

**WORKSHOP ON TAX DEDUCTED AT SOURCE  
FOR  
ACCOUNTANT  
HOSTED  
BY  
BARODA BRANCH  
OF  
W.I.R.C. OF I.C.A.I.**

Date : 02.02.2010

Presented by  
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**Relevant provision of the Income - Tax Act, 1961**



Organized By : Baroda Branch of WIRC of ICAI



|                        |  |
|------------------------|--|
| <b>Section 190 -</b>   | Deduction at source and advance payment  |
| <b>Section 191 -</b>   | Direct Payment   |
| <b>Section 192 -</b>   | Salary   |
| <b>Section 193 -</b>   | Interest on Securities   |
| <b>Section 194 -</b>   | Dividends  |
| <b>Section 194A -</b>  | Interest other than 'Interest on Securities'   |
| <b>Section 194B -</b>  | Winnings from lottery or crossword puzzle  |
| <b>Section 194BB -</b> | Winnings from horse race   |
| <b>Section 194C -</b>  | Payments to Contractors and sub-contractors  |
| <b>Section 194D -</b>  | Insurance Commission   |
| <b>Section 194E -</b>  | Payments to non-resident sportsmen or sports associations  |
| <b>Section 194EE -</b> | Payments in respect of deposits under National Savings Scheme, etc.                                    |
| <b>Section 194F -</b>  | Payments on account of repurchase of units by Mutual Fund or Units Trust of India.                     |
| <b>Section 194G -</b>  | Commission, etc., on the sale of lottery tickets   |
| <b>Section 194H -</b>  | Commission or brokerage  |
| <b>Section 194I -</b>  | Rent   |
| <b>Section 194J -</b>  | Fees for professional or technical services  |
| <b>Section 194K -</b>  | Income in respect of units   |
| <b>Section 194L -</b>  | Payment of Compensation on acquisition of capital assets   |
| <b>Section 194LA -</b> | Payment of compensation on acquisition of certain immovable property                                   |
| <b>Section 195 -</b>   | Other sums   |
| <b>Section 195A -</b>  | Income payable "net of tax"  |
| <b>Section 196 -</b>   | Interest or dividend or other sums payable to Government, Reserve Bank or certain corporations         |
| <b>Section 196A -</b>  | Income in respect of units of non – residents  |
| <b>Section 196B -</b>  | Income from units  |
| <b>Section 196C -</b>  | Income from foreign currency bonds or shares of Indian company   |
| <b>Section 196D -</b>  | Income from foreign institutional investors from securities  |
| <b>Section 197 -</b>   | Certificate for deduction at lower rate  |
| <b>Section 197A -</b>  | No deduction to be made in certain cases   |
| <b>Section 198 -</b>   | Tax deducted is income received  |
| <b>Section 199 -</b>   | Credit for tax deducted  |
| <b>Section 200 -</b>   | Duty of person deducting tax   |
| <b>Section 201 -</b>   | Consequences of failure to deduct or pay   |
| <b>Section 202 -</b>   | Deduction only one mode of recovery  |
| <b>Section 203 -</b>   | Certificate for tax deducted   |
| <b>Section 203A -</b>  | Tax deduction and collection account number  |
| <b>Section 203AA -</b> | Furnishing of statement of tax deducted  |
| <b>Section 204 -</b>   | Meaning of "person responsible for paying"   |
| <b>Section 205 -</b>   | Bar against direct demand on assessee  |
| <b>Section 206 -</b>   | Persons deducting tax to furnish prescribed returns  |
| <b>Section 206A -</b>  | Furnishing of quarterly return in respect of payment of interest to residents without deduction of tax |



## Relevant rules of the Income – Tax Rules, 1962

- Rule 21AA -** Furnishing of particulars for claiming relief under section 89(1)  
**Rule 26 -** Rate of exchange for the purpose of deduction of tax at source on income payable in foreign currency
- Rule 26A -** Furnishing of particulars of income under the head “Salaries”  
**Rule 26B -** Statement of particulars of income under heads of income other than “Salaries” for deduction of tax at source
- Rule 27 -** Prescribed arrangements for declaration and payment of dividends within India  
**Rule 28 -** Application for certificates for deduction of tax at lower rates  
**Rule 28AA -** Certificate of no deduction of tax or deduction at lower rates from income other than dividends  
**Rule 28AB -** Certificate of no deduction of tax in case of certain entities  
**Rule 29 -** Certificate of no deduction of tax or deduction at lower rates from dividends  
**Rule 29B -** Application for certificate authorising receipt of interest and other sums without deduction of tax  
**Rule 29C -** Declaration by person claiming receipt of certain incomes without deduction of tax  
**Rule 29D -** Form of declaration under second proviso / third proviso to section 194C (3) (i)  
**Rule 30 -** Time and mode of payment to Government account of tax deducted at source or tax paid under sub – section (1A) of section 192  
**Rule 31 -** Certificate of tax deducted at source or tax paid under sub – section (1A) of section 192  
**Rule 31A -** Quarterly statement of deduction of tax under sub – section (3) of section 200  
**Rule 31AB -** Annual Statement of tax deducted or collected or paid  
**Rule 31AC -** Maintenance of particulars of time deposits by a banking company for furnishing quarterly return under section 206A  
**Rule 31 ACA -** Quarterly return under section 206A  
**Rule 33 -** Statement of deduction of tax from contributions paid by the trustees of an approved superannuation fund  
**Rule 36 -** Prescribed persons for section 206  
**Rule 36A -** Prescribed authority for purposes of section 206  
**Rule 37 -** Prescribed returns regarding tax deducted at source under section 206  
**Rule 37A -** Returns regarding tax deducted at source in the case of non – residents  
**Rule 37B -** Returns regarding tax deducted at source on computer media under sub –section (2) of section 206  
**Rule 114A -** Application for allotment of a tax deduction and collection account number  
**Form No. 10E -** Form for furnishing particulars of income under section 192(2A) for the year ending 31<sup>st</sup> march, 20..... For claiming relief under section 89(1) by a Government servant or an employee in a company, Co-operative society, local authority, university, institution, association or body.



- Form No. 10-IA** - Certificate of the medical authority for certifying ‘person with disability’, ‘severe disability’, ‘autism’, ‘cerebral palsy’, and ‘multiple disability’ for purposes of section 80DD and section 80U
- Form No. 12B** - Form for furnishing details of income under section 192 (2) for the year ending 31<sup>st</sup> March,.....
- Form No. 12BA** - Statement showing particulars of perquisites, other fringe benefits or amenities and profits in lieu of salary with value thereof
- Form No. 13** - Application by a person for a certificate under sections 197 and / or 206 C (9) of the Income tax Act, 1961, for no deduction / collection of tax or deduction / collection of tax at a lower rate
- Form No. 15C** - Application by a banking company for a certificate under section 195 (3) of the Income – tax Act, 1961, for receipt of interest and other sums without deduction of tax
- Form No. 15D** - Application by a person other than a banking for a certificate under section 195 (3) of the Income tax Act 1961, for receipt of sums other than interest and dividends without deduction of tax
- Form No. 15G** - Declaration under sub – section (1) and (1A) of section 197A of the Income – tax Act, 1961, to be made by an individual or a person ( not being a company or a firm ) claiming certain receipts without deduction of tax
- Form No. 15H** – Declaration under sub – section ( 1C ) of section 197A of the Income tax Act, 1961, to be made by an individual who is of the age of sixty – five years or more claiming certain receipts without deduction of tax
- Form No.15-I** - Declaration for non – deduction of tax at source to be furnished to contractor under the second proviso to clause (i) of sub – section (3) of section 194C by sub – contractor not owning more than two heavy goods carriages / trucks during the financial year .....
- Form No. 15J** - Particulars to be furnished by the contractor under the third proviso to clause ( i ) of sub – section ( 3 ) of section 194C for the financial year ..... ( assessment year .....
- Form No. 16** - Certificate under section 203 of the Income tax Act,1961, for tax deducted at source from income chargeable under the head “ Salaries “
- Form No. 16A** - Certificate of deduction of tax at source under section 203 of the Income – tax Act, 1961
- Form No. 16AA** - Certificate for tax deducted at source from income chargeable under the head ‘Salaries’ – cum – return of income
- Form No. 22** - Statement of tax deducted at source from contributions repaid to employees in the case of an approved superannuation fund
- Form No. 24** - Annual return of “Salaries” under section 206 of the Income – tax Act, 1961 for the year ending 31<sup>st</sup> March, .....
- Form No. 24Q** - Quarterly statement of deduction of tax under sub – section ( 3 ) of section 200 of the Income – tax Act, 1961 in respect of salary for the quarter ended June / September / March ( tick whichever applicable ) ..... Year



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- Form No. 26 -** Annual return of deduction of tax under section 206 of the Income – tax Act, 1961 in respect of all payments other than salaries, for the year ending 31<sup>st</sup> March, .....
- Form No. 26AS -** Annual Tax Statement under section 203AA
- Form No. 26Q -** Quarterly statement of deduction of tax under sub – section ( 3 ) of section 200 of the Income tax Act, 1961 in respect of payments other than salary for the quarter ended June / September / December / March (tick whichever applicable) ..... year
- Form No. 26QA -** Particulars required to be maintained for furnishing quarterly return under section 206A
- Form No. 26QAA -** Quarterly return under section 206A for the quarter ended June / September / December / March ( tick whichever applicable ) of the financial year .....
- Form No. 27Q -** Quarterly statement of deduction of tax under sub – section ( 3 ) of section 200 of Income – Tax Act, 1961 in respect of payments other than salary made to non – residents for the quarter ended June / September / December / March ( tick whichever applicable ) ..... ( year )
- Form No. 27A -** Form for furnishing information with the statement of deduction / collection of tax at source ( tick whichever is applicable ) filed on computer media for the period ( Form ... / ... / ... / to ... / ... / ... ( dd / mm / yy )
- Form No. 49B -** Form of application for allotment of tax deduction and collection account number under section 203A of the Income – tax Act, 1961.



## TDS Returns FAQ for Deductions\*

### 1. What is e – TDS Return ?

**Ans.** e – TDS return is a TDS return prepared in Form No. 24, 26 or 27 in electronic media as per prescribed data structure in either on a floppy or an a CD ROM. The floppy or CD ROM prepared should be accompanied by a signed verification in Form No. 27A.

### 2. Who is required to file e – TDS return ?

**Ans.** As per section 206 of Income – Tax Act all corporate tax deduction are compulsorily required to file their TDS return on electronic media (i.e., e – TDS returns). However, for other tax Deductors filing of e – TDS return is optional.

### 3. Under what provision the e – TDS return should be filed ?

**Ans.** An e – TDS return should be filed under section 206 of the Income – tax Act and as per the scheme dated 26.08.2003 for electronic filing of TDS return notified by the CBDT for this purpose. CBDT circular No.8, dated 19.09.2003 may also be referred.

### 4. Who is the e – Filing Administrator ?

**Ans.** The CBDT has appointed the Director General of Income – tax (systems) as e – Filing Administrator for the purpose of the scheme.

### 5. Who is an e – TDS Intermediary ?

**Ans.** CBDT has appointed National Securities Depository Ltd., Mumbai as e – TDS Intermediary.

### 6. How will the e – TDS returns be prepared ?

**Ans.** e – TDS has to be prepared in the data format issued by e – Filing Administrator, which is available on the website of Income – tax Department at i.e., [www.incometaxindia.gov.in](http://www.incometaxindia.gov.in) and of NSDL at <http://tin.nsdl.com>. There is small validation software available along with then data structure of the e – TDS return prepared. The e – TDS return should have following features :

- i. Each e – TDS return file (Form 24,26 or 27) should be in a separate CD / floppy.
- ii. Each e – TDS return file is accompanied by a duly filled and signed (by an authorized signatory) Form 27A in physical form.
- iii. Each e – TDS return file should be in one CD / floppy. It should not span across multiple floppies.
- iv. In case the size of an e – TDS return file exceeds the capacity of one floppy, it should be furnished on a CD. In case the e – TDS return file is in a compressed format, it should be compressed using winzip 8.1 or zip1fast3.0 compression utility only to ensure quick and smooth acceptance of the file.
- v. Label should be affixed on each CD / floppy mentioning name of the deductor, his TAN, Form No. (24,26 or 27) and period to which the return pertains.
- vi. There should be not any overwriting / striking on form 27A. If there is any, then the same should be ratified by an outhorised signatory.



- vii. No bank challan, copy of TDS certificate is to be furnished along with e – TDS return file. In case of Forms 26 and 27, deductor need not furnish physical copies of certificates of no deduction or lower deduction of TDS received from deductees. In case of Form 24 deductor should furnish physical copies of certificates of ‘no deduction or deduction of TDS at lower rate’; if any, received from deductees.
- viii. E – TDS return file should contain TAN of the deductor. In case correct TAN is not mentioned – The deductor will have to file TAN application form (Form 49B) along with the e – TDS return (with necessary application charges).
- ix. CD / floppy is virus free.

**7. Can more than One e – TDS return of the same deductor be prepared in one CD / floppy ?**

**Ans.** No separate CD / floppy should be used for each return.

**8. Where can the e – TDS return be filed ?**

**Ans.** e – TDS returns can be filed at any of the TIN – FC at the 42 sites opened by the e – TDS intermediary for this purpose.

**9. What are the basic details that should be included in the e – TDS return ?**

**Ans.** Following information must be included in the e – TDS return for successful acceptance. If any of these essential details is missing, the returns will not be accepted at the TIN – Facilitation Centres –

- i. Correct Tax deduction Account Number (TAN) of the deductor is clearly mentioned in Form No. 27A as also in the e – TDS return, as required by sub – section (2) of section 203A of the Income – tax Act.
- ii. The particulars relating to deposit of tax deducted at source in the bank are correctly and properly filled in the table at item No. 6 of Form No. 24 or item No. 5 of Form No. 26 or item No. 5 of Form No. 27, as the case may be.
- iii. The data structure of the e – TDS return (file format) is as per the structure prescribed by the e – Filing Administrator.
- iv. The control chart in Form 27A is duly filled in all columns and verified and as enclosed in paper form with the e – TDS return on computer media.
- v. The control totals of the amount paid and the tax deducted at source as mentioned at item No. 3 of Form No. 27A tally with the corresponding totals in the e – TDS return in Form No. 24 or Form No. 26 or Form No. 27 as the case may be.

**10. What happens if any of the control total mentioned in Form 27A not match with that in the e – TDS return ?**

**Ans.** In such a case the e – TDS return will not be accepted at the TIN facilitation centre.

**11. What happens in a situation where a deductor or does not have TAN or has a TAN in old format ?**

**Ans.** The deductor will have to file an application in Form 49B at the TIN facilitation centre along with application fee (Rs. 50 + service tax applicable) for TAN along with the e – TDS return.

**12. Whether any charges are to be paid to the e – TDS intermediary ?**

**Ans.** The assessee is to pay following charges as upload charges at the time of filing of e – TDS return to NSDL.

| Category of e – TDS return                                  | Upload Charges |
|---|----------------|
| Returns having up to 100 deductees records                  | Rs. 30         |
| Returns having 101 to 1000 deductees records                | Rs. 182        |
| Returns having more than 1000 deductees records             | Rs. 606        |
| Service Tax as applicable will also be paid by the deductor |                |



**13. What is TAN ?**

**Ans.** TAN is Tax Deduction Account Number required to be obtained by all deductors under section 203A of Income – Tax Act. It is a 10 digit alpha numeric number issued by the Assessing Officer of the Income – tax Department. It is compulsory to quote TAN in TDS return (including any e – TDS return) or any TDS payment challan.

**14. Who must apply for TAN ?**

**Ans.** All the persons who are required to deduct tax at source on behalf of income – tax department are required to apply for and obtain TAN.

**15. Where to apply for TAN ?**

**Ans.** The application in Form 49B can be filed at any of TIN Facilitation Centre meant for receipt of e – TDS returns.

**16. How to find address of the office where e – TDS return can be filed ?**

**Ans.** Addresses of the TIN FC are available on [www.incometaxindia.gov.in](http://www.incometaxindia.gov.in) or at <http://tin.nsd.com>.

**17. What is the fee for filing application for TAN (Form 49B) ?**

**Ans.** The applicant for TAN has to pay RS. 50 plus service tax as processing fee at the TIN – FC at the time of submitting Form 49B.

**18. Can an application for TAN be made on a plain paper ?**

**Ans.** TAN application can be made only on Form 49B. Forms will be available at TIN – FCs and can be downloaded from <http://tin.nsd.com>.

**19. Is it necessary to apply for different TAN, if a deductor has to make deductions from different types of sources like deductions from salary, interest, dividend etc. ?**

**Ans.** No, TAN once allotted can be used for all type of deductions, however at the time of filing Form 49B type of deduction the deductor is required to make should be ticked.

**20. Can Form 49B be filled on a typewriter ?**

**Ans.** yes, But typing should be in capital letters with good impression.

**21. What if incomplete Form 49B is submitted ?**

**Ans.** The TIN Facilitation Centre will assist the applicant to correctly fill up Form 49B but shall not receive incomplete or deficient application.

**22. Will the existing TAN issued by the Department remain valid ?**

**Ans.** Yes, all existing reformatted TAN which are 10 digit alpha – numeric numbers remain valid. However, TAN issued in old format requires to be reformatted. For this also Form 49B is to be filed along with the application fee, at the TIN FC.

**23. How will the new TAN number be intimated to the deductor ?**

**Ans.** NSDL will ensure intimation of new TAN at the address indicated in the Form 49B against acknowledgement.

**24. How can a deductor know his TAN if he has an old TAN, or if he has earlier applied for TAN but has not got TAN ?**

**Ans.** TIN Facilitation Centres will help the deductors in ascertaining their correct TAN from the database. It can also be verified from information put on the website of the Income – tax Department at [www.incometaxindia.gov.in](http://www.incometaxindia.gov.in). There is a search engine to find new TAN against old TAN or to find New TAN against name and address of the deductor.



**25. Can an e – TDS return not be accepted at the TIN Facilitation Centres ?**

**Ans.** If an e – TDS return suffers from any of the following defects the deductor will be informed and requested to remove the same before the e – TDS return can be accepted at the TIN Facilitation Centre.

- i. each e – TDS return file (Form 24,26 or 27) is not furnished in a separate CD / floppy, or is not accompanied with a duly filled and signed Form 27A in physical form.
- ii. Separate Form 27A is not furnished for each e – TDS return.
- iii. Any striking and overwriting, on the Form 27A are not duly ratified by the person who has signed Form 27A.
- iv. More than one e – TDS return is furnished in one CD / floppy.
- v. More than one CD / floppy is used for furnishing one e – TDS return.
- vi. Deductor has not mentioned its name, Form No., or the period to which the TDS return pertains on the CD / floppy for identification purpose.
- vii. e – TDS return file is compressed using any compression utility other than Winzip 8.1 or ZipltFast 3.0 compression utility.
- viii. e – TDS return file is not in conformity with the file format.
- ix. TAN mentioned in e – TDS return file is not correct or is not valid. In such situation Form 49B can be furnished along with the e – TDS return.
- x. TAN or name of deductor on the e – TDS return do not match with those mentioned in Form 27A.
- xi. There is a mismatch between control totals on the e – TDS return and the Form 27A.

**26. Checklist for Deductor**

**Ans.** After preparing the e – TDS return file deductor will check following to ensure that the e – TDS return file is complete in all aspects and is ready for furnishing to TIN – FC :

- e – TDS return file is in conformity with the file format notified by ITD.
- Each e – TDS return file (Form 24,26 or 27) is furnishing in a separate CD / floppy along with duly filled and signed Form 27A in physical form.
- Separate Form 27A in physical form is furnished for each e – TDS return.
- Form 27A is duly filled and signed by an authorised signatory.
- Striking and overwriting if any, on Form 27A are ratified by the person who has signed Form 27A.
- More than one e – TDS return is not furnished in one CD / floppy.
- More than one CD / floppy is not used for furnishing one e – TDS return.
- Label is affixed on CD / floppy containing details of deductor like name of deductor, TAN, Form No. and period to which return pertains.
- e – TDS return file if compressed, is compressed using Winzip 8.1 or ZipitFast 3.0 compression utility only.
- New TAN quoted in e – TDS return file and mentioned on Form 27A is same. Confirm new TAN by using search facility on ITD website ([www.incometaxindia.gov.in](http://www.incometaxindia.gov.in)).
- Carry copy of TAN allotment letter from ITD or screenprint from ITD website as proof of TAN to avoid rejection of e – TDS return due to minor variation in way of transcribing the new TAN in e – TDS return.
- Control totals, TAN and name mentioned in e – TDS return file match with the those mentioned on Form 27A.
- In case of Form 24, copies of certificates of no deductions of TDS and deductions of TDS at concessional rate, received from deductees are attached.
- e – TDS return file has been successfully run through the validation software provided at the site [www.incometaxindia.gov.in](http://www.incometaxindia.gov.in) or <http://tin.nsd.com>.



**Schedule for TDS Rates for F.Y. 2009-2010 :**

| SEC.  | NATURE OF PAYMENT   | CRITERIA FOR DEDUCTION  | RATE APPLICABLE UPTO 30.09.2009 (in %) |                                     |                                   | RATE APPLICABLE FROM 01.10.2009 (in %) |                                     |                                   |
|-------|---|---|--|-------------------------------------|-----------------------------------|--|-------------------------------------|-----------------------------------|
|       |   |   | If recipient is a Co.                  | If recipient is a Co. Op. Soc., LLP | If recipient is a Individual, HUF | If recipient is a Co.                  | If recipient is a Co. Op. Soc., LLP | If recipient is a Individual, HUF |
| 194A  | Interest from Banks, Post Office, Co-Op Soc.                    | Payment in excess of Rs. 10,000 p.a.                            | 20                                     | 10                                  | 10                                | 20                                     | 10                                  | 10                                |
| 194A  | Other Interest  | Payment in excess of Rs. 5,000 p.a.                             | 20                                     | 10                                  | 10                                | 20                                     | 10                                  | 10                                |
| 194C  | Contract including Sub Contracts & Advertisement                | Payment in excess of Rs. 20,000 per contract or Rs. 50,000 p.a. | 2                                      | 2                                   | 2                                 | 2                                      | 2                                   | 1                                 |
| 194C  | Advertisement Contract  | Payment in excess of Rs. 20,000 per contract or Rs. 50,000 p.a. | 1                                      | 1                                   | 1                                 | 2                                      | 2                                   | 1                                 |
| 194H  | Commission or Brokerage   | Payment in excess of Rs. 2,500 p.a.                             | 10                                     | 10                                  | 10                                | 10                                     | 10                                  | 10                                |
| 194J  | Professional Charges  | Payment in excess of Rs. 20,000 p.a.                            | 10                                     | 10                                  | 10                                | 10                                     | 10                                  | 10                                |
| 194I  | Rent of Land, Bldg., Furniture & Fitting                        | Payment in excess of Rs. 1,20,000 p.a.                          | 20                                     | 20                                  | 15                                | 10                                     | 10                                  | 10                                |
| 194I  | Rent of Plant & Machinery                                       | Payment in excess of Rs. 1,20,000 p.a.                          | 10                                     | 10                                  | 10                                | 2                                      | 2                                   | 2                                 |
| 194LA | Payment of Compensation Comp. acquisition of Immovable Property | Payment in excess of Rs. 1,00,000 p.a.                          | 10                                     | 10                                  | 10                                | 10                                     | 10                                  | 10                                |



**CIRCULARS**

**NEW TDS AND TCS PAYMENT AND INFORMATION REPORTING SYSTEM-  
NOTIFICATION NO. 858(E), DATED 25<sup>th</sup> MARCH, 2009 PUBLISHED IN OFFICIAL  
GAZETTE**

**CIRCULAR NO. 02 / 2009, DATED 21-5-2009**

The Finance Act, 2008 inserted a new sub-section (1A) in section 143 of the Income-tax Act, 1961 empowering the Board to make a scheme for centralised processing of returns with a view to expeditiously determining the tax payable by, or the refund due to, the assessee. For the purposes of enabling centralised processing of returns, it is necessary to ensure the integrity of the database, in particular, the information relating to tax deduction at source, advance tax and self assessment tax.

2. One of the fundamental principles of financial accounting is that if a person claims credit for payment of money to a third person, the credit should be allowed only if the payment and the information relating to the transaction have been received from the third person. The advance tax and self assessment tax is paid directly by the assessee by filling a challan which bears a unique **Challan Identification Number** (CIN) and the PAN of the assessee. These two number systems are used to cross verify the claim of tax payment made by the assessee and allow appropriate credit.

3. In the context of TDS, the first best principle is that no claim for TDS / TCS should be admissible unless the deductor / payer has paid the amount so deducted / collected to the credit of the Central Government and the information relating to the transaction is received. Since the business process of the Income Tax Department was manually organised and the volume of TDS related information was large, it was not feasible to undertake 100 per cent matching of TDS claims with information furnished by the deductor. Consequently, the Income Tax Department adopted a risk management strategy for allowing claim for TDS as a second best option. With the advances in information technology, it is technically feasible to design a business process which would enable 100 per cent matching in real time, thereby, eliminating the risk. Pursuant to the recommendation of the Task Force on Direct Taxes (chaired by Dr. Kelkar), as a first step in this direction, the deductors were required to electronically furnish the TDS related information (through the NSDL). This system was introduced in early 2004 as one of the modules of the Taxpayer Information Network (TIN).

4. The quantity and quality of data flowing through this module is far from satisfactory. The data is largely unverifiable. The matching of the deduction reported by the deductor and claimed by the deductee assessee continuous to be poor for the following reasons:-

- (i) Non-compliance, especially by Government deductors, with TDS return filing requirement.
- (ii) Low quoting of PAN number in TDS returns that are filed on account of non-furnishing of PAN by deductees to their deductors and negligence by deductors.



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5. Unlike in the case of advance tax and self assessment tax, the TDS information does not bear a unique transaction identification number. As a result, the PAN forms the only basis for matching. To the extent PAN quoting is inadequate or deficient, it is not feasible to match the claim made by the deductee assessee with the TDS information reported by the deductor. Hence, it becomes necessary to make ad-hoc rules for allowing credit for TDS or in the alternative, interface with the assessee for physical verification of the TDS certificate. Both these approaches are flawed since there is no reconciliation of deductees claim with the information provided by the deductor and the integrity of the system is questionable. The efforts of the Income Tax Department over the last four years for improving the TDS and TCS database have not yielded desired result.

6. Further, Government (both Central and State together) is the largest deductor of tax being the largest employer and the largest spender on works contract. Under the extant procedure, tax deducted by the Central Government departments is paid to the account of the Central Government through book transfer. Unlike other deductors, these departments do not make any direct payment of the TDS amount in the banks. Similarly, the Central Government Ministries, departments and their sub-ordinate and attached offices are large scale defaulters in complying with the TDS information reporting requirements. Even the certificates issued by these organisations are often illegible and of poor quality. Hence, these are unreliable. This has been a constant source of public grievance. It also creates an opportunity for interface with the taxpayer. This process also does not assure the department of the legitimate revenues and enforce compliance. Hence, the mechanism of payment of tax so deducted and compliance with the reporting requirements is not satisfactory.

7. Unlike the Central Government, the State Government is required to make a consolidated payment of the TDS amount in respect of all its deductors and deductions directly into the Reserve Bank of India. This is done by the Accountant General of the State. As a result, there is no correlation between the deduction, payment and reporting. Further, compliance by State Governments with the TDS information reporting requirement is no better than in the case of the Central Government.

8. In the light of the above, the Department adopted the second best option of a risk management strategy for allowing TDS claims. Under this strategy, the Department has been allowing credit for TDS claims even though the transactions do not fully match/reconcile with the information provided by the deductor. Further, the Department have also been unable to undertake follow up verification of such claims at the deductors end on account of inadequate resources. As a result the system is vulnerable and exposes public revenues to extreme risk of fraud and leakage.

9. With a view to resolving the problems in granting credit for pre-paid taxes, the Central Board of Direct Taxes constituted a sub-group to analyse the various problems in granting credit for prepaid taxes and make appropriate recommendations. According to the Sub-group, the problem of matching and reconciliation of prepaid taxes is rooted in the three sets of data pertaining to TDS entering the system separately at different times from different sources, thus causing mismatch. Therefore, the Sub-group



recommended that the problem can be solved if the agency receiving the TDS amount and the TDS returns (and the documents by which this is done) is the same. In such a situation the TDS payments can be immediately credited to the accounts of the deductees by the agency handling both the operations. For example, if the detailed list giving break-up and identity particulars of deductees are given to the bank along with the TDS challans for the consolidated amount of TDS at the time of payment, the accounts of deductees can be simultaneously credited, thus eliminating the reconciliation issues between challan data in OLTAS and in TDS returns. Owing to the advances in technology, it is now feasible to implement this recommendation.

10. The Sub-group also examined the issue of granting credit for TDS deducted by government deductors and recommended that Central Government deductors should also be brought into the discipline of deposit of TDS in bank accounts like other deductors.

11. As stated above, the Government has introduced the centralised processing of returns which envisages no interface with the taxpayer. Further, the processing is also required to be done in an automated jurisdiction-less manner. Therefore, it is necessary to have in place a **perfect** TDS payment and information reporting system so as to optimise the efficiency of the centralised return processing system. It is imperative to move to the first best solution to also minimize the risk of financial fraud. This is in the interest of all stakeholders Government, Income-tax Department and taxpayers. **Therefore, the Board have decided that, henceforth, claim for TDS and TCS shall be allowed only if the**

- (i) **amount has been deposited by the deductor / collector;**
- (ii) **information relating to the deductee has been furnished by the deductor / collector; and**
- (iii) **claim matches the information furnished by the deductor / collector.**

12. With a view to enabling the implementation of the aforesaid decision, the TDS and TCS payment and information reporting system has been redesigned vide notification No. 858(E) dated 25<sup>th</sup> March, 2009 published in Official Gazette. The **salient features** of the new TDS and TCS payment and information reporting system are the following: -

- (i) The new system has been harmonized for all deductors (including Central and State Governments). Therefore, like non-governmental tax deductors, **every deductor in the Central and State Government have also been made responsible for making direct payment of TDS in the bank.** They are no longer allowed to make payments of the TDS and TCS by making book adjustments or consolidated payments. As a result, the TDS payment and information reporting system will be uniform across deductors.
- (ii) Rule 30 and Rule 37 CA of the Income-tax Rules, 1962 have been substituted to provide, inter alia, for the following: -



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- (a) All sums of tax deducted at source under Chapter XVII-B and of tax collected at source under Chapter XVII-BB shall, in general, be **paid to the credit** of the Central Government **within one week from the end of the month** in which the deduction, or collection, is made. Similarly, the same time limit for payment will also apply for income-tax due under sub-section (1A) of section 192.
- (b) It is **mandatory for all deductors (including Central Government and State Governments) to pay the amount by electronically remitting** it into the RBI, SBI or any authorized bank.
- (c) It is **mandatory for all deductors (including Central Government and State Governments) to make the payment by electronically furnishing** an income-tax **challan in Form No. 17.**
- (iii) In the process of electronically furnishing the income-tax challan in Form No. 17, the deductor will be simultaneously required to furnish to the Taxpayer Information Network (TIN) system maintained by National Securities Depository Limited (NSDL) either through screen based upload or file upload, three basic information relating to the deduction i.e., PAN, name of the deductee and amount of TDS/TCS.
- (iv) Upon successful remittance of the TDS/TCS to Central Government account and the uploading of the basic information as mentioned above to the TIN system, every deduction record will be assigned a unique transaction number (UTN).
- (v) NSDL will create a facility to e-mail the UTN file to the deductor if the e-mail address of the deductor is available with them. In addition, they will also create a facility for the deductor to download the UTN file.
- (vi) The UTN will be required to be quoted by the deductor on the TDS/TCS certificate issued by him to the deductee.
- (vii) NSDL will also create a facility to allow independent viewing of the UTNs by the deductee.
- (viii) With a view to enabling the Income Tax Department to monitor compliance by the deductor with the TDS provisions, every person (including Central Government and State Government) who has obtained a Tax Deduction or Collection Account Number (TAN) shall **electronically furnish** a quarterly statement of compliance with TDS provisions in **Form No. 24C. It is mandatory for all TAN holders to furnish this form irrespective of whether any payment liable to TDS has been made or not.** This form shall be furnished on or before the 15<sup>th</sup> July, the 15<sup>th</sup> October, the 15<sup>th</sup> January in respect of the first three quarters of the financial year, respectively, and on or before the 15<sup>th</sup> June following the last quarter of the financial year. This e-form **No. 24C has to be furnished at <http://incometaxindiaefiling.gov.in>. The first quarter in respect of which Form 24C is required to be furnished is the quarter ending on 30<sup>th</sup> June, 2009.**
- (ix) In order to enable the deductor to furnish the UTN to the deductee, the existing Form 16 and Form 16A have been appropriately modified.
- (x) The quarterly returns of TDS and TCS hitherto required to be filed in Form No. 24Q, Form No. 26Q, Form No. 27Q and Form No. 27EQ shall now be required to be filed for all quarters on or before the 15<sup>th</sup> June following the Financial Year. Effectively, the quarterly returns have now been replaced by an annual return.



13. **The above new system will be effective for all tax deducted at source or tax collected at source on or after the 1<sup>st</sup> April, 2009. However, any TDS or TCS effected on or after the 1<sup>st</sup> April, 2009 but not later than 31<sup>st</sup> May, 2009 shall continue to be paid to the credit of the Central Government by using the old challan form. The TDS or TCS effected on or after the 1<sup>st</sup> June, 2009 shall be required to be paid electronically by electronically furnishing income tax challan in Form No. 17.**

14. Where the payment of TDS or TCS effected on or after the 1<sup>st</sup> April, 2009 but not later than 31<sup>st</sup> May, 2009 is paid to the credit of the Central Government by using the old challan form, the deductor / collector shall, nevertheless, be required to fill up Form No.17 in respect of such payments any time **between 1<sup>st</sup> July, 2009 to 15<sup>th</sup> July, 2009**. Therefore, the deductors/collectors are advised to prepare the schedule relating to details of TDS / TCS from deductees in Form No.17 in advance (in an excel sheet) and be in a state of preparedness to file the same by 15<sup>th</sup> July, 2009 so that the UTNs relating to TDS / TCS transactions carried out in the month of April and May can be generated / obtained for onward transmission to the deductees.

15. Further, a deductor can split the total amount of TDS and TCS which he is required to deposit to the credit of the Central Government so that every deposit to the account of the Central Government is made through a separate challan in Form 17. For example, if a deductor is liable to deposit Rs. 1 lakh, he can split the amounts into four payments of Rs 25000/- each and deposit each of the amounts through a separate challan in Form 17 at four different times.

16. The return of income in Form No. ITR-1 to Form No.ITR-8 for Assessment Year 2009-10 have been notified which requires, amongst other, the quoting of the relevant UTN for every TDS or TCS claim made by the assessee. Therefore, the credit for any TDS or TCS claim will be allowed, amongst others, if the assessee quotes the relevant UTN for every TDS and TCS claim and the said UTN matches with the UTN in the database of the Income Tax Department. With a view to enabling the processing of returns relating to Financial Year 2007-08 (Assessment Year 2008-09) and enabling the assessee to receive the UTN for TDS and TCS transactions in the Financial Year 2008-09 (relevant for Assessment Year 2009-10), the following procedure shall be followed: -

- (a) National Securities Depository Limited (NSDL) shall assign an UTN for every TDS and TCS transaction records in Financial Years 2007-08 and 2008-09, reported in the quarterly returns received by it.
- (b) NSDL will create a facility to e-mail the UTN file to the deductor if the e-mail address of the deductor is available with them. In addition, they will also create a facility for the deductor to download the UTN file.
- (c) Upon receipt of the UTN, the deductor will inform the UTN to the deductee. In cases where the UTNs are available to the deductor before the issue of the TDS/TCS certificate to the deductee, the deductor will indicate the UTNs on the certificate. However, if the UTNs are not available to the deductor before the issue of TDS/TCS certificate, the deductor shall, subsequently, send a consolidated statement of all TDS/TCS transactions indicating the UTNs.



- (d) NSDL will also create a facility to allow independent viewing of the UTNs by the deductee. As a result, even if the UTNs are not received by the deductee from the deductor, they can be directly obtained from the NSDL database and quoted while making claims of TDS and TCS in the return of income.

17. TDS certificates were hitherto required to be issued in Form 16 or Form 16A as the case may be. Similarly, TCS certificates were issued in Form 27D. These forms have been substituted by the new Form 16, Form 16A and Form 27D with effect from the 1<sup>st</sup> day of April, 2009. In the new Forms, it is mandatory for the deductor/collector to quote, inter-alia, the UTN. Therefore, where the certificate is required to be issued in respect of **deduction or collection made before the 1<sup>st</sup> April, 2009**, the deductor/collector may adopt any of the following course of action:-

- (a) The deductor/collector may issue certificate of deduction or collection in the Form 16, Form 16A or Form 27D, as the case may be, as it existed prior to 1<sup>st</sup> April, 2009 **and** send a consolidated statement of UTNs to the deductee/buyer/lessee etc., as soon as the same is received by him; **or**
- (b) The deductor/collector may issue certificate of deduction or collection in the **new** Form 16, Form 16A or Form 27D, as the case may be.

18. Rule 31 of the Income Tax Rules, as it existed prior to its substitution, provides that, in general, the TDS certificates in Form 16 and Form 16A should be issued within one month from the end of the month in which the deduction is made. Similarly, Rule 37D, as it existed prior to its substitution, provides that, in general, the TCS certificates in Form 27D should be issued within one month from the end of the month in which the collection is made. Therefore, if the deductor/collector chooses to adopt the course specified in item (b) of para 13 above, **the TDS/TCS certificate may be issued beyond the stipulated period of one month but not later than 30<sup>th</sup> June, 2009.**

19. As regards, TDS/TCS certificates in respect of **deduction or collection effected on or after the 1<sup>st</sup> April, 2009**, it is mandatory to issue the certificates in the new Forms and quote the UTN relating to the TDS/TCS transactions.

20. As stated above, a new Form 24C has been notified to monitor compliance with the provisions of TDS/TCS. The first part of the Form relates to personal information and filing status. The Schedule COM-I relates to details of TDS/TCS compliance in the first month of the relevant quarter. Likewise details of TDS/TCS compliance for the second and third month of the relevant quarter would have to be reported in Schedule COM-2 and Schedule COM-3 respectively. In this Schedule in column (3), for example, against section 194A in column (1), the TAN holder is required to furnish the total amount of interest paid during the month. Let us assume that this total amount is Rs. 1 crore. In column (4) of the corresponding entry, the deductor is required to furnish the total amount on which TDS was liable or eligible to be deducted out of Rs.



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1 crore. As is well known, no TDS is required to be deducted if the interest payment is less than Rs. 10,000. If the total of the amounts of interest payment/credit less than Rs. 10,000 is Rs. 30 lakhs, then the deductor must report in column (4) an amount of Rs. 70 lakhs (Rs. 1 crore Rs. 30 lakhs). In column (5), the deductor has to report that the total amount on which tax was deducted at **prescribed rate** out of the amount reported in column (4). In the instant case the rate of tax to be deducted at source is 11.33 percent (including surcharge and education cess). However, in many instances the recipients of interest exceeding the threshold limit of Rs. 10,000/- would either furnish certificate for non deduction of tax or deduction at a lower rate than the prescribed rate. Let us assume that the amount of interest paid to such recipients is Rs. 15 lakhs. Therefore, the amount of interest payment liable to TDS at the prescribed rate would be Rs. 55 lakhs (Rs. 70 lakhs Rs. 15 lakhs), which is required to be reported in column (5). Since the prescribed rate is 11.33%, and the amount of interest liable to TDS at the prescribed rate is Rs. 55 lakhs, the amount of TDS on such payment is Rs. 6,23,150/-. This amount is required to be reported in column (6). In column (7), the deductor is required to report the amount of Rs. 15 lakh i.e., the amount of interest payment liable to TDS at less than the prescribed rate. Let us assume that the TDS at nil or lower rate on the amount of Rs. 15 lakh is Rs. 50,000/-. This amount would be required to be reported in column (8). The total amount of TDS of Rs. 6,73,150/- (Rs. 6,23,150 + Rs. 50,000) is required to be reported in column (9). The above example is reproduced below in the tabular form as would appear in Form 24C:-

| Section | Nature of payment                          | Total Expense or Capital outgo under the section | Total Amount on which TDS / TCS was liable or eligible to be deducted or collected out of (3) | Total Amount on which tax was deducted or collected at prescribed rate out of (4) | Amount of tax deducted or collected on (5) | Total Amount on which tax was deducted or collected at less than prescribed rate out of (6) | Amount of tax deducted or collected on (7) | Total Amount = (6) + (8) |
|---------|--|--|---|---|--|---|--|--------------------------|
| (1)     | (2)  | (3)  | (4)   | (5)   | (6)  | (7)   | (8)  | (9)                      |
| 194A    | Interest other than interest on securities | 1,00,00,000                                      | 70,00,000   | 55,00,000   | 6,23,150                                   | 15,00,000   | 50,000                                     | 6,73,150                 |

21. Form 24C is required to be furnished by all TAN holders irrespective of whether a TDS/TCS transaction has been effected during the quarter or not. In the event of the column (3) of the Schedules in Form 24C is zero for all nature of payments, the deductor/collector should specify in the section on filing status in Form 24C that it is a case of **Nil Return** and it would not be necessary to fill in the Schedules.



22. In Schedule PAY of Form 24C, the deductor/collector is required to indicate the details of the payment of the TDS/TCS to the credit of the Central Government.

23. The new TDS and TCS payment and reporting system will enable faster payment, accurate accounting and uniformity across deductors. It will facilitate accurate, quicker and full credit for taxes paid enabling faster refunds to taxpayers. It will also minimize interface of tax administration with taxpayers and intermediaries, thereby eliminating any opportunity for rent seeking behaviour.



***Section 194J of the Income-tax Act, 1961 - Deduction of tax at source - Fees for professional or technical services - Applicability of provisions under section 194J, in the case of transactions by the Third Party Administrators (TPAs) with hospitals etc.***

**CIRCULAR NO. 8/2009 [F.NO. 385/08/2009-IT(B)], DATED 24-11-2009**

A number of representations have been received from various stakeholders regarding applicability of provisions under section 194J of Income-tax Act, 1961 on payments made by Third Party Administrators (TPAs) to hospitals on behalf of insurance companies for settling medical/insurance claims etc. with the hospitals.

**2.** The matter was examined by the Board. As per provisions of section 194J(1) Any person, not being an individual or a Hindu undivided family, who is responsible for paying to a resident any sum by way of

- (a) fees for professional services, or
- (b) fees for technical services, or
- (c) royalty, or
- (d) any sum referred to in clause (va) of section 28,

shall, at the time of credit of such sum to the account of the payee or at the time of payment thereof in cash or by issue of a cheque or draft or by any other mode, whichever is earlier, deduct an amount equal to ten per cent of such sum as income-tax on income comprised therein.... Further as per *Explanation (a)* to section 194J professional services means services rendered by a person in the course of carrying on legal, medical, engineering or architectural profession etc..

**3.** The services rendered by hospitals to various patients are primarily medical services and, therefore, provisions of section 194J are applicable on payments made by TPAs to hospitals etc. Further for invoking provisions of section 194J, there is no stipulation that the professional services have to be necessarily rendered to the person who makes payment to hospital. Therefore TPAs who are making payment on behalf of insurance companies to hospitals for settlement of medical/insurance claims etc. under various schemes including Cashless schemes are liable to deduct tax at source under section 194J on all such payments to hospitals etc.

**3.1** In view of above, all such past transactions between TPAs and hospitals fall within provisions of section 194J and consequence of failure to deduct tax or after deducting tax failure to pay on all such transactions would make the deductor (TPAs) deemed to be an assessee in default in respect of such tax and also liable for charging of interest under section 201(1A) and penalty under section 271C.

**4.** Considering the facts and circumstances of the class of cases of TPAs and insurance companies, the Board has decided that no proceedings under section 201 may be initiated after the expiry of six years from the end of financial year in which such payment have been made without deducting tax at source etc. by the TPAs. The Board is also of the view that tax demand arising out of section 201(1) in situations arising above, may not be enforced if the deductor (TPA) satisfies the officer in charge of TDS that the relevant taxes have been paid by the deductee-assessee (hospitals etc.). A certificate from the auditor of the deductee assessee stating that the tax and interest due from deductee-assessee has been paid for the assessment year concerned would



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be sufficient compliance for the above purpose. However, this will not alter the liability to charge interest under section 201(1A) of the Income-tax Act till payment of taxes by the deductee assessee or liability for penalty under section 271C of the Income-tax Act as the case may be.

5. The contents of the circular may be brought to the notice of officers and officials working under you for strict compliance.

Legal Pronouncement:

1) Jaipur Vidyut Vitran Nigam Ltd Vs. Deputy commissioner of Income tax ITAT

Jaipur 'A' Bench ITA No. (2009) 123 TTJ (jp) 888.



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**Section 195 of the Income-tax Act, 1961 - Deduction of tax at source - Payment to non-resident - Clarification regarding remittances of Consular receipts to non-residents**

**CIRCULAR NO. 9/2009 [F. NO. 142/19/2007-TPL], DATED 30-11-2009**

Reference is drawn to Circular No. 4/2009, dated 29th June, 2009 prescribing the revised procedure for furnishing information regarding remittances being made to non-residents w.e.f. 1st July, 2009.

2. As per Article 28 of Schedule to section 2 of the Diplomatic Relations (Vienna Convention) Act, 1972, the fees and charges levied by a diplomatic mission in the course of its official duties shall be exempt from all dues and taxes.

3. In view of the above, while remitting consular receipts abroad, diplomatic missions in India will be required to submit only a self-certified undertaking in Form No. 15CA to the remitter bank. They are not required to obtain a certificate from an accountant/certificate of Assessing Officer (Form 15CB). The procedure for furnishing information regarding remittances of Consular receipts by diplomatic missions in India will be as follows :

- (i) The diplomatic mission will access the website to electronically upload the remittance details to the Income-tax Department in Form 15CA (undertaking).
- (ii) The diplomatic mission will then take a print out of this filled up Form 15CA (which will bear an acknowledgement number generated by the system) and sign it. Form 15CA (undertaking) can be signed by the Head of the mission or by an officer of the mission so authorized by the Head of the mission.
- (iii) The duly certified Form 15CA (undertaking) will be submitted in duplicate to the Reserve Bank of India/authorized dealer. The Reserve Bank of India/authorized dealer will in turn forward a copy of the undertaking to the Assessing Officer concerned.



Workshop Series for Accountants and Staff Members of CA Firms  
No.402/92/2006-MC (04 of 2010)  
Government of India / Ministry of Finance  
Department of Revenue  
Central Board of Direct Taxes

New Delhi dated 20th January 2010

**PRESS RELEASE**

A new provision relating to tax deduction at source (TDS) under the Income Tax Act 1961 will become applicable with effect from 1st April 2010. Tax at higher of the prescribed rate or 20% will be deducted on all transactions liable to TDS, where the Permanent Account Number (PAN) of the deductee is not available. The law will also apply to all non-residents in respect of payments / remittances liable to TDS. As per the new provisions, certificate for deduction at lower rate or no deduction shall not be given by the assessing officer under section 197, or declaration by deductee under section 197A for non-deduction of TDS on payments shall not be valid, unless the application bears PAN of the applicant / deductee.

2. All deductors are liable to deduct tax at the higher rate in all transactions not having PAN of the deductees on or after 1st April 2010. In order that there is no dispute regarding quoting / non-quoting of PAN or accuracy thereof, the law requires all deductees and deductors to quote PAN of deductees in all correspondences, bills, vouchers and other documents sent to each other. All deductors are, therefore, advised to intimate their deductees to obtain and furnish their PAN so as to avoid TDS at a higher rate. All deductees, including non-residents having transactions in India liable to TDS, are advised to obtain PAN by 31st March 2010 and communicate the same to their deductors before tax is actually deducted on transactions after that date.

3. The procedure for obtaining PAN is simple, inexpensive and quick. Application for PAN can be filed in Form 49A to National Securities Depository Ltd. (NSDL) or Unit Trust of India Investor Services Ltd. (UTIISL) or their intermediaries. Non-residents can apply through the local embassy / consulate of India. Applications can also be filed, paid for or tracked online through the Internet on the following web-sites:-

<http://incometaxindia.gov.in/>  
<https://incometaxindiaefiling.gov.in/portal/index.jsp>  
<http://www.tin-nsdl.com/>  
<http://www.utitsl.co.in/>

4. The Central Board of Direct Taxes (CBDT) has issued Notification No.94/2009 relating to taxation of perquisites / profits in lieu of salary and Circular No.1/2010 for the guidance of tax deductors for salaries. These documents are available on the department's website at <http://incometaxindia.gov.in/>



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