

FAQ: Tax Deducted at Source (TDS)

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Q1. What is Tax Deducted at Source (TDS)?

For quick and efficient collection of taxes, the Income-tax Law has incorporated a system of deduction of tax at the point of generation of income. This system is called “Tax Deduction at Source”, commonly known as TDS. Under this system tax is deducted at the origin of the income. Tax is deducted by the payer and is remitted to the Government by the payer on behalf of the payee.

The provisions of deduction of tax at source are applicable to several payments such as salary, interest, commission, brokerage, professional fees, royalty, contract payments, etc. In respect of payments to which the TDS provisions apply, the payer has to deduct tax at source on the payments made by him and he has to deposit the tax deducted by him to the credit of the Government.

Q2. What are the payments covered under the TDS mechanism and the rates for deduction of tax at source?

Tax is deductible at source at the rates given in table below :“ Rate of TDS for FY 2023-24”. If PAN of the deductee is not intimated to the deductor, tax will be deducted at source by virtue of section 206AA either at the rate given in the table or at the rate or rates in force or at the rate of 20 per cent, whichever is higher. Further, under section 94A(5), if payment or credit is made or given to a

deductee who is located in a notified jurisdictional area, tax is deductible at the rate given in the table or at the rate of 30 per cent, whichever is higher. TDS rates for the financial year 2023-24 are given in the table at end of the FAQ

Q3. Is there a minimum amount up to which tax is not deducted?

The Income-tax Act has prescribed a different threshold limit for deduction of tax at source under various sections. If the expenditure incurred/payment made during the year is below the threshold limit, then there is no requirement to deduct tax at source.

Q4. Can the payee request the payer not to deduct tax at source and to pay the amount without deduction of tax at source?

A payee can approach to the payer for non-deduction of tax at source but for that they have to furnish a declaration in Form No. 15G/15H, as the case may be, to the payer to the effect that the tax on his estimated total income of the previous year after including the income on which tax is to be deducted will be nil. Form No. 15G is for the individual or a person (other than company or firm) and Form No. 15H is for the senior citizens. For threshold beyond 15G/H, the entity can apply for nil or concessional rate of TDS as per Section 197 of the Act.

Q.5 What are the consequences a deductor would face if he fails to deduct TDS or after deducting the same fails to deposit it to the Government's account?

A deductor would face the following consequences if he fails to deduct TDS or after deducting the same fails to deposit it to the credit of Central Government's account:-

a) Disallowance of expenditure

As per section 40(a)(i) of the Income-tax Act, any sum (other than salary) payable outside India or to a non- resident, which is chargeable to tax in India in the hands of the recipient, shall not be allowed to be deducted if it is paid without deduction of tax at source or if tax is

deducted but is not deposited with the Central Government till the due date of filing of return.

However, if tax is deducted or deposited in subsequent year, as the case may be, the expenditure shall be allowed as deduction in that year.

Similarly, as per section 40(a)(ia), any sum payable to a resident, which is subject to deduction of tax at source, would attract 30% disallowance if it is paid without deduction of tax at source or if tax is deducted but is not deposited with the Central Government till the due date of filing of return.

However, where in respect of any such sum, tax is deducted or deposited in subsequent year, as the case may be, the expenditure so disallowed shall be allowed as deduction in that year.

As per Section 58(1A) (as amended with effect from the assessment year 2018-19), the provisions of section 40(a)(ia) and 40(a)(iia) shall also apply in computing the income chargeable under the head "Income from other sources".

b) Levy of interest

As per section 201 of the Income-tax Act, if a deductor fails to deduct tax at source or after the deducting the same fails to deposit it to the Government's account then he shall be deemed to be an assessee-in-default and liable to pay simple interest as follows:-

1. at one per cent for every month or part of a month on the amount of such tax from the date on which such tax was deductible to the date on which such tax is deducted; and
2. at one and one-half 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.

1. Levy of Penalty

Penalty of an amount equal to tax not deducted or paid could be imposed under section 271C.

Q6. Under what circumstances a deductor would not be deemed as an assessee-in-default even after he fails to deduct TDS or after deducting the same fails to deposit it to the Government's account?

A deductor who fails to deduct the whole or any part of the tax on the sum paid to a resident or on the sum credited to the account of a resident shall not be deemed to be an assessee-in-default in respect of such tax if such resident—

1. has furnished his return of income under section 139;
2. has taken into account such sum for computing income in such return of income; and
3. has paid the tax due on the income declared by him in such return of income, and the deductor furnishes a certificate to this effect in Form No.26A from a chartered accountant.

Q7. w.e.f. 01-09-2019, will the sum paid to non-resident be covered by above provisions?

In such a case, the payee can claim the refund of the entire/excess amount of TDS (as the case may be) by filing the return of income.

Q8. If the payer does not deduct tax at source, will the payee face any adverse consequences by means of action taken by the Income-tax Department?

It is the duty and responsibility of the payer to deduct tax at source. If the payer fails to deduct tax at source, then the payee will not have to face any adverse consequences. However, in such a case, the payee will have to discharge his tax liability. Thus, failure of the payer to deduct tax at source will not relieve the payee from payment of tax on his income.

Q9. What are the duties of the person deducting tax at source?

Following are the basic duties of the person who is liable to deduct tax at source.

- He shall obtain Tax Deduction Account Number and quote the same in all the documents pertaining to TDS.
- He shall deduct the tax at source at the applicable rate.
- He shall pay the tax deducted by him at source to the credit of the Government (by the due date specified in this regard*).
- He shall file the periodic TDS statements, i.e., TDS return (by the due date specified in this regard*).
- He shall issue the TDS certificate to the payee in respect of tax deducted by him (by the due date specified in this regard*).

Q10. How can I know the quantum of tax deducted from my income by the payer?

To know the quantum of the tax deducted by the payer, you can ask the payer to furnish you a TDS certificate in respect of tax deducted by him. You can also check Form 26AS from your e-filing account at <https://www.incometax.gov.in/iec/foportal>

You can also use the “View Your Tax Credit” facility available at www.incometaxindia.gov.in

Q.11 At what rate will the payer deduct tax if a taxpayer doesn't furnish a return of income?

As per section 206AB, the tax shall be deductible at the higher rates prescribed under this provision if the following conditions are satisfied:

1. Deductee has not filed the return of income for assessment years relevant to the previous year immediately prior to the previous year in which tax is required to be deducted;
2. The due date to file such return of income, as prescribed under section 139(1), has expired; and
3. The aggregate amount of tax deducted and collected at source is Rs. 50,000 or more in said previous years.

Tax is required to be deducted at higher rates in respect of every sum or income or amount from which tax is deductible under any provision of Chapter XVII-B except the sum or income or amount

on which tax is deductible under any of the following provisions:

However, a non-resident person who does not have permanent establishment in India or a person who is not required to furnish return of income and is notified by the Central Government shall be out of the scope of deductee for the purpose of section 206AB.

Q12. What to do if the TDS credit is not reflected in Form 26AS?

Non-reflection of TDS credit in Form 26AS can be due to several reasons like non-filing of TDS statement by the payer, quoting incorrect PAN of the deductee in the TDS statement filed by the payer. Thus, in case of non-reflection of TDS credit in Form 26AS, the payee has to contact the payer for ascertaining the correct reasons for non-reflection of the TDS credit in Form 26AS.

Q13. At what rate will the payer deduct tax if I do not furnish my Permanent Account Number to them?

As per section 206AA, if you do not furnish your Permanent Account Number to the payer (i.e., deductor), then the deductor shall deduct tax at the higher of the following rates :

- At the rate specified in the relevant provision of the Act.
- At the rate or rates in force, i.e., the rate prescribed in the Finance Act.
- At the rate of 20%.

However, the provisions of section 206AA shall not apply in the following cases:-

In respect of payment of interest on long-term bonds to a non-resident under section 194LC.

Where deductee being a non-resident or a foreign company, shall in respect of payments in the nature of interest, royalty, fees for technical services and payments on transfer of any capital asset, furnish the following details and documents to the deductor, namely:

- Name, e-mail id, contact number;
- Address in the country or specified territory outside India of which the deductee is a resident;

- A certificate of his being resident in any country or specified territory outside India from the Government of that country or specified territory if the law of that country or specified territory provides for issuance of such certificate;
- Tax Identification Number of the deductee in the country or specified territory of his residence and in case no such number is available, then a unique number on the basis of which the deductee is identified by the Government of that country or the specified territory of which he claims to be a resident.

Q14. I do not have a PAN. Can I furnish Form 15G/15H for non-deduction of TDS from interest?

Ans. As per section 206AA, a declaration in Form No. 15G or Form No. 15H is not a valid declaration, if it does not contain PAN of the person making the declaration. If the declaration is without the PAN, then tax is to be deducted at higher of following rates :

☐ At the rate specified in the relevant provision of the Act.

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☐ At the rate or rates in force, i.e., the rate prescribed in the Finance Act.

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☐ At the rate of 20%.

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Q15. Would I face any adverse consequences if instead of depositing TDS in the government's account, I use it for my personal needs?

Yes, failure to remit tax deducted by you in the government's account within stipulated time-limit would attract interest, penalty and rigorous imprisonment of up to seven years.

Q16. I have not received a TDS certificate from the deductor. Can I claim TDS in my return of income?

Yes, the tax credit in your case will be reflected in your Form 26AS and, hence, you can check Form 26AS and claim the credit of the tax accordingly. However, the claim of TDS to be made in your return of income should be strictly as per the TDS credit being reflected in Form 26AS. If there is

any discrepancy in the tax actually deducted and the tax credit being reflected in Form 26AS then you should intimate the same to the deductor and should reconcile the difference. The credit granted by the Income-tax Department will be as per Form 26AS.

Q17. If I buy any land/building then is there any requirement to deduct tax from the sale proceeds to be paid by me to the seller?

Yes, Finance Act, 2013 has introduced section 194-IA which provides for deduction of tax at source in case of payment of sale consideration of immovable property (other than rural agricultural land) to a resident. Section 194-IA is not applicable if the seller is a non-resident. Tax is to be deducted @ 1%. No tax is to be deducted if the consideration is below Rs. 50,00,000. If the sale consideration exceeds Rs. 50,00,000, then tax is to be deducted on the entire amount and not only on the amount exceeding Rs. 50,00,000.

If the seller is a non-resident then tax is to be deducted under section 195 and not under section 194-IA. Thus, in case of purchase of property from non-resident TDS provisions of section 195 will apply and not of section 194-IA

Q18. What is the difference between PAN and TAN?

PAN stands for Permanent Account Number and TAN stands for Tax Deduction Account Number. TAN is to be obtained by the person responsible to deduct tax, i.e., the deductor. In all the documents relating to TDS and all the correspondence with the Income-tax Department relating to TDS one has to quote his TAN.

PAN cannot be used for TAN, hence, the deductor has to obtain TAN, even if he holds PAN.

However, in case of TDS on purchase of land and building (as per section 194-IA) as discussed in previous FAQ, the deductor is not required to obtain TAN and can use PAN for remitting the TDS.

Further in case of TDS on rent (as per section 194-IB) TDS on payment of certain sums by Individuals or HUFs (as per section 194M), and TDS on payment made for transfer of virtual digital asset by specified person (as per section 194S), the deductor can use PAN instead of TAN for remitting TDS?

Q19. FAQs from TDS – Centralized Processing Cell

To see the FAQs from TDS – Centralized Processing Cell, please visit

<http://contents.tdscpc.gov.in/en/top-faq.html>

Q20. What is the amount of TDS if the property belongs to an NRI?

Yes, u/s 195. In case you have any doubt regarding the amount on which TDS is to be made, you may file an application with the officer handling non-resident taxation who will pass an order determining the TDS to be made. Alternatively, if the recipient feels that the TDS is more he may file an application with his Assessing Officer for non-deduction.

Q21. Is the limit of Rs. 50,000 per month under section 194-IB applicable to each of the co-owners separately in case rent is paid individually to co-owners?

As per the section 194IB, an individual or HUF whose books of account are not liable for audit u/s 44AB, paying rent to a resident exceeding Rs. 50,000 per month or part of the month for land or building, liable to deduct tax @ 5% at the time of credit of rent, for the last month of the previous year or last month of the tenancy in case property is vacated during the year, as the case may be, to the account of the payee or at the time of payment thereof in cash or by cheque or draft or any other mode, whichever is earlier.

Therefore, a limit of Rs. 50,000 is applicable for each co-owner separately, if rent is paid to co-owners of the property.

Q22. Who is required to file Form 15CA ?

As per Rule 37BB, any person responsible for paying to a non-resident, not being a company, or to a foreign company, any sum chargeable to tax under the provisions of Income tax Act, 1961, shall furnish such information in Form 15CA and Form 15CB:

- In case the payment or the aggregate of such payments made during the financial year does not exceed Rs. 5 lakh rupees, such information is to be furnished in Part A of Form No.15CA.
- In case the payment exceeds Rs. 5 lakh such information is required to be furnished in Part B of Form No. 15CA after obtaining a certificate from the Assessing Officer under section 197; or an order from the Assessing Officer under sub-section (2) or sub-section (3) of section 195.
- In case the payment exceeds Rs. 5 lakh such information is required to be furnished in Part C of Form 15CA after obtaining certificate in Form No.15CB from an accountant as defined in the Explanation to sub-section (2) of section 288.
- In case the payment other than the payment referred in sub-rule (3) of Rule 37BB which is not chargeable to tax under the provisions of Income tax Act, 1961, such information is required to be furnished in Part D of Form No. 15CA.

Q23. Can TCS be collected on an amount inclusive of GST?

As per section 206C (1) every person, being a seller shall, at the time of debiting of the amount payable by the buyer to the account of the buyer or at the time of receipt of such amount from the said buyer in cash or by the issue of a cheque or draft or by any other mode, whichever is earlier, collect from the buyer. Hence, amount debited to the account of buyer or payment shall be received by seller inclusive of VAT/ excise/GST. TCS to be collected inclusive of GST.

Q24. How much TDS will be deducted in case of payment of remuneration to the company's director?

Sec 194J levies TDS on technical and professional services. As per the provisions of the Companies Act, the director of the company is also a manager and thus, a technical personnel. As per Section 194J(1)(ba), any payment made to director in the nature of sitting fees, remuneration or any other sum other than those on which tax deductible under section 192 is to be considered for deduction of tax at source @ 10% under section 194J. Further, there is no threshold limit for deduction of tax at source.

Q25. What is the due date for depositing TDS?

7th of the subsequent month. For the month of March, it is 30th April.

Q26. How is TDS deposited?

TDS is deposited online using challan ITNS 281 on the Government portal

Q27. What is the due date for filing of TDS returns?

| Period | Form 24Q (Salary) | Form 26Q (Non salary) |
|--------------------|-------------------|-----------------------|
| April - June | 31st July | 31st July |
| July - September | 31st October | 31st October |
| October - December | 31st January | 31st January |
| January - March | 31st May | 31st May |

Rate of TDS for FY 2023-24

| Section | Nature of transaction | Threshold Limit (Rs) | TDS Rate |
|---------|-----------------------------|-----------------------|---|
| 192 | Salary | Basic exemption limit | As per applicable slab rates |
| 192A | Premature Withdrawal of EPF | 50,000 | 10% rate of TDS if PAN is provided. If EPF withdrawal is made without PAN, the applicable rate is 20%. |

| Section | Nature of transaction | Threshold Limit(Rs) | TDS Rate |
|---------|--|--|---|
| 193 | Interest on securities | 2500 | 10% In the 2023 budget, the exemption of TDS on interest from listed debentures has been removed. This means tax must now be deducted on the interest earned from these securities. |
| 194 | Dividend | 5,000 | 10% |
| 194A | Interest on deposit in a bank or post office | Senior Citizens- 50,000 Others- 40,000 | 10% for both |
| 194A | Interest from other sources except interest on securities and interest on bank deposits. | 5,000 | 10% |
| 194B | Income from lottery winnings, puzzles, crosswords, card games, etc. | 10,000 | 30% |
| 194BA | Earnings from online games | Nil | 30% |
| 194BB | Income from horse race | 10,000 | 30% |
| 194C | Payment done to subcontractor/contractor | Single transaction- 30,000 Aggregate transactions- 1,00,000 | HUF/Individuals: 1% Others: 2% |
| 194D | Insurance commission to: | | |
| | a) Individuals | 15,000 | 5% |
| | b) Companies | 15,000 | 10% |

| Section | Nature of transaction | Threshold Limit(Rs) | TDS Rate |
|---------|--|---------------------|--|
| 194DA | Payment made towards life insurance policy | 1,00,000 | 5% |
| 194E | Payment to non-resident sports association/sportsmen | No specified limit | 20% The mentioned rate will be subject to an additional surcharge and a 4% cess. |
| 194EE | Payment to National Savings Scheme | 2,500 | 10% |
| 194F | Payment for the re-purchase of the unit by Mutual Fund or UTI | No specified limit | 20% |
| 194G | Commission on selling lottery tickets | 15,000 | 5% |
| 194H | Commission/brokerage | 15,000 | 5% |
| 194-I | Rent: | | |
| | 194-I(a) plant and machinery | 2,40,000 | 2% |
| | 194-I(b) land/building/furniture/fitting | 2,40,000 | 10% |
| 194-IA | Payment on transfer of immovable property except agricultural land | 50,00,000 | 1% |
| 194-IB | Rent paid by HUF/Individual who is not required to conduct tax audit | 50,000 per month | 5% |
| 194-IC | Payment under JDA, Joint Development Agreements | No specified limit | 10 |

| Section | Nature of transaction | Threshold Limit(Rs) | TDS Rate |
|-----------|--|---------------------|---|
| 194J | Fees paid for - <ul style="list-style-type: none"> • Technical services • Royalty in the nature of consideration for sale, distribution or exhibition of cinematographic films | 30,000 30,000 | 2% 2% |
| 194J | Fees paid for any other professional services or technical service | 30,000 | 10% |
| 194K | Earnings from units payable to a resident | No specified limit | 10% |
| 194LA | Compensation for acquiring an immovable property | 2,50,000 | 10% |
| 194LB | Interest paid to Non-resident on Infrastructure Debt Fund | No specified limit | 5% The mentioned rate will be subject to an additional surcharge and a 4% cess. |
| 194LBA(1) | Earnings received by a business trust from an SPV | No specified limit | 10% |
| 194LBB | Income of a unit holder from an investment fund. | No specified limit | 10% |
| 194LBC | Income from investment in securitization trust Individuals/HUF Others | No specified limit | 25% 30% |

| Section | Nature of transaction | Threshold Limit(Rs) | TDS Rate |
|---------|--|-----------------------|--------------------------------------|
| 194M | Payment of commission except income tax commission under Section 194C, 194H, and 194J | 50,00,000 | 5% |
| 194N | Cash withdrawal exceeding a specific amount 1 crore | 1 crore | 2% |
| 194N | Cash withdrawal from multiple bank accounts during the previous year | | |
| | Amount exceeding 1 crore (exceeding 20 lakhs for people not filing ITR for previous 3 years) | 1 crore | 2% |
| | Aggregate cash withdrawal exceeding 20 lakhs | 20 lakhs | 2% |
| | Aggregate cash withdrawal exceeding 1 crore | 1 crore | 5% |
| 194O | Payment to e-commerce participant by e-commerce operator | 5,00,000 | 1% 5% in case PAN is not provided |
| 194P | TDS for senior citizens aged over 75 years | Basic exemption limit | Normal tax slab rates |
| 194Q | Purchase of goods after 1.07.2021 | 50,00,000 | 0.10% |

| Section | Nature of transaction | Threshold Limit(Rs) | TDS Rate |
|----------------------------------|---|---|----------|
| 194R (Introduced in budget 2022) | TDS deducted on benefit or Perquisite to a business or profession | 20,000 | 10% |
| 194S | Payment of virtual digital assets | Specified Persons- 50,000 Others- 10,000 | 1% |
| 195 | Income on investments of NRI citizens | No specified limit | 20% |
| 195 | LTCG under section 115E in the case of NRI citizen | No specified limit | 10% |
| 195 | LTCG under section 112(1)(c)(iii) | No specified limit | 10% |
| 195 | LTCG under section 112A | No specified limit | 10% |
| 195 | STCG under section 111A | No specified limit | 15% |
| 195 | Other LTCG other than LTCG mentioned u/s 112A, 10(33), 10(36) | No specified limit | 20% |
| 195 | Interest paid on borrowings from Indian company or government in INR. | No specified limit | 20% |
| 195 | Income from royalty, paid by Indian company/government under section 115A | No specified limit | 10% |

| Section | Nature of transaction | Threshold Limit(Rs) | TDS Rate |
|---------|--|---------------------|----------|
| 195 | Earnings from royalty by government or Indian company as per an agreement according to the industrial policy. | No specified limit | 10% |
| 195 | Income from royalties payable from Indian companies or the government. Agreement should be made between 31st Mar 1961 to 1st Apr 1976 | No specified limit | 50% |
| 195 | Earnings from royalty to be paid by government or Indian company in pursuance of an agreement on matters included in the industrial policy Agreement should be between 31st March 1976 | No specified limit | 10% |
| 195 | Earnings from technical fees to be paid by Indian government or company in pursuance of an agreement for industrial policy | No specified limit | 10% |

| Section | Nature of transaction | Threshold Limit(Rs) | TDS Rate |
|---------|--|---------------------|----------|
| 195 | Income from technical fees payable by government or Indian concern in pursuance of an agreement on matters related to industrial policy If the agreement for such payment is entered in between 29th February 1964 and 1st April 1976 | No specified limit | 50% |