

Tax Audit Series 17 – S. No. 34

Compiled by
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Namaste

In series - 17 we would discuss S. No. 34 of Form 3CD.

S. No. 34(a) - Whether the assessee is required to deduct or collect tax as per the provisions of Chapter XVII-B or Chapter XVII-BB

- The Auditor need to report section-wise details of TDS/TCS deducted/collected and paid.
- The Auditor also has to report on following columns:
 1. TAN of the Assessee
 2. Section under which Assessee is covered.
 3. Nature of Payment.
 4. Total Amount of Payment/Receipt of the nature in Column (3) - Details may be drawn from the TDS/TCS statements furnished by the assessee to the IT Department along with the books of accounts and other relevant documents which include aggregate of payments on which tax is liable to be deducted as well as not liable to be deducted.
 5. Details of total amount on which the tax was required to be deducted or collected out of the amount mentioned in column (4) - There may be a difference in the amounts reported under column (4) and column (5). The reasons for difference could be threshold limits provided in specific sections or applicability of certificates issued u/ss 195/197 or difference of opinion with regard to applicability of a particular section, etc.
 6. TDS/TCS deducted/ collected at less than specified rate - In case the payer deducts/recipient collects tax at source at a rate lower than the specified rate on the basis of certificate issued u/s 195 or 197, the lower rate or nil rate, as the case may be, should be considered as the specified rate for the purpose of reporting under this clause.
 7. Total amount of tax deducted/collected out of the amount furnished in column (6).
 8. Total amount out of the amount deductible or collectible as mentioned in column (5) at which the tax was deducted or collected at the rate less than the specified rate – For example section 194C requires deduction @ 2% in case payment is made to a person other than individual/HUF, but the deductor deducts only 1%. The same has to be reported under this clause.
 9. Total amount of tax deducted/collected out of the amount furnished in column (8)
 10. Amount of TDS/TCS not deposited to the credit of Central Government by the Assessee - Tax deducted but deposited late is not to be reported in this clause.

The auditor should obtain a copy of the TDS/TCS statements filed by the assessee which shall form the basis of reporting under this clause, to the extent possible.

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In case an assessee has voluminous nature of the transactions, the auditor may apply test checks and compliance tests on the transactions reported in the TDS statements by the assessee for verifying the information required to be provided under this clause.

The auditor may have a difference of opinion with regard to the applicability of the provisions of TDS/TCS on a particular payment. In such a case, he should bring the difference of opinion appropriately as an observation in the clause (3) of Form No. 3CA or clause (5) of Form No.3CB as the case may be.

Details under this clause should tally with the disallowances reported u/s 40(a) in clause 21(b) of Form 3CD, to the extent applicable.

S. No. 34(b) - Whether the assessee is required to furnish the statement of tax deducted or tax collected. If yes, please furnish the details

- This clause has been substituted w.e.f. 20th August 2018.
- The auditor has to ascertain and report as to whether the assessee is required to furnish the TDS / TCS Statement. Earlier the requirement was to report under this clause only when the statements were filed late.
- An assessee is required to furnish the TDS / TCS Statement after he has deducted the tax / collected the tax and deposited the same to the Central Government. He can also file a correction / rectification statement.
- Auditors have to report on-
 - a) TAN of the Assessee.
 - b) Type of Form – All Forms have to be reported in this clause i.e., Form 24, 24G, 24Q, 26, 26A, 26B, 26Q etc,
 - c) Due Date for furnishing.
 - d) Actual Date of furnishing the return (if furnished) – Date of original return being furnished should be stated, even if the statement is revised / corrected later.
 - e) Whether the statement of tax deducted or collected contains information about all transactions that are required to be reported. If not, please furnish list of details/transactions which are not reported
 - a. The requirement of list of details/transactions which are not reported has been added w.e.f. 20th August 2018.
 - b. Transactions like that of transporters [whose tax is not to be deducted, if he gives a declaration u/s 194(6)], TDS not deducted due to furnishing of Form 15G / 15H, NIL TDS liability due to certificate u/s 197, etc. could be the cases, which were required to be reported, but not reported by the assessee.
 - c. In case assessee has deducted/collected and deposited the tax, but has not reported the same in the TDS/TCS statement, the same should also be reported. There could be various reasons for same including, non- availability of PAN. The auditor may after proper

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audit procedures and verifications also obtain suitable management representation regarding the same which could be as under:

- i. We have reported all transactions that were required to be reported in the TDS/TCS statement and no transactions which were reportable but were not reported in the said statements.
- d. In case an assessee revises / corrects his TDS statement, details from the corrected statement should be verified.
- e. It could be difficult for the auditor to verify each and every transaction in this regard. Therefore, while verifying such transactions, he can apply the concepts of materiality and audit sampling.

S. No 34(c) - Whether the assessee is liable to pay interest u/s 201(1A) or section 206C(7)

- Auditors will have to report the details regarding the interest payable/ paid u/s 201(1A)/ or 206C(7).
- Section 201(1A) provides for payment of interest at a specified rate in case the tax has not been deducted wholly or partly or after deducting has not been paid to the credit of Central Government.
- Similarly, section 206C(7) provides for payment of interest at a specified rate in case the tax is not collected wholly or partly or if collected not paid to the credit of the Central Government.
- Where the assessee is liable to pay interest u/s 201(1A) or 206C(7), the auditor should verify such amount from the books of account as on 31st March of the relevant previous year and also from the statement generated by the IT Department in Form No. 26AS.
- The reporting as to whether the assessee is liable to pay such interest, should also be in consonance with the reporting under clause 34(a), to the extent applicable where the details of non-deduction are required to be reported by him.

I hope this document is of use to you. I thank *Ms. Alisha* in assisting me to compile this part of the series. Your suggestions and comments would be highly appreciated

Best Regards

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