

**NEW TDS AND TCS PAYMENT AND INFORMATION REPORTING SYSTEM- NOTIFICATION NO. 858(E), DATED 25<sup>th</sup> MARCH, 2009  
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The Finance Act, 2008 inserted a new sub-section (1A) in section 143 of the Income-tax Act, 1961 empowering the Board to make a scheme for centralised processing of returns with a view to expeditiously determining the tax payable by, or the refund due to, the assessee. For the purposes of enabling centralised processing of returns, it is necessary to ensure the integrity of the database, in particular, the information relating to tax deduction at source, advance tax and self assessment tax.

2. One of the fundamental principles of financial accounting is that if a person claims credit for payment of money to a third person, the credit should be allowed only if the payment and the information relating to the transaction have been received from the third person. The advance tax and self assessment tax is paid directly by the assessee by filling a challan which bears a unique **Challan Identification Number** (CIN) and the PAN of the assessee. These two number systems are used to cross verify the claim of tax payment made by the assessee and allow appropriate credit.

3. In the context of TDS, the first best principle is that no claim for TDS / TCS should be admissible unless the deductor / payer has paid the amount so deducted / collected to the credit of the Central Government and the information relating to the

transaction is received. Since the business process of the Income Tax Department was manually organised and the volume of TDS related information was large, it was not feasible to undertake 100 per cent matching of TDS claims with information furnished by the deductor. Consequently, the Income Tax Department adopted a risk management strategy for allowing claim for TDS as a second best option. With the advances in information technology, it is technically feasible to design a business process which would enable 100 per cent matching in real time, thereby, eliminating the risk. Pursuant to the recommendation of the Task Force on Direct Taxes (chaired by Dr. Kelkar), as a first step in this direction, the deductors were required to electronically furnish the TDS related information (through the NSDL). This system was introduced in early 2004 as one of the modules of the Taxpayer Information Network (TIN).

4. The quantity and quality of data flowing through this module is far from satisfactory. The data is largely unverifiable. The matching of the deduction reported by the deductor and claimed by the deductee assessee continuous to be poor for the following reasons:-

- (i) Non-compliance, especially by Government deductors, with TDS return filing requirement.
- (ii) Low quoting of PAN number in TDS returns that are filed on account of non-furnishing of PAN by deductees to their deductors and negligence by deductors.

5. Unlike in the case of advance tax and self assessment tax, the TDS information does not bear a unique transaction identification number. As a result, the PAN forms the only basis for matching. To the extent PAN quoting is inadequate or deficient, it is not feasible to match the claim made by the deductee assessee with the TDS information reported by the deductor. Hence, it becomes necessary to make ad-hoc rules for allowing credit for TDS or in the alternative, interface with the assessee for physical verification of the TDS certificate. Both these approaches are flawed since there is no reconciliation of deductees claim with the information provided by the deductor and the integrity of the system is questionable. The efforts of the Income Tax Department over the last four years for improving the TDS and TCS database have not yielded desired result.

6. Further, Government (both Central and State together) is the largest deductor of tax being the largest employer and the largest spender on works contract. Under the extant procedure, tax deducted by the Central Government departments is paid to the account of the Central Government through book transfer. Unlike other deductors, these departments do not make any direct payment of the TDS amount in the banks. Similarly, the Central Government Ministries, departments and their sub-ordinate and attached offices are large scale defaulters in complying with the TDS information reporting requirements. Even the certificates issued by these organisations are often illegible and of poor quality. Hence, these are unreliable. This has been a constant source of public grievance. It also creates an opportunity for interface with the taxpayer. This process also does not assure the department of the legitimate revenues and enforce compliance. Hence, the mechanism of payment of tax so deducted and compliance with the reporting requirements is not satisfactory.

7. Unlike the Central Government, the State Government is required to make a consolidated payment of the TDS amount in respect of all its deductors and deductions directly into the Reserve Bank of India. This is done by the Accountant General of the State. As a result, there is no correlation between the deduction, payment and reporting. Further, compliance by State Governments with the TDS information reporting requirement is no better than in the case of the Central Government.

8. In the light of the above, the Department adopted the second best option of a risk management strategy for allowing TDS claims. Under this strategy, the Department has been allowing credit for TDS claims even though the transactions do not fully match/reconcile with the information provided by the deductor. Further, the Department have also been unable to undertake follow up verification of such claims at the deductors end on account of inadequate resources. As a result the system is vulnerable and exposes public revenues to extreme risk of fraud and leakage.

9. With a view to resolving the problems in granting credit for pre-paid taxes, the Central Board of Direct Taxes constituted a sub-group to analyse the various problems in granting credit for prepaid taxes and make appropriate recommendations. According to the Sub-group, the problem of matching and reconciliation of prepaid taxes is rooted in the three sets of data pertaining to TDS entering the system separately at different times from different sources, thus causing mismatch. Therefore, the Sub-group recommended that the problem can be solved if the agency receiving the TDS amount and the TDS returns (and the documents by which this is done) is the same. In such a situation the TDS payments can be immediately credited to the accounts of the deductees by the agency handling both the operations. For example, if the detailed list giving break-up and identity particulars of deductees are given to the bank along with the TDS challans for the consolidated amount of TDS at the time of payment, the accounts of deductees can be simultaneously credited, thus eliminating the reconciliation issues between challan data in OLTA and in TDS returns. Owing to the advances in technology, it is now feasible to implement this recommendation.

10. The Sub-group also examined the issue of granting credit for TDS deducted by government deductors and recommended that Central Government deductors should also be brought into the discipline of deposit of TDS in bank accounts like other deductors.

11. As stated above, the Government has introduced the centralised processing of returns which envisages no interface with the taxpayer. Further, the processing is also required to be done in an automated jurisdiction-less manner. Therefore, it is necessary to have in place a perfect TDS payment and information reporting system so as to optimise the efficiency of the centralised return processing system. It is imperative to move to the first best solution to also minimize the risk of financial fraud. This is in the interest of all stakeholders Government, Income-tax Department and taxpayers. **Therefore, the Board have decided that, henceforth, claim for TDS and TCS shall be allowed only if the**

**(i) amount has been deposited by the deductor / collector;**

- (ii) information relating to the deductee has been furnished by the deductor / collector; and
- (iii) claim matches the information furnished by the deductor / collector.

12. With a view to enabling the implementation of the aforesaid decision, the TDS and TCS payment and information reporting system has been redesigned vide notification No. 858(E) dated 25<sup>th</sup> March, 2009 published in Official Gazette. The **salient features** of the new TDS and TCS payment and information reporting system are the following: -

- (i) The new system has been harmonized for all deductors (including Central and State Governments). Therefore, like non-governmental tax deductors, **every deductor in the Central and State Government have also been made responsible for making direct payment of TDS in the bank.** They are no longer allowed to make payments of the TDS and TCS by making book adjustments or consolidated payments. As a result, the TDS payment and information reporting system will be uniform across deductors.
- (ii) Rule 30 and Rule 37 CA of the Income-tax Rules, 1962 have been substituted to provide, inter alia, for the following: -
  - (a) All sums of tax deducted at source under Chapter XVII-B and of tax collected at source under Chapter XVII-BB shall, in general, be **paid to the credit** of the Central Government **within one week from the end of the month** in which the deduction, or collection, is made. Similarly, the same time limit for payment will also apply for income-tax due under sub-section (1A) of section 192.
  - (b) It is **mandatory for all deductors (including Central Government and State Governments) to pay the amount by electronically remitting** it into the RBI, SBI or any authorized bank.

- (c) It is **mandatory for all deductors (including Central Government and State Governments) to make the payment by electronically furnishing** an income-tax **challan in Form No. 17**.
- (iii) In the process of electronically furnishing the income-tax challan in Form No. 17, the deductor will be simultaneously required to furnish to the Taxpayer Information Network (TIN) system maintained by National Securities Depository Limited (NSDL) either through screen based upload or file upload, three basic information relating to the deduction i.e., PAN, name of the deductee and amount of TDS/TCS.
- (iv) Upon successful remittance of the TDS/TCS to Central Government account and the uploading of the basic information as mentioned above to the TIN system, every deduction record will be assigned a unique transaction number (UTN).
- (v) NSDL will create a facility to e-mail the UTN file to the deductor if the e-mail address of the deductor is available with them. In addition, they will also create a facility for the deductor to download the UTN file.
- (vi) The UTN will be required to be quoted by the deductor on the TDS/TCS certificate issued by him to the deductee.
- (vii) NSDL will also create a facility to allow independent viewing of the UTNs by the deductee.
- (viii) With a view to enabling the Income Tax Department to monitor compliance by the deductor with the TDS provisions, every person (including Central Government and State Government) who has obtained a Tax Deduction or Collection Account Number (TAN) shall **electronically furnish** a quarterly statement of compliance with TDS provisions in **Form No. 24C**. **It is mandatory for all TAN holders to furnish this form irrespective of whether any payment liable to TDS has been made or not.** This form shall be furnished on or before the 15<sup>th</sup> July, the 15<sup>th</sup> October, the 15<sup>th</sup> January in respect of the first three quarters of the financial year, respectively, and on or before the 15<sup>th</sup> June following the last quarter of the financial year. This e-form **No. 24C has to be furnished at <http://incometaxindiaefiling.gov.in>. The first quarter in respect of which Form 24C is required to be furnished is the quarter ending on 30<sup>th</sup> June, 2009.**
- (ix) In order to enable the deductor to furnish the UTN to the deductee, the existing Form 16 and Form 16A have been appropriately modified.

(x) The quarterly returns of TDS and TCS hitherto required to be filed in Form No. 24Q, Form No. 26Q, Form No. 27Q and Form No. 27EQ shall now be required to be filed for all quarters on or before the 15<sup>th</sup> June following the Financial Year. Effectively, the quarterly returns have now been replaced by an annual return.

**13. The above new system will be effective for all tax deducted at source or tax collected at source on or after the 1<sup>st</sup> April, 2009. However, any TDS or TCS effected on or after the 1<sup>st</sup> April, 2009 but not later than 31<sup>st</sup> May, 2009 shall continue to be paid to the credit of the Central Government by using the old challan form. The TDS or TCS effected on or after the 1<sup>st</sup> June, 2009 shall be required to be paid electronically by electronically furnishing income tax challan in Form No. 17.**

14. Where the payment of TDS or TCS effected on or after the 1<sup>st</sup> April, 2009 but not later than 31<sup>st</sup> May, 2009 is paid to the credit of the Central Government by using the old challan form, the deductor / collector shall, nevertheless, be required to fill up Form No.17 in respect of such payments any time **between 1<sup>st</sup> July, 2009 to 15<sup>th</sup> July, 2009**. Therefore, the deductors/collectors are advised to prepare the schedule relating to details of TDS / TCS from deductees in Form No.17 in advance (in an excel sheet) and be in a state of preparedness to file the same by 15<sup>th</sup> July, 2009 so that the UTNs relating to TDS / TCS transactions carried out in the month of April and May can be generated / obtained for onward transmission to the deductees.

15. Further, a deductor can split the total amount of TDS and TCS which he is required to deposit to the credit of the Central Government so that every deposit to the account of the Central Government is made through a separate challan in Form 17. For example, if a deductor is liable to deposit Rs. 1 lakh, he can split the amounts into four payments of Rs 25000/- each and deposit each of the amounts through a separate challan in Form 17 at four different times.

16. The return of income in Form No. ITR-1 to Form No. ITR-8 for Assessment Year 2009-10 have been notified which requires, amongst other, the quoting of the relevant UTN for every TDS or TCS claim made by the assessee. Therefore, the credit for any TDS or TCS claim will be allowed, amongst others, if the assessee quotes the relevant UTN for every TDS and TCS claim and the said UTN matches with the UTN in the database of the Income Tax Department. With a view to enabling the processing of returns relating to Financial Year 2007-08 (Assessment Year 2008-09) and enabling the assessee to receive the UTN for TDS and TCS transactions in the Financial Year 2008-09 (relevant for Assessment Year 2009-10), the following procedure shall be followed: -

- (a) National Securities Depository Limited (NSDL) shall assign an UTN for every TDS and TCS transaction records in Financial Years 2007-08 and 2008-09, reported in the quarterly returns received by it.
- (b) NSDL will create a facility to e-mail the UTN file to the deductor if the e-mail address of the deductor is available with them. In addition, they will also create a facility for the deductor to download the UTN file.
- (c) Upon receipt of the UTN, the deductor will inform the UTN to the deductee. In cases where the UTNs are available to the deductor before the issue of the TDS/TCS certificate to the deductee, the deductor will indicate the UTNs on the certificate. However, if the UTNs are not available to the deductor before the issue of TDS/TCS certificate, the deductor shall, subsequently, send a consolidated statement of all TDS/TCS transactions indicating the UTNs.
- (d) NSDL will also create a facility to allow independent viewing of the UTNs by the deductee. As a result, even if the UTNs are not received by the deductee from the deductor, they can be directly obtained from the NSDL database and quoted while making claims of TDS and TCS in the return of income.

17. TDS certificates were hitherto required to be issued in Form 16 or Form 16A as the case may be. Similarly, TCS certificates were issued in Form 27D. These forms have been substituted by the new Form 16, Form 16A and Form 27D with effect from the 1<sup>st</sup> day of April, 2009. In the new Forms, it is mandatory for the deductor/collector to quote, inter-alia, the UTN. Therefore, where the certificate is required to be issued in respect of **deduction or collection made before the 1<sup>st</sup> April, 2009**, the deductor/collector may adopt any of the following course of action:-



- (a) The deductor/collector may issue certificate of deduction or collection in the Form 16, Form 16A or Form 27D, as the case may be, as it existed prior to 1<sup>st</sup> April, 2009 **and** send a consolidated statement of UTNs to the deductee/buyer/lessee etc., as soon as the same is received by him; **or**
- (b) The deductor/collector may issue certificate of deduction or collection in the **new** Form 16, Form 16A or Form 27D, as the case may be.

18. Rule 31 of the Income Tax Rules, as it existed prior to its substitution, provides that, in general, the TDS certificates in Form 16 and Form 16A should be issued within one month from the end of the month in which the deduction is made. Similarly, Rule 37D, as it existed prior to its substitution, provides that, in general, the TCS certificates in Form 27D should be issued within one month from the end of the month in which the collection is made. Therefore, if the deductor/collector chooses to adopt the course specified in item (b) of para 13 above, **the TDS/TCS certificate may be issued beyond the stipulated period of one month but not later than 30<sup>th</sup> June, 2009.**

19. As regards, TDS/TCS certificates in respect of **deduction or collection effected on or after the 1<sup>st</sup> April, 2009**, it is mandatory to issue the certificates in the new Forms and quote the UTN relating to the TDS/TCS transactions.

20. As stated above, a new Form 24C has been notified to monitor compliance with the provisions of TDS/TCS. The first part of the Form relates to personal information and filing status. The Schedule COM-I relates to details of TDS/TCS compliance in the first month of the relevant quarter. Likewise details of TDS/TCS compliance for the second and third month of the relevant quarter would have to be reported in Schedule COM-2 and Schedule COM-3 respectively. In this Schedule in column (3), for example, against section 194A in column (1), the TAN holder is required to furnish the total amount of interest paid during the month. Let us assume that this total amount is Rs. 1 crore. In column (4) of the corresponding entry, the deductor is required to furnish the total amount on which TDS was liable or eligible to be deducted out of Rs. 1 crore. As is

well known, no TDS is required to be deducted if the interest payment is less than Rs. 10,000. If the total of the amounts of interest payment/credit less than Rs. 10,000 is Rs. 30 lakhs, then the deductor must report in column (4) an amount of Rs. 70 lakhs (Rs. 1 crore Rs. 30 lakhs). In column (5), the deductor has to report that the total amount on which tax was deducted at **prescribed rate** out of the amount reported in column (4). In the instant case the rate of tax to be deducted at source is 11.33 percent (including surcharge and education cess). However, in many instances the recipients of interest exceeding the threshold limit of Rs. 10,000/- would either furnish certificate for non deduction of tax or deduction at a lower rate than the prescribed rate. Let us assume that the amount of interest paid to such recipients is Rs. 15 lakhs. Therefore, the amount of interest payment liable to TDS at the prescribed rate would be Rs. 55 lakhs (Rs. 70 lakhs Rs. 15 lakhs), which is required to be reported in column (5). Since the prescribed rate is 11.33%, and the amount of interest liable to TDS at the prescribed rate is Rs. 55 lakhs, the amount of TDS on such payment is Rs. 6,23,150/-. This amount is required to be reported in column (6). In column (7), the deductor is required to report the amount of Rs. 15 lakh i.e., the amount of interest payment liable to TDS at less than the prescribed rate. Let us assume that the TDS at nil or lower rate on the amount of Rs. 15 lakh is Rs. 50,000/-. This amount would be required to be reported in column (8). The total amount of TDS of Rs. 6,73,150/- (Rs. 6,23,150 + Rs. 50,000) is required to be reported in column (9). The above example is reproduced below in the tabular form as would appear in Form 24C:-

Section	Nature of payment	Total Expense or Capital outgo under the section	Total Amount on which TDS / TCS was liable or eligible to be deducted or collected out	Total Amount on which tax was deducted or collected at prescribed rate	Amount of tax deducted or collected on (5)	Total Amount on which tax was deducted or collected at less than prescribed rate out of	Amount of tax deducted or collected on (7)	Total Amount = (6) + (8)
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			of (3)	out of (4)		(6)		
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
194A	Interest other than interest on securities	1,00,00,000	70,00,000	55,00,000	6,23,150	15,00,000	50,000	6,73,150

21. Form 24C is required to be furnished by all TAN holders irrespective of whether a TDS/TCS transaction has been effected during the quarter or not. In the event of the column (3) of the Schedules in Form 24C is zero for all nature of payments, the deductor/collector should specify in the section on filing status in Form 24C that it is a case of **Nil Return** and it would not be necessary to fill in the Schedules.

22. In Schedule PAY of Form 24C, the deductor/collector is required to indicate the details of the payment of the TDS/TCS to the credit of the Central Government.

23. The new TDS and TCS payment and reporting system will enable faster payment, accurate accounting and uniformity across deductors. It will facilitate accurate, quicker and full credit for taxes paid enabling faster refunds to taxpayers. It will also minimize interface of tax administration with taxpayers and intermediaries, thereby eliminating any opportunity for rent seeking behaviour.

