

PAN to catch tax evaders

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The income tax department is getting organized to get hold of chronic defaulters by putting in place many checks and measures thereby making it difficult for the tax evaders to enjoy their earnings in peace. Amongst various measures one very important measure being PAN for each assessee. But chronic and habitual evaders may remain undetected if they do not apply for a PAN therefore in such cases a partial duty has been put on the payers to ensure that when payment is made over a specified amount, appropriate tax is deducted at source and the PAN of the contractor is mentioned in the certificate issued. Once PAN is mentioned, the person's existence is registered with the department and he/she becomes a detectable potential taxpayer.

Let us understand the provision first:

1) The person responsible (not including an individual or HUF whose accounts are not subject to tax audit) for making payment to resident contractor /subcontractor should deduct tax at source either at the time of crediting such sum in the account of the payee or at the time of payment thereof in cash or by cheque or by any other mode whichever is earlier.

Eg., The payments made to electrician, plumber, mason or to a contractor who provides such services will be in the nature of payment made to contractor.

2) Tax is required to be deducted only if amount credited or paid to a contractor/subcontractor exceeds Rs. 20000/- in respect of a single contract/ transaction or Rs. 50000/- in the aggregate during the financial year, as the case may be.

Above provision would be better understood with the help of an Illustration:

For a single contract valued at Rs. 22000/-:	one is liable to deduct TDS.
For a single contract valued Rs. 19000/- :	one is not liable to deduct TDS.
For different contracts valued Rs. 18000/-, 14000/- and 19000/- by one contractor in same financial year- :	one is required to deduct TDS as the aggregate payment made to contractor during the year exceeds Rs. 50000/-

3) Tax is to be deducted at the rate of 1% in case of advertising contracts, 2% in case of other contracts and again 1% in case of payment made by contractors to subcontractors.

4) Person responsible for deducting TDS will issue a certificate in Form No 16A on the basis of which contractor will get the benefit of tax deducted at source. The PAN of the contractor is to be mentioned in the TDS certificate otherwise the deductor is liable to a penalty to the tune of Rs.10,000/-.

What happens if the contractor does not have the PAN or does not furnish it due to any reasons, best known to him. Will the payer have to bear the penalty of Rs.10,000/- and what can be done under such circumstances:

- i) If you know that the job assigned by you will require you to deduct TDS on payment then enquire and obtain a photocopy of the PAN of the contractor before you assign the job to them.
- ii) Further remember to discuss with him or make a special mention in the contract with him that before the final release of payment the contractor has to furnish to you a PAN. Advise him to take one if he does not have it. He must be made clear about the provision of TDS.
- iii) Hold back Rs.10,000/- in case PAN is not furnished before making the last and final payment because on a future date, if and when, you are liable to pay the penalty of RS.10,000/- for not mentioning the PAN of the contractor on the TDS certificate then at least you are not penalized for a mistake which is not your fault.

Advice for contractors:

- i) Get your permanent account number otherwise there are chances of your payment getting withheld fully or partially, depending on the sensitivity of your client.
- ii) You are also liable to a penalty of Rs. 10000/- if you do not provide your PAN or in case you quote a wrong PAN.
- iii) Tax can be deducted at lower or nil rate where contractor takes a certificate from assessing officer in this regard by filing an application.