

Mentorship Programme

**SEMINAR ON TDS COMPLIANCE, FILING AND
LATEST ISSUES**

**“TDS u/s 195 - Recent
Developments”**

On 7th MAY 2025

OVERVIEW...

Part - A : Overview Of Section 195

Part - B: Form 13 U/s 197

Part - C: Remittance Certificate By CA

PART - A

OVERVIEW OF Section 195

AN OVERVIEW OF TDS U/S. 195

Who is liable to deduct TDS:

Any person (whether resident or non-resident) who is responsible for making payment to a non-resident or a foreign company any interest (not being interest referred to in section 194LB or section 194LC or section 194LD) or any other sum chargeable under the provisions of this Act (not being income chargeable under the head "Salaries")

Time of deduction:

- Twin conditions for attracting section 195
 - For payer – credit or payment of income
 - For payee – Sum chargeable to tax in India

AN OVERVIEW OF TDS U/S. 195

Section 195(1) - “any Sum Chargeable “—scope of?

- Chargeability to tax governed by provisions of Act/DTAA

Nature of Income	Act*	Treaty
Business/Profession	S. 9(1)(i)	A.5, A.7 & A.14
Dividend Income	S. 9(1)(iv), S.115A	A.10
Interest Income	S. 9(1)(v), S.115A	A.11
Royalties	S. 9(1)(vi), S.115A	A.12
Capital Gains	S. 9(1)(i), S.45	A.13

* Apart from S.5, wherever applicable

ACT/DTAA, whichever is beneficial prevails

Role of DTAA in Section 195

India has **Double Taxation Avoidance Agreements (DTAAs)** with many countries to prevent taxpayers from being taxed twice on the same income.

Key Aspects:

- **Lower/Nil TDS Rates:** If the DTAA provides a **lower or nil tax rate** compared to domestic law, the taxpayer can claim the benefit. The rates prescribed in DTAA shall not be subject to surcharge or cess.
- **Taxability Conditions:** The non-resident must satisfy DTAA conditions (e.g., "**Beneficial Ownership**" for dividends, "**Make Available**" clause for FTS).
- **Residency Certificate:** The non-resident must submit a **Tax Residency Certificate (TRC)** from their home country to claim DTAA benefits.

No TDS if Income is Not Taxable in India (as per DTAA)

- If the DTAA provides that the income is **taxable only in the recipient's country**, no TDS is required.
- Example: Certain business profits (if no Permanent Establishment in India).

AN OVERVIEW OF TDS U/S. 195 (Cont..)

Tax Residency Certificate (Section 90(4)) and Form 10F

TRC	Form 10F
Official proof of residency	Self-declaration
Mandatory for DTAA benefits	Required if TRC lacks details
Issued by foreign tax authority	Filed by taxpayer in India

Applicability of TDS for NRI Property Sales

▶ **Mandatory Deduction**

When an NRI sells immovable property in India, the buyer must deduct TDS under section 195 of the Income Tax Act 1961

▶ **Full Sale Consideration**

TDS must be deducted on the entire sale consideration, not just on the capital gains portion

▶ **No Minimum Threshold**

There is no minimum threshold for TDS deduction in such transactions- TDS applies regardless of the sale value

TDS Rates for NRI Property Sales (2024-25)

Sales Value	Base LTCG Rate	Surcharge	Effective TDS Rate (On or After July 23, 2024)	Effective TDS Rate (Before July 23, 2024)
Up to ₹50 lakh	12.5%/20%	Nil	13.0%	20.8%
₹50 lakh - ₹1 crore	12.5%/20%	10%	14.3%	22.88%
Above ₹1 crore	12.5%/20%	15%	14.95%	23.92%

- In the case of STCG, TDS Rate will be 30% (plus surcharge and cess)

Payment Due Date for TDS Deducted u/s 195

1. General Rule:

- TDS deducted under **Section 195** must be deposited to the government by the **7th of the next month** (similar to other TDS payments).
 - Example: TDS deducted on **15th June** → Due by **7th July**.

2. Exception for March Deductions:

- For TDS deducted in **March**, the due date is **30th April** (instead of 7th April).

Late Fees & Penalties for Non-Compliance with TDS u/s 195

Default	Interest	Penalty
Non-Deduction	1% per month	100% of TDS (u/s 271C)
Late Payment	1.5% per month	Up to 100% of TDS (u/s 221)
Late Filing	₹200/day (u/s 234E)	₹10K-₹1L (u/s 271H)

- Disallowance of Expenditure (Section 40(a)(i))

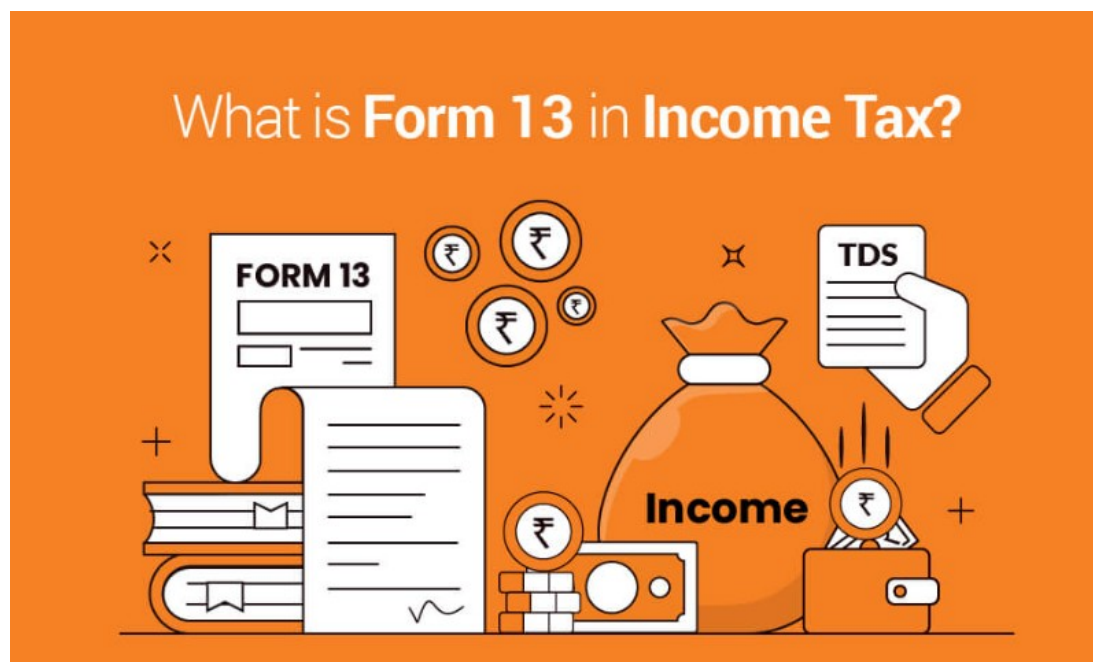


Form 27Q

- It is the quarterly TDS return filed for **deductions made under Section 195** of the Income Tax Act.
- **Due Dates:**
 - Q1 (Apr-Jun) – **31st July**
 - Q2 (Jul-Sep) – **31st October**
 - Q3 (Oct-Dec) – **31st January**
 - Q4 (Jan-Mar) – **31st May**

PART - B

Form 13 U/s 197



Application Under Section 197/195(3)

- An application for nil/lower deduction of TDS using FORM 13/15C/15D is required to be filed with the Assessing Officer(TDS) to seek permission.
- Online applications can be made by registering as **taxpayer** in Traces.

The screenshot displays the TDS TRACES portal. At the top, the TDS Centralized Processing Cell logo is on the left, and the TRACES logo with the tagline 'TDS Reconciliation Analysis and Correction Enabling System' is on the right. Below the logos is a navigation bar with tabs: Home (selected), Deductor, Tax Payer, and PAO. A large blue banner contains a notice about the amendment in section 200(3) of the Income-tax Act, 1961, effective from FY 2018-19, and a link to the Notice Inviting Tender (NIT) for selection of MSP for Project Insight 2.0. Below the banner, there are two main sections: 'Login' and 'Alerts/Updates'. The 'Login' section has a dropdown menu for 'Register as New User' with options: Deductor, Tax Payer (highlighted), PAO, and Deductor whose Authorized Person is a Foreign National. The 'Alerts/Updates' section contains a message about the functionality to file application in Form 15E for lower/nil deduction certificate under section 195(2) of the Income Tax Act 1961 for current financial year i.e., F.Y. 2024-25 is available till 15.03.2025 only. NEW!

TDS
Centralized Processing Cell

TRACES
TDS Reconciliation Analysis and Correction Enabling System

Home Deductor Tax Payer PAO

As per amendment in section 200(3) of the Income-tax Act vide Finance Act, (No. 2) 2024, no correction statement shall be delivered after the expiry of six years from the end of the financial year in which the statement is required to be delivered. In view of the above, correction statements for Qtr. 1 to Qtr. 4 pertaining to Financial Years 2007-08 to 2017-18 and correction statements for Qtr. 1 to Qtr. 3 for FY 2018-19 are required to be delivered. Deductors /Collectors and other Stakeholders may kindly take note. **NEW!**

Notice Inviting Tender (NIT) for selection of MSP for Project Insight 2.0 [Click here](#) for more.

Notice Inviting Tender for (NIT) for Selection of Managed Service Provider (MSP) for PAN 2.0 Project of Income Tax Department. [Click here](#) for more.

Login

Alerts/Updates

■ The functionality to file application in Form 15E for lower/nil deduction certificate under section 195(2) of the Income Tax Act 1961 for current financial year i.e., F.Y. 2024-25 is available till 15.03.2025 only. **NEW!**

Register as New User

Deductor

Tax Payer

PAO

Deductor whose Authorized Person is a Foreign National

Forgot Password

Forgot User ID

The application in Form 15E for lower/nil deduction certificate under section 195(2) of the Income Tax Act 1961 for current financial year i.e., F.Y. 2024-25 is available till 15.03.2025 only. **NEW!**

The application in Form 13 for lower/nil deduction certificate under section 197 of the Income Tax Act 1961 for current financial year i.e., F.Y. 2024-25 is available till 15.03.2025 only. **NEW!**

Documents to be Submitted with Form

- **13** Copies of return of income along with enclosures and acknowledgement for the previous 3 financial years
- Copies of assessment orders for the previous 3 financial years
- In case of the assessee having business or professional income, copies of financial statements along with audit reports if any for the previous 3 financial years
- Projected profit and loss account for the current financial year
- Computation of income statement for previous 3 financial years and estimated computation for the current financial year
- Copy of PAN card
- Tax Deduction Account Number of all parties responsible for paying you
- E-TDS return acknowledgement for the previous 2 financial years
- Estimated income during financial year
- Any other documents depending on the nature of the income

Validity of an Application Made Under Section 197

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

PART - C

CERTIFICATE BY A CA FOR REMITTANCE

CERTIFICATE BY A CA FOR REMITTANCE

- CA Certificate to be obtained in Form No. 15CB
- Form 15CA to be furnished electronically by the assessee on e-filing portal.
- As per Section 195 (6) reporting is mandatory in respect of every payment whether or not chargeable to tax!!
- As per Rule 37BB(3), 33 payments do not require any information to be furnished:

Sl. No.	Purpose code as per RBI	Nature of payment
1	S0001	Indian investment abroad - in equity capital (shares)
2	S0002	Indian investment abroad - in debt securities
3	S0003	Indian investment abroad - in branches and wholly owned subsidiaries
4	S0004	Indian investment abroad - in subsidiaries and associates
5	S0005	Indian investment abroad - in real estate
6	S0011	Loans extended to Non-Residents
7	S0101	Advance payment against imports
8	S0102	Payment towards imports - settlement of invoice
9	S0103	Imports by diplomatic missions
10	S0104	Intermediary trade
11	S0190	Imports below Rs. 5,00,000-(For use by ECD offices)
12	S0202	Payment for operating expenses of Indian shipping companies operating abroad
13	S0208	Operating expenses of Indian Airlines companies operating abroad

Sl. No.	Purpose code as per RBI	Nature of payment
14	S0212	Booking of passages abroad - Airlines companies
15	S0301	Remittance towards business travel
16	S0302	Travel under basic travel quota (BTQ)
17	S0303	Travel for pilgrimage
18	S0304	Travel for medical treatment
19	S0305	Travel for education (including fees, hostel expenses, etc.)
20	S0401	Postal services
21	S0501	Construction of projects abroad by Indian companies including import of goods at project site
22	S0602	Freight insurance - relating to import and export of goods
23	S1011	Payments for maintenance of offices abroad
24	S1201	Maintenance of Indian embassies abroad
25	S1202	Remittances by foreign embassies in India
26	S1301	Remittance by non-residents towards family maintenance and savings
27	S1302	Remittance towards personal gifts and donations
28	S1303	Remittance towards donations to religious and charitable institutions abroad

Sl. No.	Purpose code as per RBI	Nature of payment
29	S1304	Remittance towards grants and donations to other Governments and charitable institutions established by the Governments
30	S1305	Contributions or donations by the Government to international institutions
31	S1306	Remittance towards payment or refund of taxes
32	S1501	Refunds or rebates or reduction in invoice value on account of exports
33	S1503	Payments by residents for international bidding

Parts of Form 15CA

- **Part A** – Remittance amount is **taxable** under the income tax Act 1961 and the aggregate of remittance **does not exceed Rs. 5 Lakhs** in that particular F.Y.
- **Part B** – Part B of the Form 15CA is needed to be filled when the remittance amount exceeds five lakh rupees in the F.Y. and when an **order /certificate u/s 195(2)/ 195(3)/197 of Income Tax Act has been acquired** from the A.O. (Whether Nil rate or Lower rate Certificate).
- **Part C**- Part C of the Form 15CA is needed to be filled when the remittance amount in the F.Y. **exceeds Five Lakh rupees** during the F.Y. and a certificate in **Form No. 15CB** from an accountant as stated in the description below sub-section (2) of section 288 has been obtained.
- **Part D** – The Part D of Form 15CA is filled when the remittance is **not taxable** other than payments referred to in rule 37BB(3) by the person referred to in rule 37BB(2).



THANK YOU

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