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**Income Tax Act 1961 s 201 - Consequences of failure to deduct or pay**

**(1) Where any person, including the principal officer of a company,—**

**(a) who is required to deduct any sum in accordance with the provisions of this Act; or**

**(b) referred to in sub-section (1A) of section 192, being an employer, does not deduct, or does not pay, or after so deducting fails to pay, the whole or any part of the tax, as required by or under this Act, then, such person, shall, without prejudice to any other consequences which he may incur, be deemed to be an assessee in default in respect of such tax:**

**Provided that any person, including the principal officer of a company, who fails to deduct the whole or any part of the tax in accordance with the provisions of this Chapter on the sum paid to a payee or on the sum credited to the account of a payee shall not be deemed to be an assessee in default in respect of such tax if such payee—**

**(i) has furnished his return of income under section 139;**

**(ii) has taken into account such sum for computing income in such return of income; and**

**(iii) has paid the tax due on the income declared by him in such return of income, and the person furnishes a certificate to this effect from an accountant in such form as may be prescribed:**

**Provided further that no penalty shall be charged under section 221 from such person, unless the Assessing Officer is**

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satisfied that such person, without good and sufficient reasons, has failed to deduct and pay such tax.

(1A) Without prejudice to the provisions of sub-section (1), if any such person, principal officer or company as is referred to in that sub-section does not deduct the whole or any part of the tax or after deducting fails to pay the tax as required by or under this Act, he or it shall be liable to pay simple interest,—

(i) at one per cent for every month or part of a month on the amount of such tax from the date on which such tax was deductible to the date on which such tax is deducted; and

(ii) at one and one-half per cent for every month or part of a month on the amount of such tax from the date on which such tax was deducted to the date on which such tax is actually paid, and such interest shall be paid before furnishing the statement in accordance with the provisions of sub-section (3) of section 200:

Provided that in case any person, including the principal officer of a company fails to deduct the whole or any part of the tax in accordance with the provisions of this Chapter on the sum paid to a payee or on the sum credited to the account of a payee but is not deemed to be an assessee in default under the first proviso to sub-section (1), the interest under clause (i) shall be payable from the date on which such tax was deductible to the date of furnishing of return of income by such payee.

(2) Where the tax has not been paid as aforesaid after it is deducted, the amount of the tax together with the amount of simple interest thereon referred to in sub-section (1A) shall

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be a charge upon all the assets of the person, or the company, as the case may be, referred to in sub-section (1).

(3) No order shall be made under sub-section (1) deeming a person to be an assessee in default for failure to deduct the whole or any part of the tax from a person resident in India, at any time after the expiry of seven years from the end of the financial year in which payment is made or credit is given or two years from the end of the financial year in which the correction statement is delivered under the proviso to sub-section (3) of section 200, whichever is later.

(4) The provisions of sub-clause (ii) of sub-section (3) of section 153 and of Explanation 1 to section 153 shall, so far as may, apply to the time limit prescribed in sub-section (3).

**Explanation.—**For the purposes of this section, the expression “accountant” shall have the meaning assigned to it in the Explanation to sub-section (2) of section 288.

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