

# Not your fault if employer did not deposit TDS



■ **NEERAJ AGARWALA**

● My previous employer had deducted the TDS before giving the salary every month, but did not deposit it to the government. Will the tax department recover the amount from me?

—Deepak Jaiswal

The tax officer cannot recover the TDS amount from you, provided the tax was deducted from your income by your employer. Here's why: Section 205 of the Income Tax Act explicitly states that no demand for TDS can be made against the employee if the tax was deducted by the employer but not deposited.

Explain to the income tax department that your employer had deducted the TDS but did not deposit it with the government. It is the employer's responsibility to deposit the taxes and not yours. You should have evidence showing that TDS was deducted from your salary such as salary slips showing TDS deductions, bank statements reflecting the net salary credited after TDS deductions, any correspondence with the employer regarding this, Form 26AS to show the non-reflection of TDS deposits.

Additionally, consider filing a

formal complaint with the TDS Wing of the Income Tax Department, attaching the same evidence. The department can initiate action against the employer for non-compliance. Remember it is the tax department who will recover the TDS amount from your employer, along with interest and penalties, as it constitutes a violation of the law.

● I have sold one residential house and purchased a plot in a residential area. Can I claim the benefit under Section 54?

—Saurabh Nath

Purchasing a plot alone does not qualify for exemption under Section 54. To claim the benefit, you must construct a residential house on the purchased plot. As per Section 54, you can claim exemption on the long-term capital gains (LTCG)

from the sale of your flat, provided you reinvest the gains in a new residential property in India. The construction of the house must be completed within three years from the date of sale. The exemption amount will be the lower of the capital gains or the amount you invest in the construction of the new house. This means if the capital gains are greater than the amount you spend on the new house, the exemption will be limited to your investment in the property.



*The writer is partner, Nangia & Company. Send your queries to [fepersonalfinance@expressindia.com](mailto:fepersonalfinance@expressindia.com)*