

DAHOTRE & DAHOTRE
Chartered Accountants



Knowledge and Development Committee

Newsletter

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Editor-in-Chief's Message

Hello readers!

Welcome to the **40th** Newsletter Edition of 2024.

In this issue, we will discuss Conversion of Capital Assets into Stock in Trade. Also, we will know about Form 13 of Income Tax Non-Deduction / Lower Deduction of TDS.

Vinod Jangid
Editor-in-chief

Team's Message

"Together, we're the architects of our success."

Tejashree Darawade
Senior Associates

Short Updates:

Direct Tax

- Direct tax collections have surged 182 per cent to over Rs 19.60 trillion in 2023-24 in the 10-year period of Prime Minister Narendra Modi-led government.
- The latest 'Time Series Data' released by the income tax department showed that the corporate tax collections more than doubled to over Rs 9.11 trillion in 10 years to 2023-24 fiscal.
- Personal income tax mop up grew close to four-fold to Rs 10.45 trillion during the period.
- In the first year of the Modi government in 2014-15, direct tax collection was about Rs 6.96 trillion.

- This included about Rs 4.29 trillion of corporate tax and Rs 2.66 trillion of personal income tax.
- The number of income tax returns filed (including revised returns) increased from over 4.04 crore in 2014-15 fiscal to over 8.61 crore in 2023-24.
- Direct tax-to-GDP ratio increased from 5.55 per cent in 2014-15 to 6.64 per cent in 2023-24. Tax buoyancy, which measures revenue mobilisation efficiency with respect to GDP growth, increased from 0.86 to 2.12 in the 10-year period.

01 Direct Tax Conversion of Capital Assets into Stock in Trade



Isha Dagra

PROVISIONS OF SECTION 45(2) OF THE INCOME TAX ACT, 1961

Provisions of Section 45(2) deals with situation when Capital Asset is converted into Stock-in-trade of the business by the assessee and provides method for capitalization of Capital Gain on such conversion. In real estate business, we generally come through this situation on various occasions in which an assessee converts his capital asset into Stock-in-trade. As per provisions of Section 2(47)(iv) of the Act, 1961 the moment an assessee starts treating his/her Capital Asset as Stock-in-trade for his/her business the moment liability of Capital Gain arises. But we know that real estate asset will be generated and ready for sale after a long period of time. The Landowner or assessee at the initial stage at the time of entering into a Joint Development Agreement with builder is not in a position to pay whole amount of Capital Gain Tax on conversion of his/her Capital Assets into business asset

The provisions of Section 45(2) provides leverage in payment of Capital Gain tax to the assessee and deferred the incidence of payment of tax in future.

OBJECTIVE BEHIND INSERTION OF SECTION

- “Under section 2(47) of the Income-tax Act, 1961 (hereinafter referred to as the Act) the term transfer in relation to a capital asset, has been defined to include the sale, exchange or relinquishment of the asset; or the extinguishment of any rights therein; or the compulsory acquisition of the asset under any law.

- Under the existing provisions, an assessee who converts a capital asset owned by him into a trading asset of his business and then sells the converted asset is able to avoid payment of tax on the capital gains represented by the appreciation in the value of the asset up to the date of its conversion.
- This is because the assessee can claim that the mere conversion of a capital asset into a trading asset does not amount to a transfer. The assessee can also claim that for the purposes of determining his business profits from the sale of the converted asset, the cost of such asset should be taken as its market value on the date of its conversion into a trading asset and not its actual cost of acquisition to him.
- Hence, when the converted capital asset is sold by him as stock-in-trade, only the difference between sale price and market value of the stock-in-trade on the date of the conversion of the capital asset can be regarded as profit accruing to the assessee from the transaction.
- With a view to preventing the avoidance of tax on such capital gains through the device of converting a capital asset into a trading asset, the Amending Act has substituted the definition of transfer in section 2(47) of the Act by a new definition to provide that, in a case where a capital asset is converted by the owner thereof into, or is treated by him as, stock-in-trade of a business carried on by him, such conversion or treatment shall also be regarded as a transfer of the assets .”

SECTION 45(2) OF THE INCOME TAX ACT, 1961:

Provides that when the Capital Asset is converted into Stock-in-Trade by an assessee, the profits or gains arising on such conversion shall be charged to tax as Capital Gain in the year in which such Stock-in-Trade is sold or otherwise transferred.

Note:

- For calculation of the Capital Gain arising from such transfer. Fair Market Value of the asset as on the date of conversion shall be deemed to be

full value of consideration accrued or received from such transfer.

2. However, such Capital Gain shall be chargeable to tax in the year in which the converted asset is sold or otherwise transferred

LET'S UNDERSTAND THROUGH AN EXAMPLE;

Mr. A has purchased a plot on 25/04/2010(FY 2010-11) for INR 10.00 Lakhs and converted the same plot into Stock-in-trade of his real estate business in the financial year 2019-20. The FMV (Fair Market Value) of such plot at the date of conversion was INR 100.00 Lakhs. Now such plot after conversion is sold for INR 150.00 Lakhs in Financial Year 2020-21. The Capital Gain and Business Income shall be computed as follows;

A. CAPITAL GAIN Amount(INR) Fair Market Value as on the date of conversion of Capital Asset into Stock-in-Trade i.e., in the Financial Year 2019-20 as Deemed Sale Consideration 1,00,00,000.00 Less: Indexed Cost of Acquisition (10,00,000*289/167) 17,30,538.00 LTCG computed in the Financial Year 2019-20 82,69,462.00 Note: INR 82,69,462/- is chargeable to tax in the FY 2020-21

B. BUSINESS INCOME Amount(INR) Sale consideration of converted plot in the Financial Year 2020-21 1,50,00,000.00 Less: Cost of Acquisition (which has been treated as Stock-in-trade after conversion at FMV on the date of conversion) 1,00,00,000.00 Business Income Taxable in FY 2020-21 50,00,000.00

IMPORTANT FOR JOINT DEVELOPMENT AGREEMENT;

- The provisions of Section 45(2) is applicable when Capital Asset is converted into business asset by the owner of asset/land and subsequently asset is used by him by undertaking business activity. Such business activity may be taken by the owner of the land himself or with a builder/developer in a Joint Development Agreement. But it is important that the ownership of the land should not be transferred to the Builder/Developer through Joint Development Agreement. It should be in the name of the owner of Capital Asset/Land.

- The moment ownership of land stands transferred in favor of Builder/Developer, tax liability relating to Capital Gains on conversion as well as relating to business profits subsequent to conversion shall be attracted in the hands of the landowner in the year in which such transfer takes place.
- Therefore, landowner can take advantage of the provisions of Section 45(2) only when terms of Joint Development Agreement are drafted carefully and in the guarded manner keeping in mind above mentioned provisions.

KIND OF ASSETS WHICH GENERALLY CONVERTED FROM CAPITAL TO BUSINESS ASSET;

1. Land acquired as investment converted as business asset to be used for business of real estate developer/builder;
2. Investment in shares converted as business asset to be used for dealing in business of shares; iii) Investment in jewellery/bullions converted as business asset for use in business as a jeweller.

SITUATION IN WHICH A BUSINESS ASSET IS CONVERTED INTO CAPITAL ASSET;

There may be situations in which a real estate company developed a project for sale and after some time it has decided one of unit to be used as its office. In this case conversion of a business asset into Capital Asset held. A question arises in such circumstances as to what the tax implications of such conversion of stock in trade into capital would be. There is no provision under the act treating such conversion of stock in trade into capital asset falling with the definition of transfer. Therefore, such conversion is tax neutral at this point of time and no tax liability may arise at the time of such conversion. However, such capital asset is sold /transferred at later stage ,then any profits/gains arising from sale/transfer will be treated as Capital Gains under provisions of Section 45(1) of the Act,1961.

CONCLUSION:

Since there was ambiguity in assessment and treatment of conversion of Capital Assets into Stock-in-Trade before Taxation Laws (Amendment) Act, 1984. The definition of Transfer, Section 2(47) has been changed but hardship of payment of Capital gain shifted on the assessee converting his Capital Assets into Stock - in-trade, since the taxable event arises at the point of time of conversion of Capital Asset into Stock - in- trade. Since real estate business of a long term business, the developed flats/units will be available after a long period for selling. The burden of payment of Capital Gain tax arises when landowner enters into an agreement with Builder/Developer and the amount will be huge. The Government to solve this hardship deferred the payment of Capital gain tax the year in which the developed property received Occupancy Certificate/ Appropriate certificate from competent authorities for sale of flats

Read next: Form 13 of Income Tax Non-Deduction / Lower Deduction of TDS..

02 Direct Tax

Form 13 of Income Tax Non-Deduction / Lower Deduction of TDS.



Vedika Pawale

Introduction:

Tax deducted at source (TDS) can be a hassle for taxpayers, especially those suffering from excess TDS deductions. Sometimes TDS deducts from the taxpayer's income more than they are liable to pay to Income tax authorities. Overpayment of taxes can be a nightmare for taxpayers. But Form 13 of Section 197 of the Income Tax Act made it easy for taxpayers to get the certificate for Non/Lower deduction of TDS. In this article, we will discuss Form 13, the procedure of filing the form, and explanations related to Form 13 under Section 197 of the Income Tax Act.

What is tax deducted at source (TDS)?

Tax deducted at source (TDS) is a way of collecting tax from the source of income. It means that the person or organization that pays you will deduct a certain percentage of tax from your income before paying you.

This way, the government gets its share of the tax without any delay or evasion. TDS applies to different types of income, such as salary, interest, commission, rent, etc.

What is Form 13 under section 197?

The Income Tax department will issue a certificate specifying the rate of TDS applicable to you, which you can submit to your payer. This way, you can avoid excess tax deductions and save yourself from the

hassle of claiming a refund later.

What are Incomes covered Under Section 197?

If the recipient's income falls under the following sections, he can apply for section 197

Sections	Types of Incomes
192	Salary Income
193	Interest on securities
194	Dividends
194A	Interest excluding interest on securities
194C	Contractors income
194D	Insurance commission
194G	Commission/prize/remuneration on lotteries
194H	Commission or brokerage
194I	Rent
194J	Fee for technical or professional services
194LA	Compensation on acquiring immovable property
194LLB	Income of units of investment fund
194LBC	Income of investment in securitization trust
195	Non-residents' income

What is the Eligibility for Filing Form 13?

If any person's Income falls under any section mentioned in the above chart. And any individual's estimate of tax liabilities justifies the lower deduction or non-deduction of TDS.

Validity of an Application Made Under Section 197?

Section 197 is issued for a particular financial year and stands valid from the date of issue and throughout the financial year unless cancelled by the assessing officer (TDS) before the expiry.

What are the required documents for filling Form 13?

- Draft form 13
- Application covering letter to AO
- Copies of audit reports and financial statements of the previous 3 years
- The estimated calculation for the current year and copies of Income statements for the previous 3 years
- Form 26AS for last 3 years
- Draft sale deed & Stamp duty valuation in case of sale of land/building
- Purchase Index II in case of sale of land/building
- Consent letter of buyer/seller in case of more than one buyer/seller
- Copies of the assessment order, income returns, and acknowledgment for the previous 3 years
- Projected profit and loss statements for the current financial year
- PAN Card
- E-TDS return statements for the previous 2 years
- Tax deduction account number for the payers
- Any other documents relatable to the nature of Income
- Previous TDS defaults

The application should be submitted to the jurisdictional Assessing Officer (TDS) within 30 days from the end of the month in which the application is received. The Assessing Officer will review the documents submitted and may ask for further explanations and documents before issuing the certificate/rejecting the application. The certificate will specify the rate at which tax is to be deducted/collected or that no tax is to be deducted/collected. The certificate will be valid for the period specified therein or until the Assessing Officer's cancellation.

What is the procedure for filing Form 13 for non/lower deduction of TDS?

An application of Form 13 of income tax for non-deduction or lower deduction of the TDS requires to be filled out and can be sent via email or post to the assessing officer.

Form 13 can be filed online or manually, Taxpayers of region Mumbai, Karnataka, and Tamil Nadu only can fill the Form 13 of income tax online for faster processing.

It is advisable to fill the complete form with accurate details for faster processing in the first instance.

If the application is proper, then Assessing officer will issue the certificate.

A copy of the certificate attached with the invoice and given to the TDS deductor for lower deduction or non-deduction of TDS.

Test your knowledge?

1. What is the rate of lower?
2. What if there are 2 or more buyers/sellers?
3. What is the validity of such form 13 issued?

Read next: Wall of Wisdom

WALL OF WISDOM (WOW):

- “Develop success from failures. Discouragement and failure are two of the surest stepping stones to success.”
- “Setting goals is the first step in turning the invisible into the visible.”

Read next: Do you know?

DO YOU KNOW?

1. There are 293 ways to make change for a dollar.
2. Tigers have striped skin, not just striped fur.

What else do You Know?

Let us know.

Read next: Motivational Quote

MOTIVATIONAL QUOTE:

“Present changes the past. Looking back, you do not find what you left.”

— Kiran Desai

Sources-

- Company Law Notifications and Circulars
- CBDT Notifications and Circulars
- CBIC Notifications and circulars
- Other Allied Law Notifications and circulars
- MCA21 Website.
- Income Tax Website.
- GST Website.
- Other Statutory Government Websites.
- Extracts from Tax guru- Extracts from Clear Tax.- Extracts from CA club India.

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Read next: Statutory Due Date

Statutory Due Dates Calendar

INCOME TAX

Due Dates in the Month of	Particulars	For the Period	Due Date
April-2024	1 TDS/TCS Payment	March 2024	TDS 30/04/2024 and TCS 07/04/2024
May-2024	1 TDS/TCS Payment	April 2024	07/05/2024
	2 TDS Statement for Form 24Q, 26Q and 27Q	Q4 FY 2023-24	31/05/2024
	3 TCS Statement– for Form 26QB, 26QC, 26QD	Q4 FY 2023-24	15/05/2024
	4 Statement of Financial Transactions (SFT) Compliance	FY 2023-24	31/05/2024
June-2024	1 TDS/TCS Payment	May 2024	07/06/2024
	2 Advance Tax	1 st Installment of FY 2024-25	15/06/2024
	3 Form 16/ 16A	Q4 FY 2023-24	15/06/2024
July-2024	1 TDS/TCS Payment	June 2024	07/07/2024
	2 TDS Statement for Form 24Q	Q1 FY 2024-25	31/07/2024
	3 TCS Statement– for Form 26QB, 26QC, 26QD	Q1 FY 2024-25	15/07/2024
	4 Income tax Return for A.Y. 2024-25 for all assessee other than (a) Assessee whose accounts are required to be audited (b) Partner of a firm whose accounts are required to be audited (c) An assessee who is required to furnish a report under Section 92E.	FY 2023-24	31/07/2024
August-2024	1 TDS/TCS Payment	July 2024	07/08/2024
September-2024	1 TDS/TCS Payment	August 2024	07/09/2024
	2 Advance Tax	2 nd Instalment FY 2024-25	15/09/2024
	3 Due date for filing of audit report under Section 44AB for AY 2024-25 in the case of a corporate- assessee or non-corporate assessee (who is	FY 2023-24	30/09/2024

required to submit his/its return of income on
October 31, 2024)

Q1 FY 2024-25

TDS Statement for Form 26Q and 27Q

30/09/2024

October-2024	1	TDS/TCS Payment	September 2024	07/10/2024
	2	Due date for filing of return of income for AY 2024-25 if assessee is (a) Corporate-assessee (b) Non-corporate assessee (whose books of account are required to be audited) (c) Partner of a firm whose accounts are required to be audited (d) An assessee who is required to furnish a Report u/s 92 E	FY 2023-24	31/10/2024
	3	TDS Statement for Form 24Q, 26Q and 27Q	Q2 FY 2024-25	31/10/2024
	4	TCS Statement– for Form 26QB, 26QC, 26QD	Q2 FY 2024-25	15/10/2024
November-2024	1	TDS/TCS Payment	October 2024	07/11/2024
December-2024	1	TDS/TCS Payment	November 2024	07/12/2024
	2	Advance Tax	3 rd Installment FY 2024-25	15/12/2024
	3	Filing of belated/revised return of income for the assessment year 2024-25 for all assessee.	FY 2023-24	31/12/2024
January-2025	1	TDS/TCS Payment	December 2024	07/01/2025
	2	TDS Statement for Form 24Q, 26Q and 27Q	Q3 FY 2024-25	31/01/2025
	3	TCS Statement– for Form 26QB, 26QC, 26QD	Q3 FY 2024-25	15/01/2025
February-2025	1	TDS/TCS Payment	January 2025	07/02/2025
March-2025	1	Advance Tax	4 th Installment of FY 2024-25	15/03/2025
	2	TDS/TCS Payment	February 2025	07/03/2025

GOODS AND SERVICES TAX ACT

Due Dates in the Month of	Particulars	For the Period	Due Date
April-2024	1 GSTR 1 (Regular Taxpayers)	March 2024	11/04/2024
	2 GSTR 1 (Quarterly Taxpayers)	March 2024	13/04/2024
	3 GSTR 3B (Monthly Return)	March 2024	20/04/2024
	3 GSTR 3B (Quarterly Return)	Jan to Mar 2024	22/04/2024
	4 CMP 08	Jan to Mar 2024	18/04/2024
5 GSTR 4(Annual Return under Composition scheme)	Apr 2023 to Mar 2024	30/04/2024	
May-2024	1 GSTR 1 (Regular Taxpayers)	April 2024	11/05/2024
	2 GSTR 3B (Monthly Return)	April 2024	20/05/2024
	3 Monthly Tax Payment under QRMP Scheme(PMT 06)	April 2024	25/05/2024
June-2024	1 GSTR 1 (Regular Taxpayers)	May 2024	11/06/2024
	2 GSTR 3B (Monthly Return)	May 2024	20/06/2024
	3 Monthly Tax Payment under QRMP Scheme(PMT 06)	May 2024	25/06/2024
July-2024	1 GSTR 1 (Regular Taxpayers)	June 2024	11/07/2024
	2 GSTR 1 (Quarterly Taxpayers)	Apr to June 2024	13/07/2024
	3 GSTR 3B (Monthly Return)	June 2024	20/07/2024
	4 GSTR 3B Quarterly Return)	June 2024	22/07/2024
	5 CMP-08	Apr to June 2024	18/07/2024
August-2024	1 GSTR 1 (Regular Taxpayers)	July 2024	11/08/2024
	2 GSTR 3B (Monthly Return)	July 2024	20/08/2024

August-2024	3	Monthly Tax Payment under QRMP Scheme(PMT 06)	July 2024	25/08/2024
	1	GSTR 1 (Regular Taxpayers)	August 2024	11/09/2024
September-2024	2	GSTR 3B (Monthly Return)	August 2024	20/09/2024
	3	Monthly Tax Payment under QRMP Scheme(PMT 06)	August 2024	25/09/2024
	1	GSTR 1 (Regular Taxpayers)	September 2024	11/10/2024
October-2024	2	GSTR 1 (Quarterly Taxpayers)	July to Sept 2024	13/10/2024
	3	GSTR 3B (Monthly Return)	September 2024	20/10/2024
	4	GSTR 3B (Quarterly Return)	July to Sept 2024	22/10/2024
	5	CMP-08	July to Sept 2024	18/10/2024
	1	GSTR 1 (Regular Taxpayers)	October 2024	11/11/2024
November-2024	2	GSTR 3B (Monthly Return)	October 2024	20/11/2024
	3	Monthly Tax Payment under ORMP Scheme(PMT 06)	October 2024	25/11/2024
	1	GSTR 1 (Regular Taxpayers)	November 2024	11/12/2024
December-2024	2	GSTR 3B (Monthly Return)	November 2024	20/12/2024
	3	Monthly Tax Payment under ORMP Scheme(PMT 06)	November 2024	25/12/2024
	4	GSTR-9(Annual Return)	FY 2023-24	31/12/2024
	1	GSTR 1 (Regular Taxpayers)	December 2024	11/01/2025
January-2025	2	GSTR 1 (Quarterly Return)	Oct to Dec 2024	13/01/2025
	3	GSTR 3B (Monthly Return)	December 2024	20/01/2025
	4	GSTR 3B Quarterly Return)	Oct to Dec 2024	22/01/2025
	5	CMP-08	Oct to Dec 2024	18/01/2025
	February-2025	1	GSTR 1 (Regular Taxpayers)	January 2025
2		GSTR 3B (Monthly Return)	January 2025	20/02/2025
3		Monthly Tax Payment under QRMP	January 2025	25/02/2025

		Scheme(PMT 06)		
March-2025	1	GSTR 1 (Regular Taxpayers)	February 2025	11/03/2025
	2	GSTR 3B (Monthly Return)	February 2025	20/03/2025
	3	Monthly Tax Payment under QRMP Scheme(PMT 06)	February 2025	25/03/2025
April-2025	1	GSTR 1 (Regular Taxpayers)	March 2025	11/04/2025
	2	GSTR 1 (Quarterly Return)	Jan to Mar 2025	13/04/2025
	3	GSTR 3B (Monthly Return)	March 2025	20/04/2025
	4	GSTR 3B Quarterly Return)	Jan to Mar 2025	22/04/2025
	5	CMP-08	Jan to Mar 2025	18/04/2025
	6	GSTR 4(Annual Return under Composition scheme)	Apr 2024 to Mar 2025	30-04-2025

COMPANIES ACT

Due Dates in the Month of	Particulars	Description	Due Date
April-2024	Form MSME (outstanding payments to MSME's)	The return is to be filed by any company, who get supplies of goods or services from micro and small enterprises and whose payments to micro and small enterprise suppliers exceed forty-five days from the date of acceptance or the date of deemed acceptance of the goods or services.	30 th April 2024 (For the period of October'23 – March'24)
May-2024	LLP FORM-11	Annual Return (to be filed by all LLP's irrespective of turnover)	30 th May 2024
June-2024	DPT-3	To be filed in case company has deposit or exempted deposit.	30th June 2024
September-2024	DIR-3 KYC	Form for Director KYC. Need to be filed mandatorily for every director on Board	30 th September 2024
October-2024	ADT-1	Form for Auditor Appointment	15 th October 2024
	AOC-4	Form for filing Financials, Auditors Report, Directors Report, etc.	30 th October 2024
	Form MSME (outstanding payments to MSME's)	The return is to be filed by any company, who get supplies of goods or services from micro and small enterprises and whose payments to micro and small enterprise suppliers exceed forty-five days from the date of acceptance or the date of deemed acceptance of the goods or services.	31 st October 2024 (For the period of April'24 – September'24)
November-2024	MGT-7	ROC Annual Return (Details of Shareholding etc.)	29 th November 2024
Event Based	CHG FORMS	Form for charge creation, modification, satisfaction	Within 30 days of any charge occurring
	DIR-12	Form for Director Changes (Appointment/Resignation/Death)	Within 30 days of any charge occurring

PTRC and PTEC Compliance

Due Dates in the Month of	Particulars	Description	Due Date
June-2024	PTEC	Person who stands enrolled before the commencement of a year or is enrolled on or before 31st May of a year (F.Y. 2023-24)	30/06/2024
		Person who is enrolled after the 31st May of a year	Within one month of the date of enrolment
		Person who is enrolled and the rate of tax at which he is liable to pay tax is revised	Within one month of the date of such revision
March-2025	PTRC	Yearly - Tax Liability is less than INR 1,00,000/-	31/03/2024
		Monthly - Tax Liability is equal to or more than INR 1,00,000/-	The last date of the month to which the return relates

VAT

Due Dates in the Month of	Particulars	For the Period	Due Date
April 2024	1 Monthly Return (VAT payment)	March 2024	21/04/2024
	2 Quarterly Return (VAT payment)	January 2024 to March 2024	21/04/2024
May 2024	1 Monthly Return (VAT payment)	April 2024	21/05/2024
June 2024	1 Monthly Return (VAT payment)	May 2024	21/06/2024
July 2024	1 Monthly Return (VAT payment)	June 2024	21/07/2024
	2 Quarterly Return (VAT payment)	April 2024 to June 2024	21/07/2024
August 2024	1 Monthly Return (VAT payment)	July 2024	21/08/2024
September 2024	1 Monthly Return (VAT payment)	August 2024	21/09/2024
	1 Monthly Return (VAT payment)	September 2024	21/10/2024
October 2024	2 Quarterly Return (VAT payment)	July 2024 to September 2024	21/10/2024
	1 Monthly Return (VAT payment)	October 2024	21/11/2024
November 2024	1 Monthly Return (VAT payment)	November 2024	21/12/2024
	1 Monthly Return (VAT payment)	December 2024	21/01/2025
January 2025	2 VAT Audit (Form 704)	F.Y. 2023-2024	15/01/2025
	3 Quarterly Return (VAT payment)	October 2024 to December 2024	21/01/2025
February 2025	1 Monthly Return (VAT payment)	January 2025	21/02/2025
March 2025	1 Monthly Return (VAT payment)	February 2025	21/03/2025

Summary of Penalties of Income Tax

Particulars	Description	Amount/ Interest rate
1. Default in making payment of tax.	The amount of penalty leviable will be as determined by the Assessing Officer. However, the amount will not exceed the amount of tax in arrears 2023	Penalty determined by the assessing officer
2. Under-reporting of income.	1. If the income assessed/ re-assessed exceeds the income declared by the assessee, or in cases where return has not been filed and income exceeds the basic exemption limit, penalty at 50% of tax payable on such under reported income shall be levied.	50% of tax payable Under reported Income OR 200% of tax payable from misreporting of income
	2. 200% of the tax is payable if under-reporting results from misreporting of income	
3. Failure to maintain books of accounts and other documents	1. Normally, the amount of penalty leviable is INR25,000	INR 25000 OR 2% of value of International transaction
	2. In case, the assessee is a person who has entered into international transaction, the penalty will be 2% of the value of such international transactions or specified domestic transactions	
4. Penalty for false entry such as fake invoices	1. The assessee might have to pay a penalty of the amount equal to sum of such false or omitted entries.	Amount equal to such false or omitted entries
5. Undisclosed income	1. If undisclosed income is admitted during the course of Search and assessee pays tax and interest and files return, a penalty @ 30% of such undisclosed income is payable.	30% OR 60%
	2. In all other cases, penalty is leviable @ 60%	
6. Audit and Audit Report	1. If the assessee fails to get his accounts audited, obtain audit report, or furnish report of such auditor, a penalty will be leviable at the INR 1,50,000 or 0.5% of the total sale/ Turnover/ gross receipts whichever is lesser.	INR 150000/- OR 0.5% of total sale, turnover/gross receipt
	2. Failure of assessee to furnish Audit report related to foreign transaction, a penalty @ INR 1,00,000 will be payable	

7. TDS/TCS	1. Where a person fails to deduct tax at source, he will be liable to pay a penalty equal to the amount of tax which he has failed to deduct/ pay.	Penalty equal to amount of Tax,
	2. Where a person fails to collect tax at source, he will be liable to pay a penalty equal to the amount of tax which he has failed to collect.	
	3. Failure to furnish TDS/TCS statement or furnishing incorrect statements, shall attract a penalty ranging from 10,000 to 1,00,000	INR 10000/-to INR 100000/-
	4. Non-Deduction of TDS, either in whole or part	1% Per month
	5. Non-payment of TDS (after deduction), either in whole or part	1.5% per month
	6. Failure to furnish information/ furnishing inaccurate information related to TDS deduction related regarding Non-residents shall attract a penalty of 100,000	INR 100000/-
8. Penalty for using modes other than Account payee cheque/ draft/ ECS	1. If a person takes/ accepts loan/ deposit except by way of Account payee cheque/ account payee draft/ ECS, and if the aggregate amount exceeds INR20,000, he shall be liable to pay a penalty of an amount equal to such loan/ deposit.	Penalty amount equals to such loan / deposit
	2. If, an amount of INR2,00,000 or more is received in aggregate from a person in a day/ single transaction/ relating to one event, a penalty equal to such amount will be payable.	
	3. If a person repays loan/ deposit and such amount so repaid exceeds INR20,000 and such amount has been repaid except by way of Account payee cheque/ account payee draft/ ECS, an amount equal to such loan/ deposit shall be payable.	
9. Others	1. Failure to apply/quote/ intimate PAN/ quoting false PAN shall attract a penalty of INR10,000	INR 10000/-
	2. Failure to apply/quote TAN/ quoting false TAN shall attract a penalty of INR10,000	
	In case of the following defaults, INR10,000 will be the penalty leviable,	
	1. Refusal to answer questions put by the department	

	2. Refusal to sign statements made in income tax proceedings	
	3. Noncompliance with summons to give evidence/ produce books of accounts	
	4. Failure to comply with a notice	
10. late Filing ITR	1. If the ITR is filed after the due date but by 31st December of the succeeding year.	INR 5000/-
	2. If the ITR is filed after 31st December of the succeeding year.	INR 10000/-
	3. for small taxpayers having total income of up to INR 5 lakh.	INR 1000/-

Read next: Amendment Summary

Amendment Summary

DEC-2022						
MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY	SATURDAY	SUNDAY
			1 Central Excise	2	3	4
5	6	7 Direct Tax	8	9	10	11
12	13	14	15	16	17	18
19	20	21	22	23	24	25
26	27	28	29	30	31	

Sr. No.	Date	Area of Knowledge (AOK)	Notification/ Circular/ Press Release	Short Description
1	1/12/2022	Central excise	Notification No 40.2022	To reduce the Special Additional Excise Duty on Diesel, Seeks to further amend No. 04/2022-Central Excise, dated the 30th June, 2022
2	1/12/2022	Central excise	Notification No 41.2022	To reduce the Special Additional Excise Duty on production of Petroleum Crude, Seeks to amend No. 18/2022-Central Excise, dated the 19th July, 2022
3	7/12/2022	Direct Tax	Circular No 24.2022	Deduction Of Tax At Source income-Tax Deduction From Salaries Under Section 192 Of The Income-Tax Act, 1961 During The Financial Year 2022-23

Rectifications in the previous Newsletter:

No Rectifications pertaining to the previous Newsletter(s).

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