

Practical difficulties for TDS returns & Previous year defaults.

Topics covered

- ✓ Basics of TDS
- ✓ TRACES introduction
- ✓ Procedure of TDS return
- ✓ Revision of TDS return
- ✓ Notice and reasons for defaults
- ✓ Causes of prosecution
- ✓ Compounding cases

Section	Nature of Income	When to deduct	Rate of TDS
192	Salary	Monthly- at the time of payment where estimated yearly net taxable salary exceeds tax free limit.	On the average rates on the basis of per rates for individuals. (30% if no Valid PAN)
194	Dividend other than the dividend as referred to in Section 115O	Before making payment to shareholder, other than dividend declared U/s. 115O, when amount exceeds Rs. 2,500/-	10% (20% if no Valid PAN)
194A	Interest other than "Interest on securities"	At the time of credit or payment, whichever is earlier, when the amount exceeds Rs.5,000/-. However, limit is Rs. 10,000/- in case of interest credited by banks including co-operative banks to its members.	10% (20% if no Valid PAN)

Section	Nature of Income	When to deduct	Rate of TDS
194C	Payment to contractors/ sub-contractors	At the time of credit or payment, whichever is earlier, when the amount of a particular contract exceeds Rs. 30,000/- or the total amount of contract during the whole year exceeds Rs. 1,00,000/-	2% – For payments to contractor / Sub-contractor who is not an Individual/HUF(20% if no Valid PAN) 1% – For payment to contractor/Sub-contractor who is an individual/HUF(20% if no Valid PAN)
194H	TDS on commission brokerage for AY 2018-19	At the time of credit or payment whichever is earlier when the amount exceeds Rs. 15,000/-	5% (20% if no Valid PAN)
194I	Rent	At the time of credit or payment, whichever is earlier, when the amount exceeds Rs. 1,80,000/-	10% – If rent is for land, building or furniture(20% if no Valid PAN) 2% – If the rent is for Machinery, Plant or Equipment(20% if no Valid PAN)

Section	Nature of Income	When to deduct	Rate of TDS
194J	Any sum paid by way of a) Fee for professional services, b) Fee for technical services c) Royalty, d) Remuneration/fee/commission to a director or e) For not carrying out any activity in relation to any business f) For not sharing any know-how, patent, copyright etc.	At the time of credit or payment, whichever is earlier, when the amount exceeds Rs. 30,000/-	10% 2% in case of payments received or credited to a payee, being a person engaged only in the business of operation of call center wef 01.06.2017. (20% if no Valid PAN) Read- S.194J TDS rate proposed at 2% on Call Center business Income
194IB	Rent payable by an individual or HUF not covered u/s. 194I (W.E.F. from 01.06.2017)	Tax shall be deducted on such income at the time of credit of rent, for the last month of the previous year or the last month of tenancy if the 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 issue of a cheque or draft or by any other mode, whichever is earlier.	Threshold limit Rs. 50,000/- per month. TDS to be deducted @ 5% Read- TDS on rent made applicable to Individual / HUF even if no Tax Audit

Time Limit for Payment

SITUATION	Time Limit For Deposit Of Tax	
When Tax is deducted Person other than Government	Where income or amount is credited or Paid in the Month of March	On or before 30th April
	In any other Case	On or before 7 days from the end of the month in which – <ul style="list-style-type: none">•The deduction is made•Income tax is due u/s 192 (1A)

Time Limit for Filing TDS Returns

QUARTERS	FORM 24Q SALARY	FORM 26Q NON SALARY
1 st	July 31 st	July 31 st
2 nd	October 31 st	October 31 st
3 rd	January 31 st	January 31 st
4 th	May 31 st	May 31 st



TDS

Centralized Processing Cell

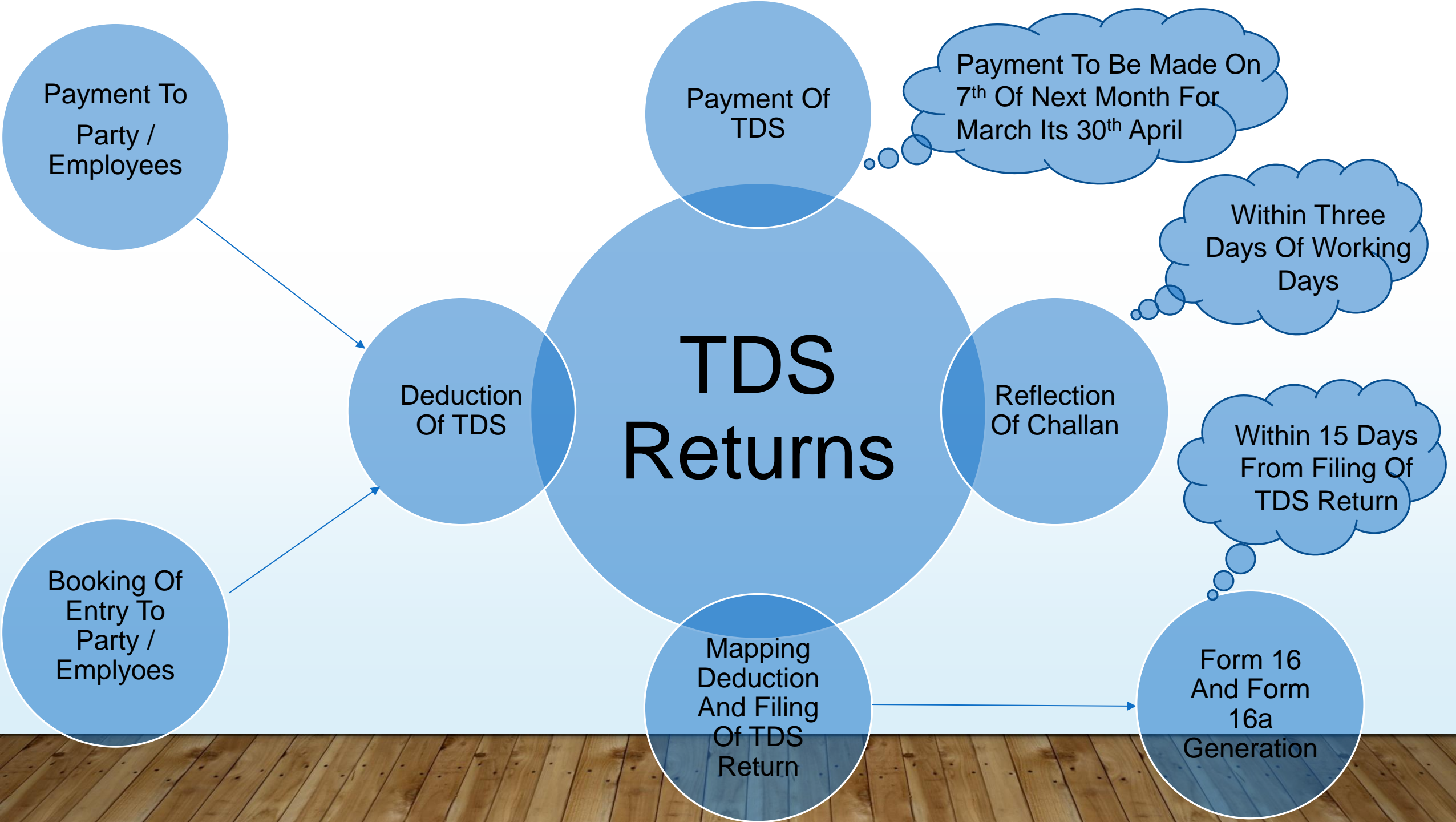
TRACES

TDS Reconciliation Analysis and Correction Enabling System



सत्यमेव जयते
Government of India
Income Tax Department

- What is TRACES?
- Functioning of TRACES
 - Download Consolidated files
 - Form 16 and Form 16A of parties
 - Revised TDS return for want of corrections
 - Downloading justification reports for more clarification of defaults



Revision Of TDS Return

With DSC

With Out DSC

PAN Correction Add Challan

Addition Of
Deductee

Download
Consolidated File

Data Required to Download consolidated File



Con



Part

What if data is not available?

TDS notices reasons

- Short deduction and interest on the same
- Short payment and interest on the same
- Interest on late payment
- Late filing of return
- Interest on payment of interest on late payment

Reasons for short deductions and Interest

- Incorrect PAN quoted in TDS return
- Rate Difference

e.g. Rate difference:

Entity	Section	Deducted at the Rate	Actual rate for Deduction
Company	194C	1%	2%

Reasons for short payment and interest

- Mismatch of challan
- Overbooking of challan
- Less payment TDS than its deductions
- Less TDS deducted in salary return

Reasons for interest on late payment of TDS

- Late payment of TDS
- Mistake in calculation of interest u/s 201(1A)
 - e.g. Interest calculation

Date of Deduction	Due date of payment	Actual date of payment	Delay in months
28/03/2018	30/04/2018	03/05/2018	3 Months

Reasons for late filing of TDS return u/s 234 E

- Late filing of TDS returns
- Limit is up to the TDS liability
- Payment of late filing of return can be waived if it is imposed on return

before 01/06/2015

Due Date of filing of Return	Actual date of filing TDS return	TDS Liability	Fees u/s 234E
31/07/2018	02/09/2018	Rs. 1000/-	Rs. 6600/- (33 Days * Rs. 200 per day OR Rs. 1000/- which ever is less

Reasons for interest on interest of late payment of TDS u/s 220(2)

Calculation

Interest will be never ending?

section
interest

Reasons for interest on interest of late payment of TDS u/s 220(2)

The Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner may reduce or waive the amount of interest

- Payment of such interest has caused or would cause genuine hardship to the taxpayer.
- Default in the payment of the amount on which interest has been paid or was payable, was due to circumstances beyond the control of the taxpayer.
- The taxpayer has co-operated in any inquiry relating to the assessment or any proceeding for the recovery of any amount due from him.

TDS under section 195:

- Payer is required to deduct tax at source from payment to a non-resident (including a foreign company) on “sums chargeable to tax”.
- Section applies even if payer is a non-resident and whether he has a presence in India or not.
- Section does not apply to salary payments & some specific payments
- Tax has to be deducted at the time of payment or credit, whichever is earlier.
- Interest payable by Government, PSU Bank & Public Financial Institutions – TDS at the issue of payment.
- Any sum credited to “suspense account” or “payable account” or any “other account” – is considered as paid.

Cases that can lead to prosecution

As per the Income Tax Act, all cases where TDS/TCS is deducted but not deposited within the due date, as prescribed, are punishable u/s 276B/276BB or 278A. The selection of cases & their processing is further governed by Instruction F.No. 285/90/2008-IT(Inv-I)/05 dated 24.04.2008 which has been modified by the CBDT [vide F.No. 285/90/2013-IT(Inv.)] dated 07.02.2013. Presently, the monetary limit specified for cases to be considered for prosecution is as under:

- (i) Cases, where amount of tax deducted is Rs. 1,00,000 or more and the same is not deposited by the due date prescribed under the Income Tax Act, 1961 read with the Income Tax Rules, 1962 shall mandatorily be processed for prosecution in addition to the recovery.
- (ii) Cases, where the tax deducted is between Rs.25,000 and Rs. 1,00,000 and the same is not deposited by the due date prescribed under the Income Tax Act, 1961 read with the Income Tax Rules, 1962 may be processed for prosecution depending upon the facts and circumstances of the case, like where there are instances of repeated defaults and/or tax has not been deposited till detection.

Compounding can be filled to CCIT/ DGIT

Compoundable offences are those which can be conciliated by the parties under dispute. The permission of the court is not required in such cases. When an offence is compounded, the party, who has been distressed by the offence, is compensated for his grievance.

The following conditions should be satisfied for compounding an offence.

- There should be a written request from the assessee. **(authorized person)**
- The amount of undisputed tax, interest and penalties relating to the default should have been paid.
- The assessee should express his willingness to pay both the prescribed compounding fees as well as establishment expenses.

Additional conditions:

- The offence is the first one by the assessee.
- The Board's prior approval is obtained.
However, if the amount involved exceeds Rs. 1 lakh, approval can be granted only after seeking advice from Ministry of Law.



Non-cognizable offences notwithstanding anything contained in the code of Criminal Procedures 1973.

276B	Failure to pay tax to the credit of the central Govt. under chapter XIID or XVII-B
276C(1)	Willful attempt to evade tax.
276C(2)	Willful attempt to evade payment of tax
276CC	Failure to furnish the return of income.
277	False statement in verification, etc.
278	Abatement of false returns etc.

Thank you!



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