

TDS Rate Chart Financial Year 2014-15

Nature of Payment Made To Residents	Threshold(Rs.)	Company / Firm / Co-operative Society / Local Authority	Individual / HUF	If No / Invalid PAN
Section - Description		Rate (%)	Rate (%)	Rate (%)
192 – Salaries	-	NA	Average rates	30
193 - Interest on securities	-	10	10	20
194 – Dividends	-	10	10	20
194A - Interest other than interest on securities – Others	5000	10	10	20
194A – Banks	10000	10	10	20
194B - Winning from Lotteries	10000	30	30	30
194BB - Winnings from Horse Race	5000	30	30	30
194 C - Payment to Contractors				
- Payment to Contractor - Single Transaction	30000	2	1	20
- Payment to Contractor - Aggregate During the F.Y.	75000	2	1	20
- Contract - Transporter who has provided valid PAN	-	-	-	20
194D - Insurance Commission	20000	10	10	20
194DA-Pament of Taxable Life Insurance Policy wef 01.10.2014	100000	2	2	20
194E - Payment to Non-Resident Sportsmen or Sports Association				
- Applicable up to June 30, 2012	-	10	10	20
- Applicable from July 1, 2012	-	20	20	20
194EE - Payments out of deposits under NSS	2500	20	-	20
194F - Repurchase Units by MFs	1000	20	20	20
194G - Commission – Lottery	1000	10	10	20
194H - Commission / Brokerage	5000	10	10	20
194I - Rent - Land and Building	180000	10	10	20
194I - Rent - Plant / Machinery	180000	2	2	20
194J - Professional Fees	30000	10	10	20
194LA - Immovable Property	100000	10	10	20
194LB - Income by way of interest from infrastructure debt fund (non-resident)	-	5	5	20
194LBA Income paid Under section 115UA we f 01.10.2014				
Resident	-	10	10	20
Non resident	-	5	5	20

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Sec 194 LC - Income by way of interest by an Indian specified company to a non-resident / foreign company on foreign currency approved loan / long-term infrastructure bonds from outside India (applicable from July 1, 2012)	-	5	5	20
195 - Other Sums	-	Average rates	-	30
196B - Income from units		10	10	20
196C-Income from foreign currency bonds or GDR (including long-term capital gains on transfer of such bonds) (not being dividend)	-	10	10	20
196D - Income of FIs from securities	20	20	20	20

Note:

1. **No TDS on Service Tax** :As per [circular 01/2014 dated 13.01.2014](#) TDS is not applicable on service tax part if service tax part shown separately .
2. **TDS at higher rate ie., 20%** has to be deducted if the deductee does not provide PAN to the deductor.([read detail u/s 206AA](#))
3. **No TDS on Goods Transport** :No deduction shall be made from any sum credited or paid or likely to be credited or paid during the previous year to the account of a contractor during the course of business of plying, hiring or leasing goods carriages on furnishing of his Permanent Account Number, to the person paying or crediting such sum.(read details here [No TDS on Goods Transport](#))
4. **Surcharge on tax is not deductible/collectible** at source in case of resident individual/ HUF /Firm/ AOP / BOI/Domestic Company in respect of payment of income other than salary.
5. Surcharge on TDS is applicable on payment made to non resident other than company ,if payment is in excess of one crore.(10 %)
6. Surcharge on TDS on salary is applicable if taxable salary is more than one crore @ 10 %
7. **In the case of Company other than Domestic Company,**
 - o (i) at the rate of two per cent. of such tax, where the amount or the aggregate of such amounts collected and subject to the collection exceeds one crore rupees but does not exceed ten crore rupees;
 - o (ii) at the rate of five per cent. of such tax, where the amount or the aggregate of such amounts collected and subject to the collection exceeds ten crore rupees.
8. **No Cess on payment made to resident:** Education Cess is not deductible/collectible at source in case of resident Individual/HUF/Firm/ AOP/ BOI/ Domestic Company in respect of payment of income other than salary. Education Cess @ 2% plus secondary & Higher Education Cess @ 1% is deductible at source in case of non-residents and foreign company.

Various situations and Surcharge /Cess applicable on TDS/TCS				
Payment to	payment	Surcharge	Cess	
Resident	Non-corporate	salary(up to 1 crore)	No	yes(3%)
	Non-corporate	salary(> I crore)	yes (10%)	yes (3%)
	Non-corporate	other than salary	No	No
	Corporate	other than salary	No	No
Non-Resident	Non-corporate	salary(up to 1 crore)	No	yes (3%)
	Non-corporate	salary(> I crore)	Yes (10%)	yes (3%)
	Non-corporate	other than salary up to 1 Crore	No	yes (3%)
	Corporate	other than salary (> 1 Crore to 10 crore)	yes(2%)	yes (3%)
	Corporate	other than salary > 10 Crore	yes(5%)	yes (3%)

TDS by Individual and HUF (Non Audit) case not deductible

An Individual or a Hindu Undivided Family whose total sales, gross receipts or turnover from business or profession carried on by him does not exceeds the monetary limits(Rs.100,00,000 in case of business & Rs.25,00,000 in case of profession) under Clause (a) or (b) of Sec.44AB during the **immediately preceding financial year** shall not be liable to deduct tax u/s.194A,194C, 194H, 194I & 194J.So no tax is deductible by HUF/Individual in first year of operations of business even sales/Fees is more than 100/25 Lakh.

TCS (tax collection at source rates fy 2014-15)(read more details by Tax collection at source)

TCS Rates for F. Y. 2014-15			
Section	Nature of Payment	F. Y. 2014-15	
		Individual / HUF	Other
		206C	Scrap
206C	Tendu Leaves	5	5
206C	Timber obtained under a forest lease or other mode	2.5	2.5
206C	Any other forest produce not being a timber or tendu leave	2.5	2.5
206C	Alcoholic Liquor for human consumption	1	1
206C	Parking Lot, toll plaza, mining and quarrying	2	2
206C	Minerals, being coal or lignite or iron ore (applicable from July 1, 2012)	1	1
206C	Bullion if consideration (excluding any coin / article weighting 10 grams or less) exceeds Rs. 2 Lakhs or jewellery if consideration exceeds Rs. 5 Lakhs (and any amount is received in cash) (applicable from July 1, 2012)	1	1

Due date to Deposit TDS and TCS

“Time and mode of payment to Government account of tax deducted at source or tax paid under sub section (1A) of section 192.

Rule :30.

(1) All sums deducted in accordance with the provisions of Chapter XVII-B by an **office of the Government** shall be paid to the credit of the Central Government -

- a) on the same day where the tax is paid without production of an income-tax challan; and
- b) on or before seven days from the end of the month in which the deduction is made or income-tax is due under sub-section (1A) of section 192, where tax is paid accompanied by an income-tax challan.

Tax to be deducted/collected by Govt Office	
1	Tax deposited without challan Same day
2	Tax deposited with challan 7th of next month
3	Tax on perquisites opt to be deposited by the employer 7th of next month

(2) All sums deducted in accordance with the provisions of Chapter XVII-B by deductors **other than an office of the Government** shall be paid to the credit of the Central Government -

- (a) on or before 30th day of April where the income or amount is credited or paid in the month of March; and
- (b) in any other case, on or before seven days from the end of the month in which-
 1. the deduction is made; or
 2. income-tax is due under sub-section (1A) of section 192.

Tax deducted/collected by other	
1	tax deductible in March 30th April of next year In case of TCS 7th April
2	other months & tax on perquisites opted to be deposited by employer 7th of next month

(3) Notwithstanding anything contained in sub-rule (2), in special cases, the Assessing Officer may, with the prior approval of the Joint Commissioner, permit quarterly payment of the tax deducted under section 192 or section 194A or section 194D or section 194H for the quarters of the financial year specified to in column (2) of the Table below by the date referred to in column (3) of the said Table:-

SrNo	Quarter ended On	Date of payment
1	30th June	7th July
2	30th September	7th October
3	31st December	7th January
4	31st March	30Th April

Person required to file ETDS Return Filing due Dates

NOTIFICATION No. 238/2007, dated 30-8-2007. Now following person are liable to file etds/etcs return.

1. All Government department/office or
2. All companies. or
3. All person required to get his accounts audited under section 44AB in the immediately preceding financial year; or
- 4 The number of deductees' records in a quarterly statement for any quarter of the immediately preceding financial year is equal to or more than fifty,

DUTIES OF TAX DEDUCTOR/COLLECTOR

1. To apply for Tax Deduction Account Number (TAN) in form 49B, in duplicate at the designated TIN facilitation centers of NSDL (please see www.incometaxindia.gov.in), within one month from the end of the month in which tax was deducted.
2. To quote TAN (10 digit reformatted TAN) in all TDS/TCS challans, certificates, statements and other correspondence.
3. To deduct/collect tax at the prescribed rates at the time of every credit or payment, whichever is earlier, in respect of all liable transactions.
4. To remit the tax deducted/collected within the prescribed due dates by using challan no. ITNS 281 by quoting the TAN and relevant section of the Income-tax Act.
5. To issue TDS/TCS certificate, complete in all respects, within the prescribed time in Form No.16(TDS on salaries), 16A(other TDS) 27D(TCS).
6. To file TDS/TCS quarterly statements within the due date.
7. To mention PAN of all deductees in the TDS/TCS quarterly statements.

CONSEQUENCES OF DEFAULT

Failure to deduct or remit TDS /TCS(full or part)

- **Interest:** Interest at the rates in force (12% p.a.) from the date on which tax was deductible /collectible to the date of payment to Government Account is chargeable. The Finance Act 2010 amended interest rate wef 01.07.2010 and created a separate class of default in respect of tax deducted but not paid to levy interest at a higher rate of 1.5 per cent per month, i.e. 18 per cent p.a. as against 1 per cent p.m., i.e. 12 per cent p.a., applicable in case the tax is deducted late after the due date. The rationale behind this amendment is that the tax once deducted belongs to the government and the person withholding the same needs to be penalized by charging higher rate of interest Penalty equal to the tax that was failed to be deducted/collected or remitted is leviable.
- In case of failure to remit the tax deducted/collected, rigorous imprisonment ranging from 3 months to 7 years and fine can be levied.
- **Failure to apply for TAN** in time or **Failure to quote allotted TAN** or **Wrong quoting of TAN** :Penalty of Rs.10,000 is leviable u/s.272BB(for each failure)
- **Failure to issue TDS/TCS certificate** in time or **Failure to submit form 15H/15G** in time or **Failure to furnish statement of perquisites** in time or **Failure to file Quarterly Statements** in time: For each type of failure, penalty of Rs.100/- per day for the period of default is leviable. Maximum penalty for each failure can be up to the amount of TDS/TCS.

New Section for Penalty for non submission of ETDS /ETDS return (section 271H)(applicable from 01.07.2012)

- Failure to deliver statement within time prescribed u/s 200 (3) or to the proviso to sub-section (3) of section 206C may liable to penalty which shall not be less than Rs. 10,000/- but which may extend to Rs. 1,00,000/-. No penalty if payment of tax deducted or collected along with fee or interest and delivering the statement aforesaid before the expiry of 1 year from the time prescribed for delivering the such statement. However No penalty shall be imposed u/s 271H if the person proves that there was reasonable cause for the failure.(section 273B)

Assessee In default (amendment in section 201)

The Deductor will not to be treated as assessee in Default provided the resident payee has furnished his return u/s 139 and has taken into account such amount for computing income in such Return of Income and has paid the Tax Due on the income declared by him in such return of income and furnishes a certificate to this effect, duly certified by a CA, in the prescribed form. This form is yet to be notified.

However, the interest for not deducting tax would be payable from the date on which such tax was collectible till the date of furnishing of return of income by the resident payee.

The limit of passing orders under section 201(1) increased from 2 years to 6 years (retrospective amendment wef 1-04-2010)

Due Dates For ETDS returns (Form 24Q for salary and 26Q for contractors others ,27Q for Non-resident

Due date ETDS return 24Q, 26Q 27Q and Form16 ,Form 16A					
Sl. No.	Quarter ending	From 01.11.2011 onwards offices For Govt		For other deductors	
		Etds return	Form 16A	Etds return	Form 16A
1	30th June	31st July	15th August	15th July	30th July
2	30th September	31st October	15th November	15th October	30th October
3	31st December	31st January	15th February	15th January	30th January
4	31st March	15th May	30th May (31st May for form 16)	15th May	30th May (31st May for form 16)

[Download Full Notification 41/2010](#).right click on link and select save target as or save link as as the case may be "

Issuance Of TDS certificate Form 16 and Form 16A

Tax deducted on or after 01.04.2012, it is mandatory for all type of deductors to issue quarterly form 16A (non salary tds certificate) only after downloaded the same from the TDSCPC website. Earlier this was mandatory for only companies ,Banks and co-operative societies engaged in Banking services with effect from 01.04.2011 through [circular number 3/2011](#).

Form 16A downloaded from TDSCPC can be signed manually or can be authenticated through digital signature only.

Though this will be an increase in work load on small traders also but it is welcome step as it will reduce arbitrary demands by department due to mismatching of TDS claimed and TDS shown on form 26AS. Moreover small traders are also not small now .TDS is to be deducted by HUF and Individual only if their turnover/Receipt is during the immediately preceding year more than limit prescribed under section 44AB .[Present limit for FY 2014-14 is One crore for business and 25 lakh for Professionals](#).

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	FY 2010-11	FY 2011-12	FY 2012-13 onwards
Download Form 16A from TDSCPC (TRACES) Web Site	Optional	Mandatory for Companies and Banks. Optional for others	Mandatory for all type of deductors
Digitally Sign Form 16A	Optional but only if downloaded from TDSCPC (TRACES) Web site	Optional but only if downloaded from TDSCPC (TRACES) Web site	Optional but only if downloaded from TDSCPC (TRACES) Web site
Manually Issue TDS Certificate(Form 16A)	All deductors can manually issue TDS Certificate	Companies and Banks cannot manually issue TDS Certificate	No deductor can issue manually TDS certificate
Manually Issue TDS Certificate(Form 16 salary)	All deductors can manually issue TDS Certificate	All deductors can manually issue TDS Certificate	Form 16(PartA) is mandatory to downloaded from TDSCPC website Part B to be issued manually

So manually field form 16A cannot be issued for tax deducted on or after 01.04.2012.

Update (22.04.2012) Form 16 (Part-A) to be issued mandatory through download from TDSCPC website ([circular 04/2013 dated 17.04.2013](#)) salary can be issued without downloading from the TDSCPC (TRACES) site. Now you are interested in how you can download Form 16A from TDS CPC (TRACES) website

Please Note that Form 16A now(01.01.2013) shall be available through new website www.tdscpc.gov.in only .Read more from links given below

1. [Procedure How to register at TRACES \(www.tdscpc.gov.in\)](#) and
2. [How to download Form 16A form TRACES \(www.tdscpc.gov.in\)](#)
3. [HOW TO DOWNLAOD FORM16 FROM TDSCPC WEBSITE](#)

GENERAL INFORMATION

1. Deduction at lower or nil rate requires certificate u/s.197, which will take effect from the day it is issued. It cannot be used retrospectively.
2. If TDS/TCS certificate is lost, duplicate may be issued on a plain paper giving necessary details marking it as duplicate.
3. Refund can be claimed by the deductee on filing of return of income.
4. Even if the recipient of payment has shown it in his income-tax return and paid the taxes thereon, the deductor/collector who has failed to deduct/collect tax will be liable to pay interest and penalty.

Other Point to be Noted

1. [TDS on Job work\(194C\)](#) Tds on Job work has been relaxed read new definition u/s 194C.
2. [TDS on Cold Storage \(194C clarification\)](#)
3. [TDS on Rent without service tax\(194 I\)\(clarification 4/2008\)](#)
4. TDS on Rent ([various circulars by department on tds on rent](#))
5. [Do and Dont's Tax deposit of Taxes](#)
6. [E-payment of TDS mandatory from 01.04.2008](#)
7. E-Payment [Auto Filler for Tds Challan](#)
8. [E-Payment From Other Banks Account Allowed](#)
9. [TDS challan ITNS 281](#) In excel &
10. [How to Fill TDS CHALLAN-ITNS 281](#)
11. [How To pay Income Tax/Tds Online](#) FAQ
12. [Nil TDS on Transporter and others to be reported in ETDS quarterly returns](#)
13. [1% TDS on transfer of property u/s 194IA wef 01.06.2013](#)
14. [TDS on rent section 194-1 brief notes, circular, notification and case laws](#)

42 Major Points related to TDS/TCS By CA CA MANISH BORAD

1. TCS ON Bullion & jewellery [Sec.206C(1D)]:- Tax shall be collected at source @ 1% on sale consideration, by seller, if he receives any amount in cash: -

- (i) on sale of bullions if such sale consideration exceeds Rs.2 Lakh, and
- (ii) on jewellery (if such sale consideration Exceeds Rs.5 Lakh).

e.g. if sale consideration is 6 lakh and only a sum of Rs.100 has been received in cash from customer, then seller will have to collect TCS on whole Rs.6 Lakh @ 1%.

2. Disallowance under section 40a(ia) is not applicable to any TCS provisions because 40a(ia) is not applicable to receipt or revenue items, 40a(ia) is applicable to payments or expenditure items.

3. If an assessee (seller) has committed default u/s.206C(1D) by not collecting TCS on gold and even if the buyer has included this purchase consideration in his return of income, even though the seller will be treated having committed default u/s.206C(6A).

4. Age limit for 15G/15H:- Form no.15G is applicable for the age below 60 years & 15H for the persons who completes the age of 60 years at any time during the financial year.

5. Income limit for furnishing 15G :- A person (other than a senior citizen) including resident individual (other than a company or firm) can furnish form No.15G if :-

- (i) His income from interest does not exceed the maximum amount which is not chargeable to income tax and,
- (ii) Tax on his estimated total income will be nil for that assessment year

6. Income limit for furnishing 15H:- A senior citizen can furnish form No.15H if tax on his estimated total income will be nil for that assessment year.

7. When & where to submit 15G/H/27C: - Form 15G/H must be obtained before or at the first moment, when the interest crosses the limit of Rs.5000(other than bank)/10000/- (in case of banks) during the financial year, it should not be taken after crediting or paying the interest. After obtaining, one copy of it must be submitted by the payer to the Commissioner/TDS-AO on or

before 7th day of next following month in which the form is furnished to him. One copy of form 27C (in case of nil TCS) has to be submitted to the Chief Commissioner/Commissioner/TDS-AO to whom the Assessing Officer having jurisdiction to assess the seller is subordinate.

8. 15G by charitable trusts & institutions:- In view of the rule 28AB a charitable or religious trust or institution who claims exemption u/s.11 or 12 or educational institutions/hospital/university etc required to file return u/s.139(4C) cannot furnish form no.15G if their interest income exceeds the basic exemption limit i.e. Rs.2 Lakh for A.Y. 2013-14, but it will have to apply in form No.13 for nil deduction.

9. No TDS from income of notified institutions:- By insertion of sec.197A(1F) Finance Act 2012 has made a provision that no deduction of tax shall be made from such specified payment to such institution, association or body or class of institutions, associations or bodies as may be notified by the Central Govt. in the official Gazette in this behalf.

10. Certificate of lower rate : - Assessee can apply in form No.13 for lower rate or nil TDS. Form No.13 has been amended w.e.f. 1st April 2011 in which information relating to 3 years assessed income, 3 years income tax returns alongwith enclosures, existing income tax dues, pending income tax and TDS returns, Gross turnover, gross profit, net profit, copies of P&L A/c, balance sheet, audit report, details of exempt income, has to be given.

In case of charitable trusts and institutions it is necessary that all returns upto date have been filed. Lower rate certificate will be issued on a plain paper generated through computer system having serial number, its one copy will be sent directly to the payer and one copy to the payee. Trust and institutions will have to furnish to the assessing officer, half yearly details of income received without deducting tax on the basis of nil certificate issued to it.

11. Furnish PAN in all TDS/TCS correspondence:- It is necessary to quote PAN of the deductee and the deductor in all correspondence, bills, vouchers exchanged between them.

12. Include Zero TDS items also in TDS return:- If TDS is not deducted on payments because of certificate issued by assessing officer u/s.197, or declaration received in form No.15G or 15 H or 27C, even though amount paid or credited, PAN, name, has to be furnished in quarterly TDS returns.

13. Credit of TDS to other person (Sec.199 & rule 37BA):- When whole or any part of the income on which tax has been deducted at source is assessable in the hands of a person other than the deductee e.g. in view of Sec.64 relating to clubbing of income, then credit of whole or part of that TDS shall be given

to that other person and not to the deductee. For this, deductee will have to file a declaration with the deductor specifying name, address, pan of the person to whom credit of TDS is to be given alongwith reasons for giving credit to that other person, then deductor will have to file return accordingly.

14. Credit of TDS to which year (Sec.199 & rule 37BA):- Credit to TDS shall be given for that assessment year for which the income is assessable. Where income is assessable over a number of years, credit for TDS shall be allowed across those years in the same proportion in which the income is assessable to tax. Credit for TDS shall be on the basis of TDS return and claim made by the claimant in his income tax return and subject to verification.

15. Disallowance u/s.40(a)(ia) w.e.f. 1st April, 2012 (A.Y. 2013-14):- Sec. 40a(ia) is applicable in case of payments covered u/s.193, 194A, 194C, 194H, 194I, 194J. [[40\(a\)\(ia\) is applicable on all TDS sections wef Ay 2015-16](#)]

Provision of Sec.40a(ia) is applicable when the assessee has failed to deduct or deposit TDS, but if the assessee has deducted TDS at a rate other than specified e.g. 1% in place of 10% then no disallowance u/s.40a(ia) is attracted. The same view has been held in the case of CIT v. S.K. Tekriwal (2013) 260 CTR 73 (Cal) (HC), Cinetek Telefilms P.Ltd. V. ACIT (2013) TIOL – 641 – (Mum.)(Trib).

Presently if specified payments are made without deduction of TDS then whole of the expenses are disallowed u/s.40(a)(ia), now it is proposed that if the payee has discharged tax liability and filed his return of income u/s.139 hence payer will not be deemed to be in default u/s.201(1) then he will also not be deemed to be in default u/s.40(a)(ia) hence such expenses will be allowed and it will be deemed that the payer has deducted tax timely. Date of filing of the return of income by the payee will be treated as date of payment of TDS by the payer. If the payee has filed his return of income after 30 Sept. then such expenses will be disallowed u/s.40A(ia) in the hands of payer (deductor) and will be allowed in the following Assessment year. If the recipient had filed his return of income before 31st Oct. 2013 (extended due date for tax audit returns for A.Y. 2013-14), [or if date would not have been extended then, recipient should have filed his return of income till 30th Sept.2013] then as per first proviso to Secd.201(1) and first and second proviso to sec. 40a(ia) of the act, the date of filing of the return by the payee will be treated as date of payment of TDS.

First proviso of Sec.40a(ia) says that

“if TDS has been deposited after the due date specified in Sec.139(1), then such sum shall be allowed as a deduction in computing the income of the previous year in which such tax has been paid.”

Second proviso to Secd.40a(ia) says that

“it shall be deemed that the assessee has deducted and paid the tax on such sum on the date of furnishing of return of income by the resident payee.”

The said provisions is procedural and clarificatory in nature hence retrospective and will be applicable to pending cases also. As held in the case of ACIT V. Pratibha Exim Ltd. (2013) 22 ITJ 285 (Trib. Indore) and ITAT Rajkot Bench in the case of Bharti Auto Products Vs. CIT (2013) 37 Taxmann.com 37 (Rajkot Trib) SB., 27 ITR (Trib.)611

Disallowance u/s.40a(ia) is applicable to “payable” items only as held in case of Merilyn Shipping and Transport Ltd. Vs. Add. CIT (2012) 136 ITD 23 (Vishakhapatnam) (SB), but it was distinguished in the case of CIT Vs. Crescent Export Syndicate (2013) 33 Taxmann.com 250 (Cal) (HC) and held that view expressed in Merilyn Shipping is not acceptable. Allahabad High Court in the case of CIT V. Vector Shipping Service P.Ltd.(All)(HC) ITA No.122 of 2013 without dealing with the decisions upheld the decision of Merilyn Shipping and in the case of Rishti Stock and shares P.Ltd. V. ACIT ITAQ No.112 of 2012 Mum. Tribunal held that in case of conflicting views of the high courts, view in favour of the assessee should be taken, hence allowed in favour of the assessee.

Update: [Disallowance u/s 40\(a\)\(ia\) has been reduced to 30% from earlier 100% wef assessment year 2015-16.](#)

16. How to calculate interest on late payment of TDS:

- (a) If a person liable to deduct TDS fails to deduct whole or part of TDS then he will be liable to pay u/s.201(1A) simple interest @ 1% 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,
- (b) if TDS is deducted but not paid then @ 1.5% for every month or part of 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.

For example a person has deducted TDS Rs.12500/- on 25 April, 2012 then he is liable to deposit TDS on 7 May 2012 but if he pay TDS on 18 May 2013 then here delay is 13 months so interest will be 19.5%, if TDS is deposited on 24 May 2013 even though delay is 13 months, but if TDS is deposited on 26 May, 2013 then delay is 14 months, i.e. whole month is reckoned from the date of deduction and to the date of deposit of TDS.

In earlier year Income Tax Department was also calculating interest on the aforesaid basis but presently TDSCPC is calculating interest treating month or part of a month as a month, without considering date of deduction or date of deposit. Since the order u/s.201 and 200A are appealable hence appeal can be filed against such excessive and unreasonable interest calculation or a rectification application can be filed u/s.154.

17. Late fees for TDS/TCS returns u/s.234E :- W.e.f. 1st July, 2012 if TDS return is filed late, then u/s.234E late fees 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 deductible/correctible for that quarter. In addition to this, if TDS and late fee and interest due thereon as well as TDS return is not deposited within one year from the due date then penalty u/s.271H ranging from 10 thousand to 1 lakh may be imposed.

Provisions of sec.234E has been made applicable w.e.f. 1st July, 2012. It states that “Amount of late fee @ Rs.200/- per day shall be paid before delivering a TDS statement”, It means that any late fee should have been deposited just at the time of delivering TDS statement and not later than this.

Once the TDS statement has been accepted without late fee, then such late fee cannot be recovered later on.

However this late fee cannot be waived later on even for any reasonable cause, because it is not a penalty but a late fee.

As per provisions of sec.234E(4) late fee is applicable for

“TDS statement which is to be delivered or caused to be delivered for tax deducted at source or tax collected at source, as the case may be, on or after 1st day of July, 2012”.

Late fee cannot be recovered for TDS statements which were due for F.Y. 2011-12 as well as TDS statement late fee cannot be recovered for F.Y. 2012-13 or till today, if not collected at the time of delivering TDS statement by the NSDL (Income tax department).

If a person has filed to deduct TDS or failed to collect TCS then also late fee is not applicable for such period of failure, because late fee under section 234E is imposable only in cases of default where the assessee has failed to deposit TDS return (statement) for tax deducted or collected at source. So it does not cover cases where assessee has failed to deduct TDS or failed to collect TCS.

e.g. a person Mr. A has paid interest of Rs.55000/- to Mr. B on 10th May 2013, and deducted TDS of Rs.5500/- on 10th May 2013 then this TDS is deposited

on or before 7th June, 2013 and TDS return for this period becomes due on 15th July, 2013. Here, if the TDS return (statement) is filed on 5th Nov., 2013 then there is a delay of 112 days, but if this TDS was failed to be deducted on 10th May 2013 and later on deducted on 12th August, 2013, then this TDS has to be deposited on or before 7th Sept., 2013 and TDS return for this (second) quarter has to be deposited on or before 15th Oct., 2013.

So the TDS return has to be filed for the quarter during which TDS was deducted and not for the quarter during which TDS was deductible i.e. even if Rs.55000 has been paid on 10th May in first quarter (1 April to 30th June), but since TDS was not deducted in the first quarter and tds of Rs.,5500/- was deducted in the second quarter i.e. on 12th August 2013 then this sum will be included in the 2nd quarter and not in the first quarter so that delayed filing of tds return for second quarter will be counted only from 15th Oct.2013 (due date of tds return for second quarter) to 5th Nov., 2013 (date of filing of tds return) i.e. delay of only 20 days.

Section 200(3) of the act also says that tds statement shall be filed after paying the tax deducted and rule 31A which talks about filing of tds returns where deduction is made under section 192 to section 196D, so it does not impose liability to file tds statement for tax deductible but not deducted.

On the other hand it is also pertinent to note that the law has not made any person responsible, to deposit late fee, in case of default in depositing late fee alongwith tds statement, which can be inferred from the provisions of sec.204 of the act, which states as under: -

“Sec.204 of the act has made persons responsible for sec.190 to sec.203AA and section 285 this phrase does not cover section 234E, it means no one is responsible for default u/s.234E.

Therefore if any late fee is due and not deposited alongwith the tds statement none can be held responsible to deposit it.

Demand of late fee cannot be raised also by way of processing of TDS statement, because sec.200A(1) of the act talks about tds returns by a person deducting any tds, so it does not cover cases of tax deductible but not deducted at all, the provisions of sec.,200A of the act also does not permit processing of tds statement for default in payment of late fee, except any arithmetical error, or incorrect claim, or default in payment of interest, any tds payable or refundable ect. section 200A also does not cover processing in cases of tax collection or collectible at source (TCS).

An assessee cannot be treated in default also u/s.201(1) or 206C (6A) due to non payment of late fee. And even the TDS return(statement) is also not treated

as defective, like non payment of tax and interest treats an income tax return as defective u/s.139(9) of the act. If a person has not paid late fee then, even though it shall not be charge on all assets because sec.201(2) & 206C(8) does not cover late fee. Sec.234E also doesn't say that in case of default in depositing late fee, the defaulting persons will be deemed an assessee in default.

In view of the above late fee cannot be recovered later on, by way of any notice, neither notice of demand u/s.156 can be issued for this. If any notice is issued by way of processing tds statement u/s.200A, then apply for rectification of mistake u/s.154 of the act or directly file an appeal before Commissioner of Income tax (Appeals).

18. Interest in case of Deemed date of payment of Tax :- As per section 201 if the payee has furnished his return of income and paid tax on such income and payer furnishes a certificate from Chartered Accountant to this effect in Annexure A and submit form No.26A to DGIT(Systems), then date on which return is furnished by the payee will be treated as date of payment of TDS and not the date of actual date of payment of tax by the payee, i.e. payer will be required to pay interest u/s.201(IA)(i) till date of filing of return u/s.139 by the payee.

Similar provisions are made applicable u/s.206C [except in case of sec.206C(1D)] if the buyer has discharged the tax liability and form no.27BA is furnished to DGIT (Systems). In this case no penalty u/s.221 shall be imposed if sufficient reasons are produced.

19. No interest u/s.220(2) :- When interest is charged u/s.201(1A) on the amount specified in the intimation u/s.200A(1), then no interest will be charged for the same amount for the same period u/s.220(2). Benefit of similar provisions are not made applicable to TCS i.e. to Sec.206C(7).

20. Adjust excess or short deduction of TDS on interest u/s.194A or TDS on salary:- The deductor can increase or reduce the amount of TDS u/s.194A arising out of excess or short deduction or failure to deduct during the financial year. In such a case e.g. if the deductor deducts tds later on in any month because of short or non deduction in earlier month then, in my opinion the deductor will not be liable to pay interest on earlier short or no deduction, u/s.201(1A), because sec.201(1A) of the act does not start with the words "notwithstanding anything contained in any other provisions of this chapter". In case of TDS on salary same provision are applicable that at the time of deduction, increase or reduce TDS for adjusting any excess or deficiency or failure to deduct during the financial year.

21. TDS on rent U/s.194:-

- (i) TDS on rent is applicable in case of land, building (incl. factory building), machinery, plant, equipment, furniture, fittings.
- (ii) If there are more than one payee/co-owners, each having definite and ascertainable share then limit of Rs.1.80 Lakh is applicable to each co-owner.

22. TDS ON PURCHASE OF IMMOVABLE PROPERTY U/s.194 IA w.e.f. 1st June, 2013 if any person purchases any immovable property other than rural agricultural land from a resident transferor and the consideration is Rs.50 Lakh or more then he has to deduct tds @ 1% at the time of payment or credit whichever is earlier. TDS has to be deducted on transaction value and not on the stamp duty value e.g. if a property has been purchased for Rs.48 Lakh and its stamp duty value is Rs.52 Lakh, then there is no liability TDS, because transaction value is less than Rs.50 Lakh.

23. TDS on service tax component :- TDS is deductible on the entire consideration including service tax but in the case of TDS on rent, TDS will not be deducted on service tax component included in rent.

Update :No TDS on service Tax part as per [circular 01/2014 dated 13.01.2014](#)

24 TDS on payment to transporter :- In view of Sec.194C(6) no tds is required to be deducted on payment to transport contractor during the course of plying, hiring or leasing goods carriage, if transporter furnishes his PAN, however such information i.e. name of transporter, amount paid or credited, his PAN will have to be submitted in quarterly e-filing of tds return even in case of nil TDS. TDS @ 20% will have to be deducted if the transporter does not furnish his PAN.

25 Due date of depositing TDS:- TDS deducted on income credited or paid on any day in the month of March can be deposited upto 30th April, and in any other month within 7 days from the end of the month.

26. Challan Correction :- If there has been mistake in depositing tax challans, it can be corrected through challans correction mechanism. Or through an application to concerned TDS-AO.

27. Refund of excess TDS deposited :- Upto 31st March, 2010 Excess TDS deposited can be adjusted in next quarter in the same financial year, otherwise application for refund can be made to Assessing Officer(TDS) within 2 years from the end of financial year in which TDS made. However w.e.f. 1st April 2010 Sec.200A itself prescribes that refund should be granted through processing of returns. Sub-rule 3A of rule 31A prescribes that application for refund of excess tds deposited shall be in form No.26B electronically under digital signature.

28. 20% TDS for wrong PAN:- If deductee's PAN is not available or invalid then it will be assumed that deductee has not furnished his PAN to the deductor and then 20% TDS will be deductible.

29. TDS on compensation :- U/s.194LA there is TDS of 10% on compensation for compulsory acquisition under any law, of immovable property (other than agricultural land), for payment exceeding 1 lakh now w.e.f. 1st July 2012 this limit is increased to 2 Lakh.

30. Penalty for wrong information: - On furnishing incorrect information (e.g. wrong PAN & amount) in TDS return, w.e.f. 1st July, 2012 penalty ranging from 10 thousand to 1 lakh may be imposed u/s.271H(1)(b).

31. Issue of TDS/TCS Certificate : - Form No.16A/27D are to be issued within 15 days from the due date of filing of quarterly TDS/TCS returns:-

- (i) i.e. in case of all deductors except Govt. deductors:- upto 30 July, 30 Oct. 30 Jan, 30 May,
- (ii) i.e. in case of Government deductors:- upto 15 Aug., 15 Nov., 15 Feb., 30 May;& form No.16 (Salary) is to be issued on or before 31st May.

32. Due date of Deposit in case of TDS by Govt:-

- (i) without production of income tax challans, TDS/TCS has to be deposited on the same day,
- (ii) in case of payment through challans within 7 days from the end of the month in which tax is deducted/collected.

33. Form No.24G by Govt. Deptt., - In case of TDS/TCS without production of income tax challans deductor will report TDS to PAO (Pay & A/c officer) or DDO, the PAO/DDO will submit form No.24G to NSDL within 10 days from the end of the month. BIN(Book Id.No.) will be generated for each deductor.

34. Due date of depositing TCS :- All sums collected in accordance with the provisions of Sec.206C(1) or 206C(1C)) by TCS collectors (who collects TCS) other than Govt., shall be paid within one week from the last day of the month in which the collection is made. Due to drafting error Rule 37CA does not prescribe any due date for payment of TCS in case bullion or jewellery Sec. 206C (1D). However it may be assumed that it will also be deposited within 7 days from the end of the month.

35. Person responsible for paying : - Person responsible for paying was not clear in case of Central or State Govt. Deptt., now it stated w.e.f. 1st July 2012 that Drawing and Disbursing Officer or any other persons (by whatever name called) responsible for making payment shall be responsible for paying U/s.204 for the purpose of Sec.190 to 203AA & sec.285.

In case of TCS person responsible for collecting and depositing has not been defined, because sec.204 talks only about TDS, not TCS.

36. Form for TDS returns: - Form 24Q applicable for TDS on salary, 26Q in case of other TDS, 27Q for payment to non-resident, 27EQ for TCS.

37. Rectification and appeal against intimation of TDS:- Earlier intimation of TDS processing (issued U/s.200A) could not be subject of rectification u/s.154 of the act or appeal, only notice u/s.156 could only be rectified or appealed, therefore now w.e.f. 1st July 2012 it is stated that intimation of TDS processing can also be subject to rectification u/s.154, appealable u/s.246A and deemed to be notice of demand u/s.156.

38. Order U/s.201 against TDS statement filed/not filed: - If a person has failed to deduct whole or any part of TDS and filed the TDS statement then order against it can be passed:

- (i) within 2 years from the end of the financial year in which the TDS statement is filed for tax deducted, and
- (ii) in six years from the end of the financial year in which the gross payment (without TDS) is made or

credited and no TDS statement has been filed. This time limit of 6 years is extended from 4 years w.e.f. from 1st April 2010.

39. Furnishing of form No.16A/27D:- For TDS deducted on or after 1.4.2011 by companies including banking companies and cooperative banks, form No.16A is to be issued directly downloaded from the tin website (www.tin-nsdl.com) and this provision is applicable to all deductors issuing form No.16A for tax deductible on or after 1.4.2012, and all such deductors will have to verify and authenticate the correctness of this form.

40. Sec.195:

- (a) Any person liable to pay to a non-resident any interest or other sum (other than salary) chargeable under the provisions of this Act shall be liable to TDS (withholding tax rate) or at the rates specified in ADT agreement, whichever is lower.

- (b) If the payment is not chargeable to tax in India then no TDS is required.
- (c) if the payer considers that whole of such sum is not chargeable under this act, but any portion of this is only chargeable then he may apply to the assessing officer u/s.195(2) for lower rate [no form is prescribed if the payer applies to ITO(TDS)].
- (d) If recipient wants the payment without deduction of tax (not lower rate) u/s.195(3) then he will have to apply in form No.13 and if the recipient is foreign banking company then in form No.15C and if the recipient is a branch and other than foreign bank then in form No.15D.
- (e) In case of payment to non-resident certificate has to be obtained from a chartered accountant in form No.15CB and information of such proposed remittance has to be uploaded in form no.15CA on www.tinnsdl.com and then it has to be submitted to the bank before remittance.

41. PENALTIES:

- (i) Sec.271C/271CA: - If a person fails to deduct/collect whole or any part of tax, then such persons shall be liable to penalty equal to the amount of tax, which such person failed to deduct or collect. By insertion of first proviso to Sec.201(1)/206C(6A) of the act if the recipient/buyer except in case of gold 7 jewellery, has included the sum in his return of income then the deductor/person responsible to collect, will not be held defaulter. It does not cover cases where assessee failed to pay tds/tcs.
- (ii) Sec.271H:- w.e.f. 1st July 2012 penalty ranging from 10000 to Rs.1 Lakh may be imposed on failure to submit tds return or on furnishing incorrect TDS/TCS return. Penalty on failure to submit tds return shall not be levied if the person has after paying tds/tcs along with fee and interest, filed the tds return before the expiry of period of one year from the due date of tds return.
- (iii) Sec.272A(2): - Penalty of Rs.100/- per day on failure to furnish TDS/TCS returns [U/s.200(3)/206C(3)/], or failure to furnish any statement referred u/s.206A(1), or failure to deliver in due time form No.15G/15H/27C, or failure to furnish form No.16/16A/12BA/27D. Penalty should not exceed the tax deductible or collectible. Penalty for delay in filing TDS/TCS returns (Sec.200(3)/206C(3) will not be applicable w.e.f. 1.7.2012 because it is replaced by sec.234E.
- (iv) Sec.272BB(1)/(1A)/BBB:- If a persons fails to apply for TAN or to quote TAN number in returns or certificates then penalty of Rs.10000/- may be imposed.

- (v) Sec.273B provides that if the assessee proves that there was reasonable cause for delay or default then penalty cannot be imposed under aforesaid sections.

42. Prosecution Sec.276B-TDS/276BB-TCS: If a person fails to deposit TDS/TCS then he shall be punishable with rigorous imprisonment for a term which shall not be less than three months but which may extend to seven years and with fine. Failure to deduct or collect tax is not an offence but failure to deposit TDS/TCS is an offence u/s.276B/BB. In view of Sec.278AA no person shall be punishable for any failure referred to in Sec.276B i.e. default in payment of tds, (this immunity is not available in case Sec.276BB TCS), if he proves that there was reasonable cause for such failure. Offences u/s.276B/BB can be compounded by the Chief Commissioner or Director General. As per Sec.279A offence u/s.276B (not 276BB) is a non-cognizable (in which no FIR or arrest can be done without specific permission of the court.).

In view of the above analysis of tds provisions it can be summarized that an assessee has to take great care in discharging duties towards tds/tcs dues and deductibility, otherwise any person may have to face penal and prosecution consequences in discharge of duties which does have nothing to do with his own business, because in the case of tds/tcs the 'a' is only acting as an agent of Government without any remuneration or rewards.

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Changes in Finance Bill 2014(2)

The disallowance under section 40(a)(ia) of the Act shall be restricted to 30% of the amount of expenditure claimed.

Existing provisions : The existing provisions of [section 40\(a\)\(i\)](#) of the Act provide that certain payments such as interest, royalty and fee for technical services made to a residents shall not be allowed as deduction for computing business income if tax on such payments was not deducted, or after deduction, was not paid within the time prescribed under section 200(1) of the Act. As mentioned above, in case of non-deduction or non-payment of tax deducted at source (TDS) from certain payments made to residents, *the entire amount of expenditure on which tax was deductible is disallowed under section 40(a)(ia) for the purposes of computing income under the head "Profits and gains of business or profession"*.

The disallowance of whole of the amount of expenditure results into undue hardship.

Proposal : In order to reduce the hardship, it is proposed that in case of non-deduction or non-payment of TDS on payments made to residents as specified in section 40(a)(ia) of the Act, the **disallowance shall be restricted to 30% of the amount of expenditure claimed.**

Disallowance under section 40(a)(ia) of the Act shall extend to all expenditure on which tax is deductible under Chapter XVII-B of the Act.

Existing provisions of [section 40\(a\)\(i\)](#) of the Act provides that certain payments such as interest, commission, brokerage, rent, royalty fee for technical services and contract payment made to a resident shall not be allowed as deduction for computing business income if tax on such payments was not deducted, or after deduction, was not paid within the time specified under the said section. Chapter XVII-B of the Act mandates deduction of tax from certain other payments such as salary, directors fee, which are currently not specified under section 40(a)(ia) of the Act. The payments on which tax is deductible under Chapter XVII-B but not specified under section 40(a)(ia) of the Act may also be claimed as expenditure for the purposes of computation of income under the head "Profits and gains from business or profession".

Proposal : Section 40(a)(ia) has proved to be an effective tool for ensuring compliance of TDS provisions by the payers. Therefore, in order to improve the TDS compliance in respect of payments to residents which are currently not specified in section 40(a)(ia), it is proposed that the disallowance under section 40(a)(ia) of the Act shall extend to all expenditure on which tax is deductible under Chapter XVII-B of the Act.

Non-payment of tax from payments made to non-residents, extended time limit of payment up to the date of filing of return of income under section 139(1) allowed

Existing provision :The existing provisions of [section 40\(a\)\(i\)](#) of the Act provide that certain payments such as interest, royalty and fee for technical services made to a **non-resident** shall not be allowed as deduction for computing business income if tax on such payments was not deducted, or after deduction, was not paid within the time prescribed under section 200(1) of the Act. The Act contains similar provisions for disallowance of business expenditure in respect of certain payments made to the **residents**.

Under section 40(a)(ia) of the Act, in case of payments made to resident, the deductor is allowed to claim deduction for payments as expenditure in the previous year of payment, if tax is deducted during the previous year and the same is paid on or before the [due date specified for filing of return of income under section 139\(1\) of the Act](#). However, in case of disallowance for non-payment of tax from payments made to non-residents, this extended time limit of payment up to the date of filing of return of income under section 139(1) is not available.

Proposal :In order to provide similar extended time limit for payment of tax deducted from payments made to non-residents, it is proposed that the deductor shall be allowed to claim deduction for payments made to non-residents in the previous year of payment, if tax is deducted during the previous year and the same is paid on or before the [due date specified for filing of return under section 139\(1\) of the Act](#).

Applicable Date :These amendments will take effect from 1st April, 2015 and will, accordingly, apply in relation to the assessment year 2015-16 and subsequent years means these amendments are applicable in Financial year 2014-15 onwards.

Text of Amendments

In section 40 of the Income-tax Act, in clause (a), with effect from the 1st day of April, 2015,—

(a) in sub-clause (i),—

(I) for the portion beginning with the words “during the previous year” and ending with the words, brackets and figures “sub-section (1) of section 200”, the words, brackets and figures “[on or before the due date specified in sub-section \(1\) of section 139](#)” shall be substituted;

(II) for the proviso, the following proviso shall be substituted, namely:—

“Provided that where in respect of any such sum, tax has been deducted in any subsequent year, or has been deducted during the previous year but paid after the due date specified in sub-section (1) of section 139, such sum shall be allowed as a deduction in computing the income of the previous year in which such tax has been paid.”;

(b) in sub-clause (ia),—

(I) for the portion beginning with the words “any interest, commission or brokerage” and ending with the words and brackets “for carrying out any work (including supply of labour for carrying out any work)”, the words “**thirty per cent. of any sum payable to a resident**” shall be substituted;

(II) in the first proviso, after the words, brackets and figures “sub-section (1) of section 139,”, the words “**thirty per cent. of**” shall be inserted.

Clause 54 :In section 194A of the Income-tax Act, in sub-section (3), after clause (x), the following clause shall be inserted with effect from the 1st day of October 2014, namely:—

“(xi) to any income by way of interest referred to in clause (23FC) of section 10.”.

Clause 55. After section 194D of the Income-tax Act, the following section shall be inserted with effect from the 1st day of October, 2014, namely:—

“194DA. Any person responsible for paying to a resident any sum under a life insurance policy, including the sum allocated by way of bonus on such policy, other than the amount not includible in the total income under clause (10D) of section 10, shall, at the time of payment thereof, deduct income-tax thereon at the rate of two per cent.:

Provided that no deduction under this section shall be made where the amount of such payment or, as the case may be, the aggregate amount of such payments to the payee during the financial year is less than one hundred thousand rupees.”

Clause 56. After section 194LB of the Income-tax Act, the following section shall be inserted with effect from the 1st day of the October, 2014, namely:—

“194LBA. (1) Where any distributed income referred to in section 115UA, being of the nature referred to in clause (23FC) of section 10, is payable by a business trust to its unit holder being a resident, the person responsible for making the payment shall at the time of credit of such payment to the account of the payee or at the time of payment thereof in cash or by the issue of a cheque or draft or by any

other mode, whichever is earlier, deduct income-tax thereon at the rate of ten per cent.

(2) Where any distributed income referred to in section 115UA, being of the nature referred to in clause (23FC) of section 10, is payable by a business trust to its unit holder, being a non resident, not being a company or a foreign company, the person responsible for making the payment shall at the time of credit of such payment to the account of the payee or at the time of payment thereof in cash or by the issue of a cheque or draft or by any other mode, whichever is earlier, deduct income-tax thereon at the rate of five per cent.”.

Clause 57. In section 194LC of the Income-tax Act, with effect from the 1st day of October, 2014,—

(A) in sub-section (1), after the words “by a specified company”, the words “or a business trust” shall be inserted;

(B) in sub-section (2),—

(a) in the opening portion, after the words “by the specified company”, the words “or the business trust” shall be inserted;

(b) for clause (i), the following clause shall be substituted, namely:—

“(i) in respect of monies borrowed by it in foreign currency from a source outside India,—

(a) under a loan agreement at any time on or after the 1st day of July, 2012 but before the 1st day of July, 2017; or

(b) by way of issue of long-term infrastructure bonds at any time on or after the 1st day of July, 2012 but before the 1st day of October, 2014; or

(c) by way of issue of any long-term bond including long-term infrastructure bond at any time on or after the 1st day of October, 2014 but before the 1st day of July, 2017, as approved by the Central Government in this behalf; and”.

Clause 58. In section 200 of the Income-tax Act, in sub-section (3), the following proviso shall be inserted with effect from the 1st day of October, 2014, namely:—

“Provided that the person may also deliver to the prescribed authority a correction statement for rectification of any mistake or to add, delete or update the information furnished in the statement delivered under this sub-section in such form and verified in such manner as may be specified by the authority.”.

Clause 59. In section 200A of the Income-tax Act, in sub-section (1), after the words “where a statement of tax deduction at source”, the words “or a correction statement” shall be inserted with effect from the 1st day of October, 2014.

60. In section 201 of the Income-tax Act, for sub-section (3), the following sub-section shall be substituted with effect from the 1st day of October, 2014, namely:—

“(3) No order shall be made under sub-section (1) deeming a person to be an assessee in default for failure to deduct the whole or any part of the tax from a person resident in India, at any time after the expiry of seven years from the end of the financial year in which payment is made or credit is given.”.