



## **INTEREST FOR DELAY IN PAYMENT OF TDS/TCS AND FOR NON-PAYMENT OF TAX DEMANDED**

### **Introduction**

A person is liable to pay interest for various delays/default like interest under section 234A for delay in filing the return of income, interest under section 234B for default in payment of advance tax, interest under section 234C for deferment of payment of individual instalment or instalments of advance tax, interest under section 234D for excess refund granted to the taxpayer, interest under section 201(1A) for failure to deduct tax at source/delay in payment of tax deducted at source and interest under section 206C(7) is levied for failure to collect tax at source/delay in payment of tax collected at source.

The provisions relating to interest under section 234A, 234B, 234C and 234D have been discussed separately. In this part, you can gain knowledge of various provisions relating to interest under section 201(1A) for failure to deduct tax at source/delay in payment of tax deducted at source and interest under section 206C(7) for failure to collect tax at source/delay in payment of tax collected at source.

### **Basic provisions relating to due date of payment of TDS to the credit of Government**

Before understanding the provisions relating to levy of interest for failure to deduct tax at source/delay in payment of TDS, it is important to first understand the provisions relating to the due date for payment of TDS to the credit of the Government account. Section 192 to 195 gives various items of payments on which tax is to be deducted by the payer. The tax deducted by the payer (i.e., a non-Government payer) is to be paid to the credit of the Government as follows:

- Tax deducted during the month of April to February should be paid to the credit of the Government on or before 7 days from the end of the month in which the deduction is made.
- Tax deducted during the month of March should be paid to the credit of the Government on or before 30th day of April.

Note :

Tax deducted under section 194-IA (i.e., on immovable property) should be paid to the credit of the Government on or before 30 days from the end of the month in which deduction is made.

### **Illustration**

Essem Traders, a partnership firm has taken a loan from Mr. Kaushal (friend of one of its partners). It is paying interest on monthly basis. Monthly interest amounted to Rs. 2,000 and is paid on the last day of each month. The firm has deducted tax @ 10% from the monthly interest and paid the net interest to Mr. Kaushal. The tax deducted by the firm is deposited to the credit of Government by following dates:



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<i>Month</i>	<i>Date of deposit with the Government</i>
Tax deducted during the month of April 2017	03/05/2017
Tax deducted during the month of May 2017	07/06/2017
Tax deducted during the month of June 2017	18/07/2017
Tax deducted during the month of July 2017	02/08/2017
Tax deducted during the month of August 2017	04/09/2017
Tax deducted during the month of September 2017	09/10/2017
Tax deducted during the month of October 2017	06/11/2017
Tax deducted during the month of November 2017	11/12/2017
Tax deducted during the month of December 2017	02/01/2018
Tax deducted during the month of January 2018	05/02/2018
Tax deducted during the month of February 2018	05/03/2018
Tax deducted during the month of March 2018	25/04/2018

**Has the firm paid taxes to the credit of the Government within the prescribed time?**

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Tax deducted during the month of April to February should be paid to the credit of the Government on or before 7 days from the end of the month in which the deduction is made and tax deducted during the month of March should be paid to the credit of the Government on or before 30th day of April. Thus, the due dates for payment of tax to the credit of the Government and the comparison of the due dates with actual dates of payment will be as per following table :

<i>TDS for the Month of</i>	<i>Due date of deposit of TDS with Government</i>	<i>Actual Date of deposit of TDS with Government</i>	<i>Whether deposited within the due date?</i>
April, 2017	07/05/2017	03/05/2017	Yes
May, 2017	07/06/2017	07/06/2017	Yes
June, 2017	07/07/2017	18/07/2017	No
July, 2017	07/08/2017	02/08/2017	Yes



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August, 2017	07/09/2017	04/09/2017	Yes
September, 2017	07/10/2017	09/10/2017	No
October, 2017	07/11/2017	06/11/2017	Yes
November, 2017	07/12/2017	11/12/2017	No
December, 2017	07/01/2017	02/01/2017	Yes
January, 2018	07/02/2018	05/02/2018	Yes
February, 2018	07/03/2018	05/03/2018	Yes
March, 2018	30/04/2018	25/04/2018	Yes

### Interest for failure to deduct tax at source/delay in payment of TDS

As per section 201, if any person who is liable to deduct tax at source does not deduct it or after so deducting fails to pay, the whole or any part of the tax to the credit of the Government, then, such person, shall be liable to pay simple interest as given below:

- Interest shall be levied at 1% for every month or part of a month on the amount of such tax from the date on which such tax was deductible to the date on which such tax was deducted.
- Interest shall be levied at 1.5% for every month or part of a month on the amount of such tax from the date on which such tax was deducted to the date on which such tax was actually remitted to the credit of the Government.

In other words, interest will be levied at 1% for every month or part of a month for delay in deduction and at 1.5% for every month or part of a month for delay in remittance after deduction.

### Interest in case if the deductee has paid the tax

As per section 201, a payer who fails to deduct whole or any part of the tax at source is treated as an assessee-in-default. However, by virtue of proviso inserted to section 201 by the Finance Act, 2012 with effect from 1-7-2012 the payer who fails to deduct the whole or any part of the tax on the payment made to a resident payee shall not be deemed to be an assessee-in-default in respect of tax not deducted by him, if the following conditions are satisfied:

- The resident recipient has furnished his return of income under section 139.
- The resident recipient has taken into account the above income in its return of income.
- The resident recipient has paid the taxes due on the income declared in such return of income.



- The resident payee furnishes a certificate to this effect from an accountant in Form No. 26A.

In other words, in case of non deduction of tax at source or short deduction of tax, in case of a resident payee, if all the discussed conditions are satisfied, then the payer will not be treated as an assessee-in-default. However, in such a case, even if the payer is not treated as an assessee-in-default, he will be liable to pay interest under section 201(1A). In this case, interest shall be payable from the date on which such tax was deductible to the date of furnishing of return of income by such resident payee. Interest in such a case will be levied at 1% for every month or part of the month.

### **Non filing of TDS statement without payment of interest**

Every deductor has to furnish quarterly statement in respect of tax deducted by him i.e., TDS return. As per section 201(1A), interest for delay in payment of TDS should be paid before filing the TDS return.

### **Basic provisions relating to due date of payment of TCS to the credit of Government**

Section 206C gives various items on which tax is to be collected at source. The tax so collected is to be paid to the credit of the Government within a period of 7 days from the last day of the month in which the tax is collected at source. Where it is collected by an office of the Government then it shall be paid to the credit of the Central Government on the same day.

### **Interest for failure to collect tax at source/delay in payment of TCS**

As per section 206C(7), if the person responsible for collecting tax does not collect the tax or after collecting the tax fails to pay it to the credit of Government within the due date prescribed in this regard, then he shall be liable to pay simple interest at the rate of 1% per month or part thereof on the amount of such tax. Interest shall be levied for a period from the date on which such tax was collectible to the date on which the tax was actually paid.

### **Interest in case if the buyer or licensee or lessee has paid the tax**

As per section 206C(6A), a payer who fails to collect whole or any part of the tax at source is treated as an assessee-in-default. However, by virtue of proviso inserted to section 206C(6A) by the Finance Act, 2012 with effect from 1-7-2012 a collector who fails to collect the whole or any part of the tax at source (other than TCS on jewellery/bullion) shall not be deemed to be an assessee-in-default in respect of tax not collected by him, if the buyer or licensee or lessee from whom tax is to be collected satisfies the following conditions:

- Has furnished his return of income under section 139.
- Has taken into account such amount for computing income in such return of income.
- Has paid the tax due on the income declared by him in such return of income.



- Has furnished a certificate to this effect from an accountant in such Form No.27BA.

In other words, in case of non collection of tax at source or short collection of tax, if above conditions are satisfied, than the person responsible to collect tax at source will not be treated as an assessee-in-default in respect of tax not collected or short collected by him.

However, in such a case, even if the person responsible to collect tax at source is not treated as an assessee-in- default, he will be liable to pay interest under section 206C(7). Interest shall be payable from the date on which such tax was collectible to the date of furnishing of return of income by such buyer or licensee or lessee. Interest in such a case, will be levied at 1% for every month or part of a month.

#### **Non filing of TCS statement without payment of interest**

Every collector has to furnish quarterly statement in respect of tax collected by him i.e., TCS return. As per section 206C(7), interest for delay in payment of TCS should be paid before filing the TCS return.

#### **Interest for non-payment of tax as per demand notice**

Before understanding the provisions for levy of interest in case of non-payment of tax demanded as per demand notice issued under section 156, it is important to first understand the provisions of section 220(1) relating to payment of tax as per demand notice.

As per section 220(1), when a demand notice under section 156 has been issued to the taxpayer for payment of tax (other than notice for payment of advance tax), then such amount shall be paid within a period of 30 days of the service of the notice at the place and to the person mentioned in the notice. In certain cases, the above period of 30 days can be reduced by the tax authorities with the approval of designated authorities.

Section 220(2) deals with payment of interest in case of failure to pay tax within the time specified in the demand notice. As per section 220(2), if the taxpayer fails to pay the amount specified in any notice of demand issued under section 156 (as discussed) within the period as allowed in this regard, then he shall be liable to pay simple interest at 1% for every month or part of a month. Interest shall be levied for the period commencing from the day immediately following the end of the period mentioned in the notice and ending with the day on which the amount is paid.

After processing of TDS/TCS statements an intimation is generated specifying the amount payable or refundable. Such intimation shall be deemed as notice of demand under Section 156. Failure to pay such tax specified in intimation shall attract interest under Section 220(2).

It is provided that where interest is charged under sub-section (1A) of [section 201](#) on the amount of tax specified in the intimation issued under sub-section (1) of [section 200A](#) for any period, then, no interest shall be charged under Section 220(2) on the same amount for the same period.





*It is also provided that where interest is charged under sub-section (7) of [section 206C](#) on the amount of tax specified in the intimation issued under sub-section (1) of section 206CB for any period, then, no interest shall be charged under sub-section (2) on the same amount for the same period*

### **Appeal filed to challenge the demand notice**

Where any notice of demand has been served upon an assessee and any appeal or other proceeding, as the case may be, is filed or initiated in respect of the amount specified in the said notice of demand, then, such demand shall be deemed to be valid till the disposal of the appeal by the last appellate authority or disposal of the proceedings, as the case may be, and any such notice of demand shall have the effect as specified in section 3 of the Taxation Laws (Continuation and Validation of Recovery Proceedings) Act, 1964 (11 of 1964).]

### **Variation in amount of interest in certain cases**

Where as a result of an order under section 154, or section 155, or section 250, or section 254, or section 260, or section 262, or section 264 or an order of the Settlement Commission under section 245D(4), the amount on which interest was payable under section 220(2) had been reduced, the interest shall be reduced accordingly and the excess interest paid, if any, shall be refunded.

However, if subsequently as a result of an order passed under the said sections or under section 263, the amount on which interest is payable is increased, the assessee shall pay interest from the day immediately following the end of the period mentioned in the first notice of demand and ending with the day on which the amount is paid.

### **Waiver of interest under section 220(2A) by Commissioner**

#### **Waiver of interest under section 220(2A) by Commissioner**

The Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner may reduce or waive the amount of interest paid or payable by the taxpayer under section 220(2), if he is satisfied that:

- 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.

### **Time-limit for passing order under section 220(2A)**



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The Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner, as the case may be, shall pass order, either accepting or rejecting assessee's application to reduce or waive interest, within a period of 12 months from the end of the month in which application is received. However, order shall be passed on or before May 31, 2017 in case of application pending as on June 1, 2016.

Further, no order rejecting the application shall be passed unless the assessee has been given an opportunity of being heard.

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**Justification of correct answer :**

Where the tax is collected by an office of the Government, it shall be paid to the credit of the Central Government on the same day.

Thus, option (c) is the correct option.

**Q8.** Under section 206C(7), simple interest will be levied at the rate of 1% per month or part thereof for a period from the date on which such tax was collectible to the date on which the tax was actually paid.

- (a) True (b) False

**Correct answer : (a)**

**Justification of correct answer :**

As per section 206C(7), if the person responsible for collecting tax does not collect the tax or after collecting the tax fails to pay it to the credit of Government within the due date prescribed in this regard, then he shall be liable to pay simple interest at the rate of 1% per month or part thereof on the amount of such tax. Interest shall be levied for a period from the date on which such tax was collectible to the date on which the tax was actually paid.

Thus, the statement given in the question is true and hence, option (a) is the correct option.

**Q9.** As per section 220(2), if the taxpayer fails to pay the amount specified in any notice of demand issued under section 156 within the period as allowed in this regard, then he shall be liable to pay simple interest \_\_\_\_\_ for every month or part of a month.

- (a) @ 0.5% (b) @ 1%  
(c) @ 1.5% (d) @ 2%

**Correct answer : (b)**

**Justification of correct answer :**

As per section 220(2), if the taxpayer fails to pay the amount specified in any notice of demand issued under section 156 within the period as allowed in this regard, then he shall be liable to pay simple interest at 1% for every month or part of a month.

Thus, option (b) is the correct option.

**Q10.** As per section 220(2A), \_\_\_\_\_ may reduce or waive the amount of interest paid or payable by the taxpayer under section 220(2).

- (a) The Chief Commissioner (b) The Joint Commissioner  
(c) The Assistant Commissioner (d) The Deputy Commissioner

**Correct answer : (a)**

**Justification of correct answer :**



As per section 220(2A), the Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner may reduce or waive the amount of interest paid or payable by the taxpayer under section 220(2), if he is satisfied that:

- 1) Payment of such interest has caused or would cause genuine hardship to the taxpayer.
- 2) 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.
- 3) The taxpayer has co-operated in any inquiry relating to the assessment or any proceeding for the recovery of any amount due from him.

Thus, option (a) is the correct option.

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