



Rationalisation of TDS/TCS provisions

Step towards ease of doing business in India



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Foreword

Tax policy, globally and in India, is evolving rapidly. Globalisation and digitisation have brought an unprecedented change and governments have cooperated internationally on new tax rules and a thrust for transparency in tax matters. India has an extensive withholding tax regime under its income tax law.



This covers Tax deduction at Source (TDS) when businesses make specific categories of payments (both domestic and foreign) and Tax Collection at Source (TCS) when they make certain sales categories. TDS and TCS were introduced to collect tax at the initial stage of the generation of income. The system allows the government to get access to requisite funds for running its operations throughout the year.

Over the years TDS has emerged as a major tool of revenue collection in India. However, the way the provisions of the Income-tax Act, 1961 (the Act) dealing with the TDS are worded, taxpayers have to deal with several interpretational and procedural issues. In addition, the numerous compliance requirements add significantly to the compliance cost to the business. Accordingly need has been felt that India could simplify tax regulations such as TDS and TCS to improve Ease of Doing Business and reduce the compliance burden. The use of technology to substantially increase information collection and use by the government for monitoring and compliance is an ideal opportunity for reducing the compliance burden on taxpayers.

In the above context, we are pleased to share this thought leadership paper prepared by ASSOCHAM National Council on Direct Taxes highlighting TDS as a tool to establish transaction trail in today's digital environment and depicting suggestions for simplification TDS/TCS regime. The implementation of these suggestions would result in considerable cost-effectiveness for the tax deductor as well as deductee and reduce the compliance burden.

Vineet Agarwal

President
ASSOCHAM

Foreword

Tax Deduction at Source (TDS) was introduced to curb tax evasion, widen the tax base and maintain a regular flow of tax revenue to the government.



Taxes have been a significant source of revenue for the government. However, tax evasion has been an obstacle to the government to undertake planned investments in infrastructure and other critical areas for growth and development. Tax authorities have taken major steps that have effectively fought against black money and shadow economy like promoting cashless transactions, mandatory linking of PAN with Aadhaar or as simple as the new one-page ITR-1 to ease the return filing process for salaried individuals.

Over the years, technology has been instrumental in making a simplified TDS process. The electronic filing of TDS returns has been compulsory for all the deductors. The deductors and the deductees are identified by TAN (Tax Deduction Account Number), PAN (Permanent Account Number) and the date, along with the amount of tax deducted and its credit, is known to the central government. Moreover, the department has initiated SMS alerts to increase transparency and reduce the cases of TDS mismatches at the time of income tax filing. With its help, taxpayers can cross-check the information provided in the SMS with the information on the payslips to make sure that there is no mismatch. Thus, technology has eliminated the defects in record keeping and the defaults of TDS offenders, which are established easily, saving a lot of time and cost for the taxpayer and tax authorities.

There is a need to develop a robust IT/data analytics infrastructure and improve the workforce's skills in line with the same. The awareness programmes and latest technologies are critical tools for tax authorities to make the tax administration transparent for the taxpayers.

In the above context, we are delighted to share this thought leadership paper on TDS prepared by the ASSOCHAM National Council on Direct Taxes, which provides various important suggestions for simplifying the TDS/TCS regime.

Deepak Sood

Secretary General
ASSOCHAM

Foreword



Over the past few decades, the scope of TDS/TCS has been expanded to cover a wide variety of transactions. This has added to the compliance and administrative burden of the taxpayers. Besides, stringent penal provisions have been prescribed in case of certain defaults, even though the taxpayers are acting, merely as an agent of the government, in a fiduciary capacity.

The revenue's argument is also valid that unless interest and penal provisions are legislated and enforced, it could lead to revenue leakages and large-scale non-compliance, as is evident from the low Tax to GDP ratio in our country.

To balance the two views, it is time to have a re-look at the TDS/TCS regime in India and make necessary edits, to ensure that while revenue's interest is protected, the burden on the taxpayers is also reduced.

In this backdrop, we present this paper, prepared by ASSOCHAM's National Council on Direct Taxes that provides insights on alternatives that can be explored to simplify and rationalize the existing TDS/TCS provisions. We hope that this paper will set the tone for the reforms in the TDS/TCS regime and further add to the many laudable steps taken by the government in supporting businesses on ease of doing business in India.

Vikas Vasal

Co-chair – National Council of Direct Taxes, ASSOCHAM

National Managing Partner - Tax, Grant Thornton Bharat LLP

About ASSOCHAM

ASSOCHAM initiated its endeavour of value creation for Indian industry in 1920. Having in its fold more than 250 chambers and trade associations and serving more than 4,50,000 members from all over India. It has witnessed upswings as well as upheavals of Indian Economy and contributed significantly by playing a catalytic role in shaping up the trade, commerce and industrial environment of the country.

Our legacy has helped build a strong foundation for future endeavours wherein we serve as the knowledge chamber for the industry and become the conduit between them and the Government to foster development of a New India. Seen as a proactive and forward-looking institution, ASSOCHAM is fully equipped to meet the aspirations of corporate India in the new world of business. ASSOCHAM has emerged as the fountainhead of knowledge for Indian industry, which is all set to redefine the dynamics of growth and development in the technology driven cyber age of 'Knowledge -driven global market and helps them upscale, align and emerge as formidable player in respective business segments.

Aligned with the vision of creating a New India, ASSOCHAM works as a conduit between the industry and the Government. ASSOCHAM is seen as a forceful, proactive, forward-looking institution equipping itself to meet the aspirations of corporate India in the new world of business. ASSOCHAM is working towards creating a conducive environment of India business to compete globally.

As a representative of corporate India, ASSOCHAM articulates the genuine, legitimate needs and interests of its members. Its mission is to impact the policy and legislative environment so as to foster balanced economic, industrial and social development. ASSOCHAM derives its strength from its promoter chambers and other industry/regional chambers/associations spread all over the country.

ASSOCHAM Corporate Office

4th Floor, YMCA Cultural Centre, and Library Building,01,

Jai Singh Road, New Delhi - 110001

Tel: 011-46550555

Fax: 011-23347008/9

Email: assochem@nic.in

Web: www.assochem.org

I. Ever expanding scope of TDS and TCS provisions

Income-tax Act, 1961 ('the Act') contains extensive provisions relating to tax deduction at source ('TDS'). These provisions mandate the withholding of certain percent of the amount paid or payable by the payer to payee, as taxes. The TDS provisions were introduced to tax the income at the very source, to ensure that transactions trail is available and there is no tax leakage.

In 1922, there were limited sections for TDS in terms of salaries, interest on securities and dividends. Similarly, in 1961 there were limited provisions in TDS for salaries, dividends and overseas payments.

However, over the years, the scope of these provisions has expanded greatly. Currently, there are approximately 40 sections under the Act dealing with TDS. In addition, there is a huge list of Rules and Forms associated with these TDS provisions. There are different rates ranging from 0.1% to 40% and different thresholds for different payments. TDS provisions cover both, residents, and non-residents i.e., both domestic as well as overseas payments.

The TCS provisions were first introduced under the Act in the year 1988, to collect taxes from the persons trading in country liquor, timber and forest produce. This was done in view of the problems faced in collecting taxes from them post assessment, non-maintenance of books of accounts, etc.

In case of TCS also, over the years, the scope of provisions has expanded to include sale of scrap, parking lot, toll plaza, mining, minerals, motor vehicle and sale of goods. The rationale for expansion of TCS provisions has been tackling non-reporting¹, curb flow of unaccounted money, bring high value transactions under tax net², widen/deepen the tax net³ and collecting tax at earliest possible time.



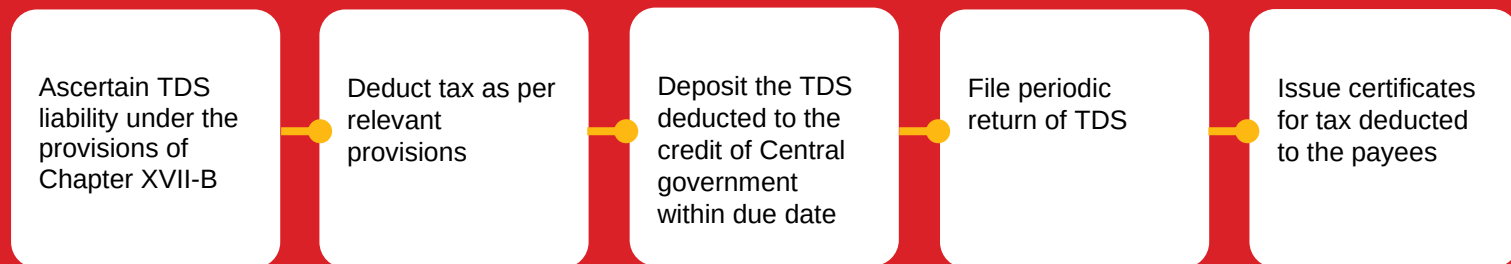
1 In the context of minerals, the memorandum of Finance Act 2012 states that trading of minerals remains unregulated resulting in non-reporting. To improve the reporting mechanism and collect tax at earlier point of time, TCS on minerals was introduced.

2 The Finance Act 2016 introduced TCS on motor vehicle to curb the flow of unaccounted money and bring high value transaction within tax net.

3 The Finance Act 2020 introduced TCS on LRS, overseas tour package and goods to widen and deepen the tax net.

Numerous compliances

The person deducting TDS is required to carry out various compliances.



Similar process is followed for TCS

Non-compliance leads to stringent penal consequences and even prosecution in certain cases.

In addition, there is disallowance of expenditure on account of non-complying with TDS provisions. In most cases it does not lead to any additional revenue generation for the government but is merely a timing difference. However, it often necessitates reconciliation between expense claimed and TDS.

This has certainly added to the compliance burden for taxpayers.

Challenges and litigation

The payee can claim the credit of taxes deducted by the payer in its return of income.

However, on the practical front, the taxpayers face serious challenge in claiming TDS credit, seeking TDS refunds, etc., resulting in cash flow issues in many cases.

Both the payer and the payee face challenge on account of interpretational ambiguities on the nature of transaction and consequentially the correct TDS rate applicable. This has resulted in litigation on numerous aspects, e.g., TDS on year-end provisions, commission vs discount, what constitutes interest for TDS purposes, identification of work contract, professional vs technical fees. The list is endless. Taxpayers have to spend a considerable time in TDS assessment and litigations.

Thus, there is a lot of time and costs involved to comply with the regulations and the litigations involved. Taxpayers can essentially use this time to better focus on their core business.

Evidently, the entire process of TDS creates a trail for a transaction undertaken by different parties, and therefore plugs the loophole for non-filers of tax return. However, over the past few decades, India has taken massive strides in digitisation of the economy, which along with advancement of information technology has created different avenues for the government authorities to receive or exchange information on tax defaulters. This dilutes the significance of the TDS as key tool to track and trail the defaulters.

This paper aims to discuss the relevance of TDS/TCS as a tool to establish domestic transaction trail in today's tech-enabled environment and suggestions on rationalisation and simplification of TDS/TCS provisions, for better taxpayer's experience and ease of doing business in India.

II. Significance of TDS/TCS in tax collections

TDS is an important element of process of tax collection In India. The total amount of tax collected by way of TDS contributes around 30%-40%⁴ of the total gross direct tax receipts. For FY 2020-21 and FY 2021-22, the contribution of TDS to total gross direct tax receipts is around 45%⁵ and 49%⁶ respectively⁷. However, there are several TDS provisions that contribute even less than 1% to total amount collected by way of TDS.

TDS contribution to overall direct tax receipts

(₹ in crore)

Financial year	TDS	Total gross Direct tax receipts	TDS as % of total gross direct tax receipts
2015-16 ⁴	2,87,412	8,64,369	33.25%
2016-17 ⁴	3,43,134	10,12,40 ¹	33.89%
2017-18 ⁴	4,12,768	11,54,436	35.75%
2018-19 ⁴	4,87,669	12,98,764	37.55%
2020-21 ⁵	5,45,000	12,06,000	45.19%
2021-22 ⁶	3,19,239	6,45,679	49.44%

Tax refunds

The first report⁸ of the Income-tax Simplification Committee (Committee) headed by Justice RV Easwar, released in 2016, highlighted the need for rationalisation of TDS rates.

The report highlights that average tax rates in case of majority of taxpayers in the Individual and HUF categories have reduced, especially in view of the restructuring of the Income-tax rates over the past several years. For instance, majority of the taxpayers with mainly interest income, claim refunds. However, such interest income is subjected to TDS and the tax department is required to issue refunds along with applicable interest. Resultantly, the scheme of TDS involves compliance burden and administrative costs to the Department in such cases.



4 <https://www.incometaxindia.gov.in/Documents/Direct%20Tax%20Data/IT-Department-Time-Series-Data-FY-2000-01-to-2018-19.pdf>
- Statistics for FY 14-15 to FY 18-19 - (page no. 7) (For FY 2018-19 the figures are provisional)

5 <https://pib.gov.in/PressReleasePage.aspx?PRID=1710598> – (Provisional figures (without refunds and including central TDS))

6 <https://pib.gov.in/PressReleasePage.aspx?PRID=1757715> (as on 22nd September 2021) (Provisional figures (without refunds and including central TDS))

7 No TDS data is available for FY 2019-20 in public domain

8 <https://taxguru.in/wp-content/uploads/2016/01/Report-Eswar-Committee.pdf> - (Page 27 and 28)

The table⁹ below provides a snapshot of the tax amount being refunded by the Department for the past few years.
(₹ in crore)

	2015-16 ⁹	2016-17 ⁹	2017-18 ⁹	2018-19 ⁹	2019-20 ¹⁰	2020-21 ⁵	2021-22 ⁶
Direct taxes collection	7,42,012	8,49,801	10,02,738	11,37,718	10,49,720 ¹¹	9,45,000 ¹¹	5,70,568 ¹¹
Refunds	1,22,596	1,62,582	1,51,639	1,61,037	1,84,000	2,61,000	75,111
Refund as a % of tax collection	16.52%	19.13%	15.12%	14.15%	17.53%	27.62%	13.16%

The table below provides the data for refund as percentage of TDS collection
(₹ in crore)

	2015-16	2016-17	2017-18	2018-19	2020-21	2021-22
TDS collection	2,87,412	3,43,134	4,12,768	4,87,669	5,45,000	3,19,239
Refunds	1,22,596	1,62,582	1,51,639	1,61,037	2,61,000	75,111
Refund as a % of TDS collection	42.65%	47.38%	36.74%	33.02%	47.89%	23.53%

TDS collections under various provisions

The Ministry of Statistics and Programme Implementation (MOSPI) released the Statistical Year Book India 2018¹².

The table¹³ below depicts the amount of TDS collected under various provisions by the government as summarised under:

Sections of the Act	2013-14	2014-15	2015-16
Section 192 - Government/non-government employees	43.38%	44.10%	45.04%
Section 194J - Fees for professional or technical services	16.41%	16.03%	15.97%
Section 194A - Interest payment other than 'Interest on Securities'	15.18%	14.70%	13.77%
Section 194C - Payments to contractors	12.46%	12.47%	13.26%
Section 194-I - Rent	5.95%	5.98%	5.43%
Section 194H – Commission or brokerage	3.43%	3.23%	2.88%
Section 194 - Dividends and Section 195 – other sums and other deductions at source	1.45%	1.71%	1.86%
Section 194D - Insurance commission	1.11%	1.03%	0.96%
Section 193 - Interest on securities	0.33%	0.40%	0.42%

9 [https://cag.gov.in/uploads/download_audit_report/2020/AR%20no.%2011%20of%202020_\(E\)-05f80987f0fd291.60966608.pdf](https://cag.gov.in/uploads/download_audit_report/2020/AR%20no.%2011%20of%202020_(E)-05f80987f0fd291.60966608.pdf) (Page 18)

10 <https://incometaxindia.gov.in/Lists/Press%20Releases/Attachments/837/Press-Release-Growth-Trajectory-of-Direct-Tax-Collection-dated-07-06-2020.pdf>

11 The direct tax collection amount is calculated manually net of refund

12 <http://mospi.nic.in/statistical-year-book-india/2018/175> - S.No. 6.5 and 6.6

13 <http://mospi.nic.in/statistical-year-book-india/2018/175> - S.No. 6.5 and 6.6

Section 194B - Winnings from lottery or crossword puzzle	0.12%	0.10%	0.08%
Section 194-LA - Payment of compensation on acquisition of certain immovable property	0.12%	0.19%	0.25%
Section 194E - Payments to non-resident sportsmen or sports associations	0.03%	0.03%	0.03%
Section 196-C - Income from foreign currency bonds or shares of Indian company	0.01%	0.01%	0.01%
Section 194G - Commission, etc., on the sale of lottery tickets	0.01%	0.01%	0.02%
Section 194BB - Winnings from horse race	0.01%	0.01%	0.04%
Section 196B - Income from units	0.00%	0.00%	0.00%
Section 194K - Income in respect of units	0.00%	0.00%	0.00%
Total	100%	100%	100%

Note:

- 1 The data depicts the figures for corporates and non-corporates on TDS collections under different provisions.
- 2 Please note that data for the year 2016-17 was available in respect of non-corporates only. Hence, the data till 2015-16, available for both corporates and non-corporates, has been considered.

It is evident from the above statistics, that only a few sections contribute significantly to the total collections by way of TDS. The other sections contribute a minuscule portion to the total amount of TDS collection. Such low figures emphasise the need of reconsideration of these provisions, considering that though their removal would have a little impact on the tax collections, but it can provide relief for the taxpayers from the unnecessary compliance burden which revolves around such provisions.



TCS collections under various provisions

The table¹³ below depicts the amount of TCS collected under various provisions by the government as summarised under:

Sections of the Act	2013-14	2014-15	2015-16
Collection at source under Section 206-C from alcoholic liquor sales	63.22%	64.20%	64.62%
Collection at source under Section 206-C of the Act from scrap	13.72%	13.97%	11.91%
Collection at source under Section 206-C of the Act from contractors or licensee or Lease relating to mining and quarrying	10.94%	9.02%	10.35%
Collection at source under Section 206-C of the Act from timber obtained by any mode other than forest lease	4.49%	4.23%	4.28%
Collection at source under Section 206-C of the Act from contractors or licensee or lease relating to toll plaza	3.79%	4.82%	5.01%
Collection at source under Section 206-C of the Act from contractors or licensee or lease relating to parking lots	1.35%	1.29%	1.07%
Collection at source under Section 206-C of the Act from liquor for human consumption and tendu leaves	0.90%	0.94%	1.12%
Collection at source under Section 206-C of the Act from any other forest product (not being timber leaves)	0.86%	0.97%	1.07%
Collection at source under Section 206-C of the Act from Timber obtained under forest lease	0.74%	0.56%	0.57%
Collection at source under Section 206-C of the Act from forest produce sales	0.00%	0.00%	0.00%
Total	100%	100%	100%



III. Relevance of TDS as a tool to establish transaction trail in today's digital environment

When TDS provisions were introduced in India under the Income-tax Act, 1922¹⁴, one of the core objectives was to tax the transaction at the very source¹⁵. It also assisted in obtaining the data about the identity of the taxpayer at the inception stage. Data generated by TDS provisions could help provide a transaction trail. However, in today's digital era, government has access to data from various sources. With advancement in technology, smooth flow of information between various government departments, the Income-tax Department is in a position to collect a wider range of information from alternative sources, which was not possible earlier.

It is pertinent to note that the Central Board of Direct Taxes (CBDT) has signed Memorandums of Understanding (MoU) with the several departments including SEBI¹⁶ and CBIC¹⁷ for exchange of data.

There are several other sources to track details of transactions undertaken by taxpayers viz. banking and financial institution, Statement of Financial Transaction (SFT), Data collated from other government agencies like Ministry of Corporate Affairs, Enforcement Directorate, etc.

Notably, over the past few years, the scope of details to be furnished in SFT (earlier known as Annual Information Return) have also expanded exponentially. The statement requires to furnish details of sixteen category of transactions as opposed to seven at the time of introduction. The new form 26AS (Annual Information Statement) will also cover information in comprehensive manner and will further assist in gathering information about the taxpayer.

Thus, there are various alternatives available whereby the government can assess if any significant transaction remains outside the tax net, hence the role of TDS as a tool to establish transaction trail has significantly diminished. A fresh look at these provisions is now the need of the hour to reduce compliance burden on the taxpayers and promote ease of doing business in India.

14 https://icmai.in/TaxationPortal/upload/DT/Article/59_3_09_03_21.pdf

15 https://www.incometaxindia.gov.in/Pages/Deposit_TDS_TCS.aspx & [https://cag.gov.in/uploads/download_audit_report/2020/AR%20no.%2011%20of%202020_\(E\)-05f80987f0fd291.60966608.pdf](https://cag.gov.in/uploads/download_audit_report/2020/AR%20no.%2011%20of%202020_(E)-05f80987f0fd291.60966608.pdf) (at page 44)

16 https://incometaxindia.gov.in/Lists/Press%20Releases/Attachments/840/Memorandum_Understanding_between_CBDT_SEBI_8_7_20.pdf - (CBDT press release dated and signed on 8 July 2020)

17 https://incometaxindia.gov.in/Lists/Press%20Releases/Attachments/848/PressRelease_MoU_between_CBDT_and_CBIC_21_7_20.pdf - (CBDT press release dated and signed on 21 July 2020)

IV. Suggestions for simplification of TDS/TCS regime

Use of GST ecosystem to track transactions

One of the reasons to introduce TDS was to collect the information about the transactions carried out by the taxpayer at the initial stage by collecting a small amount of tax via TDS, to avoid the cases of under-reporting or non-reporting of income. However, today with the quantum of data available in the Goods and Services Tax (GST) database, it may be possible to track these transactions even without the TDS framework. Once a person has obtained GST registration, every invoice generated gets tracked. This data in the GST database can be used to track and collate information required by the government.

The information exchange with other government departments and SFT framework could be further strengthened. This would obliterate the need of TDS in majority of the cases. TDS could be done only in exceptional cases of high value transactions which do not get captured in the GST system and SFT framework. Further, in the context of individuals, the Act provides for linking of PAN and Aadhaar. This will enable the government to maintain track of transactions undertaken by resident individuals, where the individuals are required to quote their PAN and/or Aadhaar.

Carve-out for small and medium businesses

The small and medium businesses should be kept out of the purview of TDS provisions. This will help reduce compliance burden on these taxpayers. Suitable threshold may be decided after considering exemptions provided under GST and other related laws.

Increase the number of advance tax instalments for large taxpayers

Considering TDS ensures regular collection of taxes by the government on a monthly basis, to offset the impact on tax receipts of the government on removal/reduction of TDS provisions, the large taxpayers may be made to pay advance tax on a monthly or bi-monthly basis.

Other taxpayers could continue paying advance tax as per the current format. In any case the shortfall in TDS collections would be made up to a great extent due to increased tax collections as advance taxes.

Limiting scope of TDS provisions

It is also suggested that TDS sections could be segregated, basis the latest data available with the government, into following categories:

- i Retention of key sections (3-4 sections), where the collections are high, namely Section 192, 194J, 194A and Section 194C. These sections alone contribute over 85% of the total TDS collection
- ii Deletion of sections where there is insignificant contribution to the overall tax collections
- iii Consolidation of other sections, where transaction trail cannot be established from other sources

It may be useful to highlight that there are several countries that levy TDS on limited set of transactions undertaken by residents¹⁸. Please also refer Annexure 1.

¹⁸ USA, Canada and Singapore do not levy any TDS on interest, royalty and dividend where recipient is resident individual and resident company.

UK, USA, Canada and Singapore do not levy TDS on dividend income for resident individuals

USA, Canada, Singapore and Netherlands do not levy TDS on interest income for resident individuals

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Reducing number of rates and increasing thresholds

Presently, there are various rates of TDS prescribed under the Act on different categories of transactions. This has led to ambiguities in the context of applicability of relevant section and correct rate, resulting into litigation.

Further, the government vide Finance Act 2021, has introduced new provisions that require higher rate of TDS to be deducted in case of non-filers of income-tax return. Similarly, higher rate of TDS is to be deducted in case of non-furnishing of PAN.

To streamline these provisions, it is desirable that at the maximum one or two rates (e.g., 0.1% or 1%) may be prescribed. This would achieve the twin objective of creating log of the transaction in tax department's database (in cases where trail cannot be established by other sources) while reducing litigation on application of the correct rate. It is pertinent to note that the as per the first batch of recommendations released by the Committee headed by Justice RV Easwar, it was suggested that TDS is collected at a higher rate thereby resulting in administrative burden due to sizeable tax refunds. Thus, there is a need to lower the rates and increase thresholds. The lower rates and higher thresholds would also help resolve cash flow problems of taxpayers.

Similar exercise could be carried out for TCS provisions as well.

It is desirable that the responsibility of checking whether the payee has filed tax returns in time and if at all TDS at higher rate is required to be done, greatly increases compliance burden of taxpayers and should be done away with.

TDS credits in Ledger mode

There is a lot of litigation on matching the TDS credit with the year in which relevant income is offered to tax. The reasons are multifarious:

- i TDS is to be deducted at the time of payment or credit of income, whichever is earlier. Hence, the taxpayer does not get the TDS credit for an advance payment if the invoice is raised in the subsequent year in accordance with the method of accounting followed. The credit can be claimed in the subsequent year when the income will accrue.
- ii This issue is further aggravated in cases where the deductor is following the accrual basis of accounting whereas the deductee is following cash basis of accounting.
- iii The payee gets credit if it appears in its annual information statement. If the deductor either neglects to pay TDS or does not file TDS return in time, or commits an error in the data entry, then the TDS does not get reflected in the annual information statement of the payee till the date of filing return.

Detailed reconciliation statements are required to be maintained by the deductee in such cases to ensure that there is no mismatch and credit is claimed in the correct year. This is a cumbersome exercise, particularly where the number of transactions are very high.

These issues can be mitigated to a great extent by providing a TDS ledger for the deductee. The deductee could claim credit of the amount of TDS to its credit against its final tax liability for each year and the balance could be carried forward. This will not cause any loss of taxes for the government but remove the need for detailed reconciliation by the deductees. It will also reduce litigation on this issue of linking income of a particular year with the TDS.

Overlap of TDS and TCS provisions

The provisions of Section 206C (1H) was introduced under the TCS chapter by Finance Act 2020. The Finance Act 2021 also introduced Section 194Q of the Act according to which TDS is required to be deducted by the buyer on purchase of goods.

This requires another exercise both by buyer and seller to assess if TDS or TCS should be applicable in a particular case. Though the government has clarified that section 194Q will prevail over Section 206C (1H) i.e., where TDS is deducted, TCS will not be required. However, it creates compliance challenges for both the buyer and seller.

It is recommended that only one provisions i.e., TDS or TCS provisions should be made applicable on a particular transaction and any overlap should be avoided.

Abolish the requirement of downloading and sending Form 16A/ Form 27D

As per law, TDS certificates in Form 16A should be downloaded within 15 days from the due date of furnishing the TDS statement otherwise INR 100 per day penalty is levied for the number of days in default. Need for form 16A should be done away with considering that all the information is already available in Form 26AS. If at all still a need is felt, then that should be mailed automatically from the portal of the tax department. This will reduce compliance burden on taxpayers.

Conclusion

Recently, the government released taxpayer's charter with the motto to ensure transparency in taxation and honouring the honest taxpayers. The charter revealed 14 commitments from the tax department towards the taxpayers. One of the key commitments is to reduce cost of compliance. The implementation of these suggestions would result in considerable cost effectiveness for the tax deductor as well as deductee and reduce the compliance burden.



V. Annexure 1

Selective global TDS regime

In India, TDS provisions cover a vast range of transactions as compared to several other countries where these provisions are applicable in selective cases on transactions of residents.

The table¹⁹ below contains summary provisions in some key jurisdictions:

Country	Summary of TDS provisions
United Kingdom (UK)	• There is no withholding tax on dividend, interest or royalty for payments made by a resident company to another resident company. • In respect of other incomes, several payments are subject to withholding tax at the basic rate of income tax, these include payments of rent on UK real estate to overseas landlords; payments of manufactured interest on UK securities. • For individuals, there is no withholding tax on dividend from UK resident companies. With effect from 6 April 2016, financial institutions are no longer required to withhold tax on payment of interest. However, TDS is applicable on individuals in respect of royalty and other income.
Canada	• There is no withholding tax on payments in respect of dividend, interest, royalty and other income made to resident corporations. • There is no withholding tax on payments in respect of dividend, interest and royalty to resident individuals.
United States of America (US)	• Withholding tax is not imposed on dividends, interest or royalty paid to US domestic corporations, US citizens or US residents.
Netherlands	• Withholding tax is deductible on payments in the nature of dividends made to resident individuals and corporations. • There is no withholding tax on other income payment made to resident corporations. • There is no withholding tax on interest, royalty made to resident individuals.
China	• There is no withholding tax on dividends paid and received between resident enterprises, however, in case of resident individuals the dividends are subject to withholding tax. • There is also no withholding tax on interest, royalty and other income derived by a resident enterprise. However, in case of resident individuals the interest and royalty are subject to withholding tax.

¹⁹ www.ibfd.org

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ASSOCHAM Corporate Office
4th Floor, YMCA Cultural Centre, and Library Building, 01,
Jai Singh Road, New Delhi - 110001
Tel: 011-46550555
Fax: 011-23347008/9
Email: assochem@nic.in
Web: www.assochem.org