TAXATION OF SALARY AND PROVISIONS OF TDS UNDER INCOME TAX ACT AND RELATED ISSUES

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When to deduct TDS?
Rate of TDS?
When to deposit TDS?
When to file TDS Return?
When to issue Form No. 16?
Income Tax Slab rate for Financial Year 2014-15

- **Individual other than the following/HUF**
  - Income does not exceed Rs. 2.5 Lacs  
    - Nil
  - Income Rs. 2.5 Lacs to Rs. 5 Lacs  
    - 10%
  - Income Rs. 5 Lacs to Rs. 10 Lacs  
    - 20%
  - Income exceeds Rs. 10 Lacs  
    - 30%

- **Senior citizen (Age from 60 years to 80 Years)**
  - Income does not exceed Rs. 3 Lacs  
    - Nil
  - Income Rs. 3 Lacs to Rs. 5 Lacs  
    - 10%
  - Income Rs. 5 Lacs to Rs. 10 Lacs  
    - 20%
  - Income exceeds Rs. 10 Lacs  
    - 30%
- **Super Senior citizen (Age above 80 Years)**

  Income does not exceed Rs.5 Lacs     Nil
  Income Rs.5 Lacs to Rs.10 Lacs      20%
  Income exceeds Rs.10 Lacs           30%

**Note:**
- Education Cess - 2% of Income Tax
- Secondary & Higher Education Cess - 1% of Income Tax
- Surcharge – 10% of Income Tax, where total taxable income is more than Rs. 1 Crore. (Marginal Relief in Surcharge if applicable is available)
Salary

- As per section 17(1)

Salary includes-

i) Wages;

ii) Annuity or pensions;

iii) Any gratuity;

iv) Any fees, commission, perquisites or profits in lieu of or in addition to any salary or wages;

v) Any advance of Salary;

vi) Any payment received in respect of any period of leave not availed by employee.
Basis of charge

• As per Section 15 of Income tax Act, 1961
  Salary Includes,
  1. Any salary *due* from an employer (or a former employer) to an assessee in the previous year, whether actually paid or not;
  2. Any salary paid or allowed in previous year;
  3. Any arrears of salary paid or allowed in previous year.
**Leave Salary**

- In case of an employee of the Central Government or a State Government, any amount received as cash equivalent of leave salary in respect of the period of earned leave at his credit at the time of retirement / superannuation is exempt from tax [section 10 (10AA)(i)].
Gratuity

• Any death cum retirement gratuity received by an employee of the Central Government, State Government or Local Authority is wholly exempt from tax [Section 10 (10)(i)]
Pension

- Uncommuted pension is taxable as salary under section 15 in hands of Government employee as well as a non-government employee [Section 17 (1)(ii)]
- Any Commuted pension received by an employee of the Central Government, State government, local Authority or Statutory Corporation is wholly exempt from tax under section 10(10A)(i)
**Perquisites**

Meaning: A benefit which employee enjoys or is entitled to on account of his job or position.

Perquisites includes

i) the value of rent free accommodation

ii) the value of any concession in respect of any accommodation

iii) the value of any benefit or amenity granted

iv) any sum paid by employer in respect of any obligation of employee

v) any sum paid by the employer for assurance on life of the employee or to effect a contract for an annuity.

vi) value of any other fringe benefit as may be prescribed.
Allowances

• Meaning: Fixed amount of money or other substance given regularly in addition to salary for meeting specific requirements of the employees.

i) House Rent Allowance  [ Section 10(13A)and Rule 2A]  
Deduction: Least of the following is exempt from tax

a. An amount equal to 50% of salary, where the residential house is situated at Mumbai, Calcutta, Delhi or Madras and an amount equal to 40% of salary where the residential house is situated at any other place; or

b. House Rent Allowance Received by the employee in respect of the period during which the rental accommodation is occupied by the employee during the previous year; or

c. The excess of rent paid over 10 % of salary

Other Points: “Salary” for the purpose of computation of exemption means basic salary and includes Dearness allowance if terms of employment so provides.
Documents for claiming HRA Exemption

i. The concerned employee should submit to the employer a written statement declaring rent paid, name of landlord, address of the property and PAN of landlord (PAN is required only if rent paid is more than Rs. 1,00,000/- per annum) along with rent receipt given by the landlord.

ii. Transport Allowance  [Sec 10(14) read with rule 2BB]
Deduction is allowed maximum of Rs 800/- per month.
Interest on borrowed capital is deductible up to Rs.2,00,000/- in respect of self occupied house property.
• Under Section 17(2) of the Income-tax Act, reimbursement made by an employer of up to Rs.15,000 of medical expenses in a year, actually incurred by an employee on his medical treatment or the treatment of any member of his family, is treated as an exempt perk.

• Similarly, reimbursement by the employer of expenditure incurred by the employee on his own medical treatment or the treatment of any member of his family in any hospital, clinic or nursing home maintained by the Government, Local Authority or any other hospital approved by the Chief Commissioner of Income-tax is also treated as an exempt perk. There is no monetary limit prescribed for such amount of reimbursement treated as tax free. Mediclaim insurance premium paid by the employer for his employees or reimbursement of such premium to the employees is also tax free.
Relief Under Section 89

RELIEF WHEN SALARY PAID IN ARREARS OR IN ADVANCE

• Section 89(1) authorizes grant of relief in a case where an employee receives salary in arrears or in advance or has received in any financial year salary for more than twelve months, a payment which under the provisions of section 17(3)(ii) is a profit in lieu of salary. The effect of such increase is that the income will be assessed at a higher rate than it otherwise would have been assessed and it is for this reason that section 89(1) authorizes relief to be allowed. The relief is to be allowed in terms of rule 21A of the Income-tax Rules, 1962.

Note- If the employee furnishes information in Form No. 10E to the employer, relief under section 89(1) should be given to the concerned employee while deducting TDS under Sec. 192.
Tax Rate

• Tax is to be deducted at the rates prescribed for the financial year in which payment to employee is made.

• The person responsible for paying the salary may, at the time of deducting tax at source, increase or decrease, the amount to be deducted for the purpose of adjusting any previous deficiency or excess deduction.
Time of deposit of TDS

• Payment should be in the nature of salary
• Tax is deducted by an office of the Government and Tax is paid without production of an Income Tax Challan  
  – On the same day on which tax is deducted.
• Tax is deducted by an office of the Government and Tax deposit is accompanied by an Income Tax Challan  
  – On or before 7 days from the end of the month in which tax is deducted.
When to deduct TDS?

- As per Circular number 9 /2008
  Every person who is responsible for paying any income chargeable under the head "Salaries" shall deduct income-tax on the estimated income of the assessed under the head "Salaries".

  The Income tax is required to be calculated on the basis of rates given above and shall be deducted on average at the time of each payment.

- Intention of Sec. 192(3) is not that an employer can casually take deduction of tax from payment of salary in different months and resort to a lump sum deduction at the end of relevant financial year for making good deficiency.

  [CIT v. Marubeni India (P.) Ltd.(2007)]
Can the Employer Deduct Tax in respect of other incomes of employee

• Yes, an employer may deduct tax in respect of other income of the employee if an employee declares his other income to employer on a plain paper. The employee may declare the details of his other incomes including loss from house property but not any other loss and tax deducted thereon if any. After receipt of such information, the employer should deduct tax due on his total income.
How to deduct Tax when a person is employed by more than one employer

• Section 192(2) provides the method of Tax deduction at source when a person is employed by more than one employers during the financial year. In such case tax will be deducted on the aggregate salary by one of the employer by submitting the information in Form No. 12B giving details of salary due/received by him from other employer. Only after submission of information in Form No. 12B, it becomes the obligation of the employer to deduct tax at source after considering the information submitted by the employee.
Person Responsible for paying TDS

For the purpose of (The ongoing provisions of this chapter) and section 285, the expression “person responsible for paying” means-

• In case of credit, or as the case may be, payment of any sum chargeable under the provisions of this act made by or on behalf of the central government or the government of a state, the drawing and distributing officer or any other person, by whatever name called, responsible for crediting, or as the case may be, paying sum.

• In the case of payment of income chargeable under the head “Interest on securities” other than payment made by or on behalf of the central government or the government of a state, the local authority, corporation or company, including the principal officer thereof;
Deductions under Chapter VI-A

Section
i) 80C

✓ Life insurance premium paid / contribution to Group Insurance Scheme (GIS)
  1. Deduction is available up to 10% of capital sum assured
  2. Life insurance premium relating to life of Individual, Spouse and children
✓ Contribution towards statutory provident fund and recognized provident fund.
✓ Contribution to approved superannuation fund
✓ Subscription towards notified units of mutual fund or UTI.
✓ Contribution towards fifteen years PPF.
Tuition fees paid to any school, college, university
- It excludes development fees, donation and similar payments
- Payment should be for full time education
- Payment for only 2 children

Principal repayment of Housing loan

Stamp duty, registration fee and other expenses for the purpose of purchase of residential house property.

Any fixed deposit for 5 years or more with a scheduled bank in accordance with a scheme framed & notified by central government in official gazette.
✓ Subscription to National saving certificate
  - Any interest on this certificate is deemed to be re-invested.
✓ Contribution for participating in unit linked insurance plan of UTI/LIC/ Mutual Fund.
✓ Subscription to any notified bonds of NABARD
✓ Amount deposited under Senior Citizen Saving Scheme.
✓ Amount deposited in Five Year Time Deposit Scheme in Post office.
ii) 80CCA  Deduction in respect of deposits under National Savings Scheme or payment to a deferred annuity plan

iii) 80CCC  Deduction in respect of contribution to certain pension fund

iv) 80 CCD  Deduction in respect of contribution to pension scheme of central government

The aggregate amount of deduction under section 80C, 80CCA, 80CCC, 80CCD is maximum up to Rs 1,50,000/-
v) 80CCG

Deduction in respect of investment made under Rajiv Gandhi Equity Saving Scheme.

Condition:

i) The gross total income of the assessee does not exceed Rs. 12 Lakh.

ii) The assessee should be a new retail investor as specified in the notified scheme and has acquired listed share/units in accordance with notified scheme.

iii) The investment is locked in for a period of 3 years from date of acquisition.

If above conditions are satisfied, a deduction is 50 per cent of amount invested or Rs. 25,000/- whichever is less.

iv) The deduction is permitted for 3 consecutive assessment year from the year in which it is first acquired.
Deduction is respect of Health insurance premium and Preventive health check up of self, spouse, dependent children and parents not exceeding Rs 5000/-

- Deduction is as follows
  - For Individual, Spouse and children is Rs 15,000/-
  - Additional deduction of Rs. 5,000/- in case of senior citizen

(The above limits are including preventive health check up)

Note: Payment should be made by any mode other than cash. However, payment on account of preventive health check up can be made by any mode (Including cash).
vii) 80DD

Deduction in respect of maintenance including medical treatment of dependent who is person with disability

- Deduction is as follows
  - In case of normal disability Rs 50,000/-
  - In case of severe disability Rs 1,00,000/-
- For claiming deduction the taxpayer shall have to furnish a copy of the certificate in the prescribed format issued by medical authority. Medical Authority means any hospital or institution specified by notification by the government.
Where an assessee who is individual or HUF resident in India has, during the previous year, actually paid any amount for the medical treatment of such disease or ailment as may be specified made in this behalf by the Board:

(a) for himself or a dependant, in case the assessee is an individual; or

(b) for any member of a Hindu undivided family.

If all the above conditions are satisfied, the amount of deduction is Rs.40,000/- or actual amount paid whichever is lower.

Rs.60,000/- in case of Senior Citizen.

Provided that no such deduction shall be allowed unless the assessee furnishes with the return of income, a certificate in such form as may be prescribed, from a neurologist, an oncologist, a urologist, a hematologist, an immunologist or such other specialist.
• Interest paid on loan taken for higher education (If the loan is taken from Financial institution or charitable institution) for the assessee, spouse or children.

• The first year in which the deduction is available is the year in which the person starts repaying the loan.

• The deduction is available for maximum period of 8 years or till the principle amount of such loan together with interest is liquidated, whichever is earlier.
Deduction in respect of donation to certain fund, charitable institution etc.

Deduction is 50% or 100% of eligible donation subject to 10% of adjusted Gross Total Income (GTI)

Adjusted GTI = LTCG, STCG u/s 111A ,all deduction under chapter VI-A except 80G

Note: No deduction is allowed if the donation is paid in cash which exceeds Rs 10,000/-. However, the employer should not give any deduction in respect of donation paid by an employee to a notified public charitable institute except given to other fund (eg. Jawaharlal Nehru Memorial Fund, The Prime Minister’s Drought Relief Fund, The National Childrens Fund etc.)

The tax relief for the donation paid will have to be claimed by the employee while filing his return of income.
xii) **80TTA**  
• Deduction in respect of interest on deposits in saving account of bank or post office.  
(Maximum deduction is up to Rs 10,000/-)
Deduction is available if an taxpayer is an individual and suffering from any physical disability such as blindness, low vision, leprosy cured, hearing impairment, locomotor disability, mental retardation and mental illness, in such case

- If disability is not less than 40 per cent then a fixed deduction of Rs. 50,000/- and

- If suffers from severe disability then a higher deduction of Rs.1,00,000/- is available.
Rebate under Section 87A

- Rebate of Rs 2000/- for resident individual having total income up to Rs 5 Lakhs

Conditions:

1. Taxpayer is resident Individual.
2. His total income or net income or taxable income (i.e. Gross Total Income less deduction under section 80C to 80U) is Rs 5 Lakhs or less.
Penalty for default

- **Penalty under Section 271C**: If any person fails to deduct tax at source, he shall be liable to pay, by way of penalty, a sum equal to the amount of tax not deducted by him.

- **Penalty under Section 276B**: If a person fails to pay to the credit of the Central Government within the prescribed time the tax deducted at source by him, he shall be punishable with rigorous imprisonment for a term which shall be between 3 months and 7 years, along with fine.
Penalty for default

• **Penalty under section 272A(2)(k)** (up to 30/06/2012) – Rs.100/- per day or to the amount of TDS whichever is less.

• **Penalty under section 271H** (w.e.f. 01/07/2012) – Min. Rs.10000 or Max. Rs.1,00,000/-if a person fails to submit quarterly TDS/TCS return on or before the due date or if a person furnishes incorrect information in these quarterly returns.

• **Late Filling Fee u/s 234E** (w.e.f. 01/07/2012) – Rs.200/- for every day during which the failure continues or to the amount of TDS whichever is less. This fees will be in addition to other consequences under the Act.
Relief on failure to deduct or pay TDS

- Principal officer or employer, who fails to deduct the whole or any part of the tax in accordance with the provisions of Income Tax Act,1961 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;

(i) has furnished his return of income under section 139;
(ii) has taken into account such sum for computing income in such return of income ; and
(iii) has paid the tax due on the income declared by him in such return of income, and the person furnishes a certificate to this effect from an Chartered Accountant in such form as may be prescribed.
Assessee in default

- Where a person who is required to deduct tax at source, does not deduct, or does not pay, or after deducting fails to pay, the whole or any part of tax, as 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). He will be liable for payment of tax, interest, penalty and prosecution.
With effect from July 1, 2012, the payer shall not be deemed to be an assessee in default, if the resident recipient has included such income in the return submitted under section 139 and the recipient has paid tax on such income. The payer will have to submit a certificate (In Form 26A) to this effect from a chartered accountant.
Thank You!

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