

Acceptance of Declaration in Form 15-G/H for Non-Deduction of Tax at Source



The Banking Sector in India is the one of the most important sectors for the development of the Economy and also in fulfilling the needs of the household for their financial transactions especially depositing money for earning interest for meeting their livelihood. Indians always keep their funds in secured investment like in Bank Deposit, to earn fixed interest income without the risk of loss of Investment. The aggregate bank deposit is around ₹90,00,000 crore as on February 2016 and out of this Time Deposit contribution is around ₹58,00,000 crore. The salaried class, especially retired persons has placed their money in bank deposit in sizable amount to meet the expenses of the retired life. The contribution of TDS alone is around 40% on the total Direct Tax collection and out of this, TDS on bank deposit is in sizable percentage. The TDS on the interest on the bank deposit poses difficulty for the bank, as well as to the depositors. Read on to know more.....

The Notification of CBDT dated 29.09.2015 has increased awareness of the depositors and banks especially with regard to acceptance and reporting of the details of income which are paid without

deduction of the tax on account of submission of Form 15-G/H. The new reporting will enable the Income tax Department to have more control over the income which is not subjected to TDS. The article discusses the measures to be taken by banks and at the same time, request has been made to CBDT to ease certain matters for better implementation of the provisions of TDS.

As per Section 197A, sub-section (1),(1A) & (1C) of the Act, the person responsible for paying certain income has to accept the declaration in Form 15 G/H for Non-deduction of tax. The incomes which are



CA. J. Sadagopan

(The author is a member of the Institute who may be contacted at jsadagopan@yahoo.co.in.)

specified under the above sections are tabulated below.

SL. No	Section under which TDS is to be applied	Nature of Payment	Declaration in Form 15-G as per section	Eligible persons who can submit the Form
1	194	Dividends (Excluding dividends referred in section 115-O)	197A(1)	Individual
2	194EE	Payment under NSS	197A(1)	Individual
3	192A	EPF withdrawal by Employee before rendering continuous service of 5 years	197A(1A)	Persons other than Firms and Companies
4	193	Interest on Securities	197A(1A)	- do-
5	194A	Interest (other than Interest on securities)	197A(1A)	- do-
6	194DA	Payment of Life Insurance Policy	197A(1A)	- do-
7	194K	Payment of income from units of Mutual Fund	197A(1A)	- do-

In case the recipient of the income as specified in the above referred sections is a Senior Citizen, the relevant Section is 197(1C) and the prescribed Form is 15-H.

The purpose of this section is to give benefit to the recipient of the income to submit declaration for non-deduction of tax on the payment made by the person responsible for payment of income. It is pertinent to note that Section 197A(1), 197A(1A) & 197A(1C) specifies that the declaration can be given only if the tax on the estimated total income of the person (including the income for which Form 15-G/H is given) will be NIL.

A. Persons eligible to submit the prescribed Forms are as under:-

FORM NO	ELIGIBLE PERSONS
15-G	Persons (not being the Company and Firm)
15-H	Individual who is of the age of 60 years or more

B. Conditions for accepting the Forms:-

- As per the above referred sections, the Forms should only be furnished *if the tax* on the estimated total income of the person submitting the declaration will be *Nil*.
- Further in case of 15-G, as per section 197A(1B), the eligible persons can submit the form only in case the income does not exceeds maximum amount which is not chargeable to tax (at present, the limit is ₹2,50,000/-). Example-

In case the interest paid/payable by the bank for the financial year exceeds ₹2,50,000/-, the depositors are not entitled to submit the Form 15-G and the bank has to compulsorily deduct tax.

- In the case of Senior Citizens, the above restriction as specified in Section 197A(1B) is not applicable. i.e. a Senior Citizen can submit Form 15-H even if the income exceeds maximum amount which is not chargeable to tax (at present the limit is ₹3,00,000/- or ₹5,00,000/- respectively for Senior citizens and Super Senior Citizens). However, in case the senior citizen is liable to pay tax on the total income for the previous year, he cannot submit the Form. Hence, in Form 15-H, some relaxation is given to the Senior Citizen and thereby the person responsible for payment of income (Example-Bank) cannot accept the Form 15-H in case the interest income exceeds the basic exemption limit after allowing the deduction under Section 80C and Loss under House property if any, eligible to the customer. This condition will put the person responsible for paying the income as the role of Assessing Officer and the same will be

It is pertinent to note that Section 197A(1), 197A(1A) & 197A(1C) specifies that the declaration can be given only if the tax on the estimated total income of the person (including the income for which Form 15-G/H is given) will be NIL.

difficult to implement by the banks. Further for acceptance of 15-G, upper interest ceiling should also be made uniform in alignment with senior citizens as all the depositors can claim deduction under section 80-C. The CBDT should consider and ease the plight of the depositors who do not have any other income except interest from bank deposits in the range of 2.50 lakh to 4.00 lakh and who intend to claim deduction u/s 80-C.

C. Responsibility of persons accepting the Forms:-

As per sub-Section 197(2), the person responsible for payment of income shall deliver the Forms to the Jurisdictional Commissioner of Income tax before the seventh day of the following month. Further the person who accepts the Form 15-G/H has to include the details in quarterly return in Form 26-Q.

The above is the brief analysis of the requirement for acceptance of Form 15-G/H and the other conditions to be complied with on acceptance of the Form 15-G/H as per the new rule are as under.

The Notification of CBDT dated 29th September 2015 replaced the existing Rule 29-C with new Rule of 29-C. The salient features of the rule are as under.

1. New Form 15-G/H is introduced and it can be submitted either in paper Form or electronically.
2. The person accepting the Form 15-G/H shall allot 10 Digit Unique Identification Number (UIN).
3. The person accepting the Form 15-G/H shall furnish the particulars along with UIN in a statement to the IT Department.
4. The person accepting the Form 15-G/H shall furnish the particulars along with UIN in Form 26-Q.
5. The Person who accepts the Form 15-G/H is to keep the same (for verification by IT department) for seven years from the end of the FY in which the Forms are accepted.

The significant difference between the old rule and the new rule is that, in the old rule, the Form

15G/H has to be submitted to the Jurisdictional Chief/Commissioner of Income Tax on or before 7th of the following month in which declaration is received. New Rule 29C dispensed the forwarding of Form 15-G/H. However, Section 197A(2) of the Act has not been amended in consonance with new rule 29C.

The requirement in point No. 3 & 4 above will suffice the purpose of earlier requirement of forwarding of the Hard copy of the Form 15-G/H. Hence Copy of the Form 15-G/H may not be forwarded to Income Tax Department w.e.f 01.10.2015.

As the reporting in Form 26-Q with the details of interest paid without deduction of tax on acceptance of Form 15-G/H is already enabled in Form 26-Q for earlier years also and Rule 31A(4) specifically requires reporting of such information, the income tax department can easily identify, the non- payment of tax on the income reflected in Form 26AS.

The new rule has increased the awareness among the depositors and also on the bank/other institutions with regard to acceptance of Form 15-G/H.

Further interest payments upto the threshold limit of ₹10,000/- per customer do not get reflected in Form 26AS, as the same is outside the purview of TDS provisions. This will encourage the depositors to place the deposit in piecemeal in different banks so as to get the interest without reporting to Income Tax Department. In order to overcome from this, Permanent Account Number (PAN) should be made mandatory for deposit in banks and these entries also should be made reported in Form 26-Q for reflection in Form 26AS.

Allotment of PAN will be made easily by the Government which is providing Aadhar card for each individual free of cost, should also allot PAN at the time of allotting the Aadhar number. The existing PAN should be linked to Aadhar card and PAN linked Aadhar card will be made mandatory for opening any account in a bank. This will also fulfills the KYC on requirement on all bank account.

The details of income to be declared in new Form 15-G/H are as under.

SL. No	Particulars	Relevant column		Requirement
		In Form 15-G	In Form 15-H	
1	Estimated Income for which declaration is made	16	15	Estimated Income of the deposit for the previous year
2	Estimated Income for the PY	17	16	The returnable income of person for the previous year

SL. No	Particulars	Relevant column		Requirement
		In Form 15-G	In Form 15-H	
3	Details of other than Forms 15-G/H filed during the PY	18	17	In case Form is already submitted from 1 st April of the PY, the below mentioned further details is to be furnished.
4	Total number of Forms filed	18	17	Total of number of Forms submitted in the Previous Year
5	Aggregate amount of income for which Form is filled	18	17	Total of column 16 & 18 of the 15-G submitted earlier. Total of 15 & 17 of the 15H submitted earlier is to be mentioned in this column
6	Details of income for which declaration made	19	18	The details of deposit are to be mentioned in the column. (note)

Note:- As on 1st April, the customer has to submit one Form 15-G/H for all the deposit held in his/her name. For the deposit placed subsequently during the course of the year, Form 15-G/H is to be submitted for each time of placing deposit by furnishing the information as required in the Form as mentioned above.

The Form 15-G/H submitted is applicable for the previous year in which the deposit is made. For the deposit made subsequent to 1st April of the Financial Year, Form 15-G/H once again needs to be submitted because the interest paid on the new deposits does not find a place in the Forms submitted earlier and further the deductor by including the interest on the new deposit has to verify whether the interest has exceeded the threshold limit as specified above. Hence, the argument of that “once Form 15-G/H is furnished and there is no need to submit the same at the time of placing the new/further deposit” is not correct. For auto renewed deposits also, Form 15-G/H needs to be obtained in view of the conditions mentioned above.

Another issue with regard to banks is that from 01.06.2015, the interest paid by all branches of the same bank, (which is under core banking solution) has to be reckoned for the purpose of the TDS provisions and further interest on Recurring Deposits (RD) also brought within the purview of TDS provisions.

Hence, the total interest paid by the bank on the same customer has to be aggregated for the considering the acceptance of Form 15-G/H. As most of the banks are under core banking solution, it can be implemented properly by considering interest paid by all branches of the same bank for the common customer ID allotted to the customer. Another aspect is that, in case the customer has deposits in more than one branch and the branches are in different Geographic Locations, details of

Form 15-G/H accepted by each branch has to be updated and made available in core banking solution of the bank on a systematic manner on a daily basis for arriving at the estimated interest for which 15-G/H is accepted for the entire deposits of the customer. This will benefit the branches to have control on the estimated aggregated interest paid/payable for the customer for acceptance of Form 15-G/H. As in Form 15-G/H, the details of deposit made in different branches of same bank are to be mentioned, the original of the Form 15-G/H can be kept by the Nodal branch and Xerox/scanned copy may be kept by each branch for their records/verification by Income Tax Department.

Deposit Placed by Trusts/Societies/Associations:-

These institutions have deposits in Banks and for Non-deduction of tax, Form 15-G is furnished even for interest that exceeds the basic exemption Limit. One argument that prevails is that these institutions cannot furnish Form 15-G in case the estimated interest exceeds the basic exemption limit. First of all it is to be decided whether these associations can file form 15-G for non-deduction of tax. As per Section 197A(1A), restriction applies only for Firms and companies for submitting declaration. Hence, other persons can submit this Form 15-H.

In case the interest exceeds the Basic Exemption Limit whether the above associations can file Form 15-G and deductor's acceptance of Form 15-G is legally tenable. This issue is analysed as under.

Section 197A(1B) reads as under.

“The provisions of section *shall not apply* where the amount of any income of the nature referred to in sub-section(1) or sub-section(1A) as the case may be, or the aggregate of the amounts of such incomes credited or paid or likely to be credited or paid during the previous year in which such income

is to be included exceeds the maximum amount which is not chargeable to Income Tax” (Emphasis supplied).

On the plain reading of the above section, it is understandable that once estimated interest exceeds the basic exemption limit, Form 15-G cannot be accepted. This will hold good only for Individuals and HUFs only. For above referred associations, which registered under Section 12AA of the Income-tax Act, the concept of basic exemption limit will not be applicable as the entire income is exempted under Section 11 & 12 of the Act if they spent the income for the objects for which the associations are formed. However in case of Individuals, HUF & Associations not eligible for exemptions under Section 10, 11 and 12, there may be a possibility of tax on the interest income. In case the Trust carries out the objects, the income of the trust is exempted as per Section 11 & 12, the taxable income will be always “NIL” Further institutions which have got exemption under Section 10, the entire income is not taxable. In these cases, the insistence of TDS will put the association in undue hardship. The Government’s aim is to simplify the Income Tax law and in the recent budget, few measures have been introduced for simplification of TDS. At this juncture CBDT should issue one circular stating as under:

“TDS provisions will not apply for those Institutions which are registered under Section 12-AA of the Act or their income is exempted under Section 10 of the Act”.

It is pertinent to mention here the circular No.4/2002 dated 16.07.2002 which states as under:

“in case of those funds or authorities or Boards or bodies, by whatever name called, whose income is unconditionally exempt under Section 10 of the Income-tax Act and who are statutorily not required to file return of income as per Section 139 of the Income-tax Act, there would be no requirement for tax deduction at source since their income is anyway exempt under the Income-tax Act”.

For the specified institutions referred in the circular, exemption from the provisions of Section 197A (1A) is granted by relying on the fact that “their income anyway exempt under the Income-tax Act”.

The Trusts/Societies/Associations which are not exempted from submitting return of Income u/s 139, are however eligible for claiming exemption from tax as per Section 10, 11 & 12 of the Act and their

income is anyway exempt under the Act. Hence, these institutions also need to be allowed to get the benefit of the exemption from Section 197A(1A).

These institutions are not remitting Advance Tax since their income is exempt from tax and for these institutions compelling them to accept the interest/ any other income subject to TDS will not be fair enough as the TDS remitted will finally have to be refunded to them by adding additional cost to the government by way of interest u/s 244A Act. As the entire income is reflected in Form 26AS of these institutions, by including the details of interest paid for acceptance of Form 15-G in Form 26-Q by banks, all the incomes are duly disclosed to the Income Tax Department and there will not be any non-reported income by these institutions.

For better Tax compliance and to march towards a better tax compliance country, the following are to be done by the depositors as any mistake in submitting the declaration Form 15-G/H will render imprisonment of the depositors. For the following cases Form 15-G/H should not be submitted.

- A. In case the customer is having income for which he is liable to pay tax.
- B. In case of Non-Senior Citizen, Interest exceeds the Basic Exemption Limit.
- C. In case of Senior Citizen, if he is liable to pay tax.
- D. In case of Trust/Association/societies which are liable to pay tax.

Conclusion:-The purpose of introduction of TDS provisions is to have the related income within the system thereby compelling the person to report his income without tax evasion. This system enables the Government to collect specified percentage taxes on the concept of “pay your taxes at the time of earning the income”. The person responsible for deduction of taxes (especially banks) carries out the TDS related statutory duties like acting as agent of the Government. On the total direct tax collection, sizable percentage represents TDS and for this duty the Government is not paying any commission to banks for discharging the duties. Hence, the person responsible for deduction of taxes, like banks need not be put in hardship and the CBDT must issue a circular as requested in this article. Further, the levying of fees u/s 234-E (for late submission of TDS return) should be withdrawn retrospectively from 01.06.2012 as there is no loss of revenue to the Government in not submitting the TDS returns especially for the first three quarters of the Financial Year. ■