

How can you prevent the loss of TDS credit

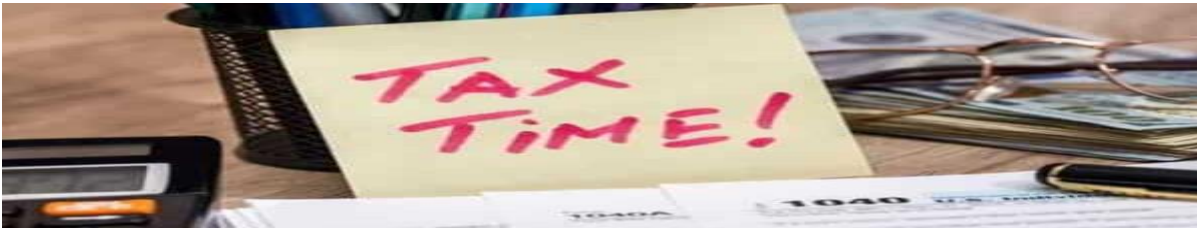


Photo: iStock4 min read . Updated: 24 May 2022, 06:16 AM IST **Gautam Nayak**

- This can be complex, can require some effort by taxpayers to get back the credit

Most taxpayers, for one year or another, would have experienced a situation where they did not get complete credit for all the tax deducted at source (TDS) on their incomes. At times, it is just a tax system problem, which gets rectified based on a simple application. Often, the problem is more complex, and requires a little bit of effort by taxpayers to ensure that they get back the credit. Some of these situations are discussed below.

Tax is deducted by the payer of the income from the recipient of the income, and reported as tax deducted from such a recipient.

At times, it is not the recipient who is liable to tax on such income, but another person. As per tax laws, the credit for such TDS is to be given to such person who is liable to pay the tax. The recipient therefore cannot claim credit for such TDS, the relevant income of which is taxable in another person's hands.

A classic case is that of income of minor children, whose income is to be clubbed with that of their parents. If you have a bank fixed deposit in the name of a minor child, the tax deduction on interest would normally be done by the bank in the child's name and PAN.

You would not get credit for the TDS unless it appears in your online tax deduction statement in Form 26AS. There is a rule that in your capacity as guardian of your child, you can give a declaration to the bank that such income is liable to be taxed as your income, and that the tax deduction should be reported under your PAN.

However, this declaration needs to be given before the deductor files the TDS return. If you file a declaration later, the deductor would need to revise this TDS return to give you the tax credit.

Also, one often finds that deductors are not aware of this rule, and in spite of furnishing the declaration, fail to act on it by disclosing the tax deduction under your PAN. Your only remedy in such cases is to follow up with the deductors and ensure that they act on your declaration.

This is often time consuming, particularly if you need to follow up with multiple deductors. The problem is particularly acute in the case of dividend on shares, where most registrars and transfer agents fail to act on such declarations.

A similar problem is faced by executors of the will of a deceased person if they are liable to pay tax but necessarily have a different PAN from that of the deceased. Until such time as the shares or other investments are not transferred in the names of the executors, tax continues to be deducted under the PAN and in the name of the deceased person. It is not possible to file the return of the deceased person for a year beyond the year in which the person died, and hence to claim refund of such TDS.

In case of specific family trusts as well, all investments are held by the trustees, in their capacity as trustees of these trusts, with the PAN of such trusts.

However, such income may be taxable in the hands of the trust beneficiaries. When there are multiple investments, unless the trustees are extremely vigilant, it may so happen that the beneficiary may not get credit for the TDS on the dividends and interest on which he is liable to tax. Since the income is not taxable in the hands of the trust, strictly in law, the trust also cannot claim refund.

Unfortunately, there is no penalty under law in cases where the deductor fails to act on such declarations.

If a particular procedure has been laid down by tax law, whereby you alone are the person entitled to get tax credit but have been denied this due to the fault of the deductors, should you not also have a remedy against such deductors?

The tax department otherwise levies penalties even for minor defaults and delays.

Shouldn't a taxpayer be able to make an online complaint against a tax deductor failing to act on a declaration by showing the correct PAN, and action be initiated by the tax authorities?

Alternatively, can the tax authorities not have an online system whereby the person under whose PAN the deduction has been done, logs in and in respect of such tax shown in the Form 26AS, enters the PAN of the person entitled to the credit, and the credit then gets transferred to the correct PAN?

This simple system will save taxpayers much trouble besides saving the tax authorities the hassle of following up for recovery of incorrect demands or carrying out multiple rectifications.

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