

TDS and Finance Bill 2009

Finance Bill (No 2) 2009 was passed by Lok Sabha on July 27, 2009 with certain amendments. The Action points and analysis of provisions related to TDS is attempted in this article. Changes effective from passing of Finance Bill.

Simplification of TDS Rates

- Currently the rates of TDS prescribed under the Act or First Schedule are subject to surcharge and cess. Surcharge is not applicable only in certain cases whereas cess is applicable in all cases.
- Surcharge is not applicable on all payments made to residents, domestic companies and non-residents non-corporate payees
- Surcharge is applicable to foreign companies only if total payment is above Rs. 1 Crore
- Education Cess and SHEC is applicable for TDS on salaries, foreign companies and nonresident non-corporate payees

Change in TDS Rate

- ❖ TDS Rate for interest payments under section 194A were different for companies and other than companies. Finance Bill has now prescribed uniform rate of 10%.
- ❖ Similarly many other rates have been changed. TDS Rate chart on the next page gives the amended rates.

Changes effective from 01-10-2009

Change in TDS Rate for payments / credit from 01-10-2009

- ✓ Currently payment to contractors under section 194C prescribes different rates for payment to contractors, sub-contractors and advertising contractors.
- ✓ Finance Bill 2009 has now prescribed rates based on the status of deductee. For Payment to Individual / HUF it is 1% for others it is 2%. There is no distinction for contract and sub contract.
- ✓ TDS Rate for payment of rent towards land, building is reduced from 20%/15% to 10%
- ✓ TDS Rate for payment of rent towards plant, machinery and equipment is reduced from 10% to 2%

Periodicity of eTDS Statements

- Existing provisions provide for quarterly filing of eTDS statements.
- Amended provisions provide flexibility to CBDT to prescribe any period for filing of eTDS statements.

No TDS for transport contractors

- Currently payment to individual sub contractors owning not more than 2 trucks can be made without TDS deduction. For this deductee has to furnish declaration in Form 15-I to the payer.
- Finance Bill 2009 has exempted all transport contracts from the purview of TDS, provided payee furnishes PAN to the payer.
- Payer will have to furnish details of such PAN to the department in a manner yet to be prescribed.

Clarification of Outsourcing Contracts

- ❖ Outsourcing contracts have been clarified to include only those contracts involving manufacturing or supplying a product according to the requirement or specification of a customer by using raw material purchased from such customer
- ❖ It is further clarified that TDS will not be deducted on material amount if it is separately mentioned in the invoice.

Changes effective from 01-04-2010

Penal TDS Rate if PAN not furnished

- Finance Bill prescribes a higher rate of 20% of TDS if deductee does not furnish PAN. However if the prescribed rate is higher than 20%, then such higher rate will be applicable.

Processing of eTDS Statements The new section

- ✓ 200A provides for computerized processing of eTDS Statements.
- ✓ CBDT will make a scheme for centralized processing of eTDS Statements. The processing will involve rectifying arithmetical and apparent errors and calculation of interest. Based on such processing the deductor will be either given a refund or a demand notice will be raised on him.

Time limit for penal proceedings for no / short deduction of TDS

- At present there is no time limit provided for passing order to hold a person as assessee in default . This has given rise to litigation and intervention of courts.
- The Finance Bill provides for a time limit for such proceedings . The order must be passed within 2 years from the end of financial year in which the eTDS statement is filed. If no such statement is filed then the time limit is 4 years.

FINANCIAL YEAR 2009-2010: ASSESSMENT YEAR 2010-2011

Nature of Payment made to resident		Upto 30-09-2009		From 01-10-2009	
		Company Firm Co-op Society Local Authority	Individual HUF	Company Firm Co-op Society Local Authority	Individual HUF
194A - Other Interest	5000	10	10	10	10
194B - Winning from Lotteries	5000	30	30	30	30
194C - Payment to Contractors	20000	2	2	2	1
194C - Payment to Adv/Sub Contr	20000	1	1	2	1
194D - Insurance Commission	5000	10	10	10	10
194H - Commission / Brokerage	2500	10	10	10	10
194I - Rent	120000	20	15	10	10
194I - Rent - Plant/Machinery	120000	10	10	2	2
194J - Professional Fees	20000	10	10	10	10

1 For Banks threshold limit is Rs.10000 w.e.f 01-06-2007

2 Rs. 20000 for single payment & Rs. 50000 for aggregate