TDS Under Income Tax: Tedious Job With No Carrots Only Sticks..!!!

We can blame it on abbreviation , but TDS ( Tax Deducted at Source ) rhymes

with TEDIOUS, as if reflecting the plight of Tax Payers and Tax practitioners.

This is the most convenient way of collecting Income Tax by creating legal obligation on

person making certain payments. Tax Payers has not only to bear the compliance cost , but has to remain update about ever changing provisions also. And any failure in doing this

honorary job may invite interest, penalty, prosecution (STICKS). This is very much against the basic principles that if Tax Payers are giving their services free of cost to the Government they should be treated reasonably and fairly. In fact they should be rewarded by giving proper recognition and respect (CARROTS).

Who has to deduct and deposit TDS:

A) Any person paying any amount in nature of Salary, Interest on Securities, Dividend, Winnings from lottery ,Crossword, Horse races, Insurance Commission, Commission/Remuneration on sale of lottery tickets ,Transfer of Immovable Property will have to deduct TDS.

B) Any person other than Individual and HUF who are not subject to tax audit in preceding financial year paying Interest, Contractors, Commission or Brokerage, Rent, Professional /Technical service fees will have to deduct TDS.

In both the cases liability to TDS will arise subject to applicable threshold limit .

Threshold limit and applicable rates can be ascertained from Income Tax Website.

In which cases tax has to be collected at source( TCS).

1. A ‘’Seller’’ shall collect tax from the ‘’Buyer’’ in following cases:

 Sale of Alcoholic liquor for human consumption, Indian made foreign liquor, Tendu Leaves, Timber ,any other forest produce, Scrap, Minerals being coal or lignite or iron ore.

2) A person who grants a lease or a license or enters into a contract or otherwise ,transfers any right or interest in any parking lot or toll plaza or mine or quarry , to another person for the use of such parking lot or toll plaza or mine or quarry, for the purpose of business , shall collect tax at source.

3) In case of sale of jewellery/bullion w.e.f.1st July 2012. (if sale consideration of bullion exceeds Rs.200000 or Jewellery Rs.500000.or Out of sale consideration any amount is received in cash.)

When to deduct and deposit :

Within 7 days from the end of the month in which income/any sum paid or credited whichever is earlier. If payee’s account is credited in last month of accounting year i.e. March, then on or before 30th April.

What are the other compliances under TDS provision:

The person responsible to deduct or collect tax has to obtain the TAN (Tax Deduction and Collection Account Number) In form No.49B.

Quarterly statements in Form No.24Q (Salary),26Q (Non Salary), 27Q (payment to Non-resident ) and 27EQ (TCS) have to be filed within due dates.( e-filing compulsory )

The Person has to issue TDS/TCS Certificates within time in FormNo.16(Salary),16A(Non Salary),and 27D (TCS).

What are the consequences if TDS/TCS provisions are not complied :

Person will be :

Treated as Assessee in default for not deducting or not depositing after deduction.

Liable to interest for non-depositing of tax or late payment of tax

Liable for payment of late fess of Rs.200 per day maximum up to amount of TDS for late submission of quarterly TDS statements.(for example a delay of 3 months will result into a late fee of Rs.18000)

Liable for Penalty for delay in payment, non deduction, late or non issue of TDS Certificate, late filing of TDS statements etc.

Liable to prosecution if fails to pay tax after deduction.

And last but not the least if TDS not deducted expenses may be disallowed. For example if you have made a payment of Rs.500000/- to a contractor without deducting the TDS of 1% i.e.Rs.5000/-only , the whole expenditure of Rs.500000 may be disallowed. ( which may increase your tax liability by Rs.150000 ).

Relaxation given w.e.f Ist July 2012

The payer shall not be deemed to be an assessee in default if the resident recipient has included such income in his Income tax return . Also the payer will have to submit a certificate in Form No.26A to this effect from a Chartered Accountant.

Non deduction or deduction at lower rate of TDS:

A Person other than a company or Firm may give a declaration in Form15G/15H for nondeduction of TDS.( on Interest/Dividend). Also a recipient of income may apply in Form no.13 to assessing officer for lower rate of TDS.

So it can be seen that Person who are liable to TDS are expected to be vigilant at all time. Income Tax department is very actively and vigorously enforcing the compliance of these provisions by way of notices, demands, scrutiny, Surveys, Raids etc. This is resulting into huge demands towards tax Interest ,Penalties and even prosecution.

To conclude we can say if you comply properly Government gives you ‘Anda’ ( means nothing ) , and if you don’t you get ‘ Danda ‘ ( Penalties ).

Choice is yours…!!!!

SOURCE COURTESY:taxguru.in