry of the period of validity of the earlier certificate.

**1.9.12 Action by Applicant:** The applicant may furnish copies of certificate to the persons responsible for paying the income for the purpose of no deduction of tax at source.

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*(Dr. Manoj Fogla - Senior Chartered Accountant and a Consultant with many Voluntary Organisations.)*