

What to do if your TDS is not deposited with the government

Tax deducted at source (TDS) from your salary or any other income must be deposited with the government within a certain specified time period. However, a recent scam of Rs 3,200 crore unearthed by the income tax department has highlighted the problems faced by many individuals and employees.

As it may happen, your employer may have deducted the tax from your salary but has failed to deposit the same against your PAN with the government. If your employer is not paying heed to your complaints regarding the same, then you can approach the income tax department.

Abhishek Soni, CEO, tax2win.in, a tax-filing website says that the Central Board of Direct Taxes (CBDT) has issued certain circulars with respect to this in the past. The circulars state that in cases where TDS is deducted by the employer or deductor and the same has not been deposited with the government, in those cases income tax officers must not harass the employees (deductee) and the same must be recovered from the employers/deductors.

While filing your income tax returns, you have to calculate your total tax liability, then subtract the TDS from this and arrive at the balance tax payable which could be a refund, additional tax, or nothing at all. The TDS figure here is to be taken from your Form 16 or Form 16A (TDS certificates), as applicable. However, the tax deducted during the year (as shown in the TDS certificate) must also reflect in the department's record in Form 26AS. Any mismatch in Forms 26AS and 16 allows the department to demand additional tax under section 143(1) of the Income-tax Act, 1961. This is because the TDS claimed as paid by you will not reflect in the department's records. There may be cases where the employer does not issue TDS certificates at all and the employee comes to know of the TDS only via salary slip entries or short payment of salary.

“This can lead to litigation as an employee will claim that his tax has already been deducted by the employer and the same should be recovered from the employer. On the other hand, the department will claim that since the dues are pending against the PAN of an employee, it is the employee's duty to pay his dues,” says Soni.

Check your Form 26AS before filing complaint

It is advisable for every person, whose income is subject to TDS, to check their Form 26AS regularly during the year to ensure that all the tax deducted against their PAN is reflected in the form. You should also ensure that you have provided your correct PAN details to your employer. Otherwise, the employer may have deposited your TDS against the wrong PAN, i.e., into the account of the person to whom that PAN belongs.

A company files its TDS returns on a quarterly basis. The due date for filing TDS returns is one month after the end of a quarter, with quarter ending March 31 being an exception. The due date for filing of TDS returns for quarter ending March 31 is May 31. It is advisable that an individual checks his Form 26AS after 10 days of the expiry of the due date.

Thus, before an individual approaches the tax department to complaint about his employer not depositing the deducted TDS, it is important that he brings this mismatch to his employer's notice and request the employer to correct the same.

There is no specific timeline mentioned in the income tax laws which states by when such mistakes must be rectified. However, it can take 30-45 days to reflect the deposit of TDS in the Form 26AS, depending on the efficiency of the company's (employer) accounts department, says Soni. However, even after repeated request, if your employer fails to take action regarding this, then you can file a written complaint to your assessing officer (AO).

Locating your assessing officer

1. Visit <https://incometaxindiaefiling.gov.in>
2. Enter your PAN and mobile number. An OTP will be sent to your mobile number.
3. Enter the OTP received. It will re-direct you to another page showing details such as address of your AO, email ID etc.

If you know the PAN of your employer, then you also have the option to file the complaint with your employer's assessing officer. The above mentioned link does not require the same mobile number to be entered which is registered with the PAN.

Soni says, "There is no specific format on which complaint needs to be filed. A person can file his complaint on a plain piece of paper." To support your grievance, you must also attach the following proofs:

1. Salary Slip showing deduction of TDS;
2. Copy of Form 26AS not reflecting the deposit of TDS;
3. Copy of letter written to your employer pointing out the discrepancy;
4. Form 16, if available.

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