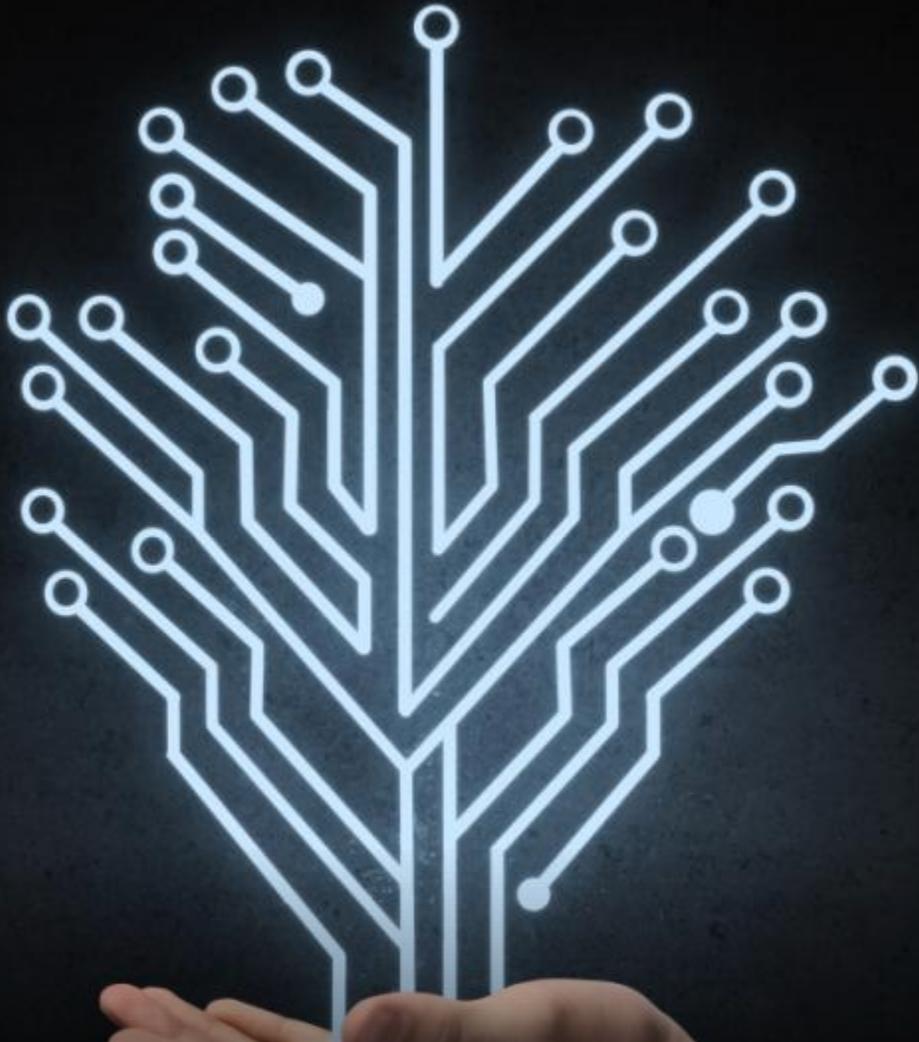


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Does Your Company Protect Whistleblowers?

Every commerce lesson begins with the purpose of creating an enterprise. The primary purpose of a business is to make profits. In the pursuit of making profits, a business is expected to follow an ethical *modus operandi* – a set of ethics and principles that determine its stakeholders' conduct in the organization. For this reason, most businesses have a suite of policies that define various Codes of Conduct and lay down a list of do's and don'ts for its employees. One of the cornerstones of this Code of Conduct is the Whistleblowers Policy – which serves as a step, among many, in achieving an ethical, corruption free organization.

The Oxford Dictionary defines a 'whistleblower' as *"A person who informs on a person or organization regarded as engaging in an unlawful or immoral activity."* A whistleblower is someone who has and reports insider knowledge of illegal activities occurring in an organization. He/she can be an internal or external stakeholder to the organization, or any individual who somehow becomes aware of illegal activities taking place within a business either by witnessing such behavior or by being told about it.



The concept of whistle blowing is not new in India. Kautilya, in his *ArthaShastra*, states that an informant that supplies information about embezzlement shall be rewarded with one-sixth of the amount in question (one-twelfth if it is a government servant), in case such an act is proved. Governments across the world have put in place a mechanism to report workplace fraud and embezzlement. Since a whistleblower may face a multitude of risks, criticisms and backlash, adequate measures are taken to protect these persons from possible negative repercussions.

In India, the Whistle Blowers Protection Act, 2011 protects whistleblowers that file complaints against public servants, and provides safeguards against their victimization.



Does Your Company Protect Whistleblowers?

While the original Bill sought to protect only government employees, the enacted legislation also considers complaints from non-governmental employees in addition to those from public servants. From a companies' perspective, the Companies Act, 2013 makes it mandatory for all listed and public-funded companies to set up a 'vigil mechanism' for employees and directors to report any unethical behavior, fraud or violation of company policies. The Act prescribes the setting up of an Audit Committee for this purpose, and also provides for safeguards against the whistleblowers' victimization, if any. It is to be noted that both the Acts provide for situations where false and frivolous complainants are punished appropriately, and acts as a deterrent for mala fide complaints.

What does this mean for companies? Companies, especially public-funded ones, are required to –

- Draft a whistleblowers policy and establish a vigil mechanism;
- Disclose such mechanism on its website and its Board report;
- Provide for safeguards against victimization of the whistleblowers;
- Communicate the mechanism appropriately and across the company;
- Maintain adequate documentation including complaints, investigation reports, minutes of deliberation, etc;
- Take suitable action against the offender in case the offence is proved, or against the complainant in case of a frivolous complaint.





Does Your Company Protect Whistleblowers?

Though the fundamental principle of whistle-blowing is to uncover unethical actions, a whistleblower may be torn between his moral commitment and his/her loyalty for the organization. External contexts in workplaces can color whistleblowers' perspective towards 'unethical goodness' and distort their perception of responsibility. Therefore, it is important not only to have a whistleblowers policy in place, but to use it effectively for communication and remedy. Just because an organization doesn't receive any complaints, it cannot assume that there are no ethical concerns that its employees face. The organization ought to take several steps to ensure that a whistleblowers policy is successfully adopted –

- Explain to employees about the importance of communicating unethical concerns internally, and inform them of the appropriate steps to be taken in case they come across such incidents.
- Make sure that the employees trust their organization and the internal vigil mechanisms. It is important that they believe that their concerns will be taken seriously and be investigated.
- Ensure that the employees will not suffer personal reprisal for using internal channels to report concerns.



One can then say with relative confidence that a company with an effective whistleblowers policy follows a sensible corporate governance model. The community's inclination towards supporting such companies and their business is greater. For this reason, although the Companies Act mandates protection mechanisms for only listed and public-funded companies, all other privately-held businesses would also be immensely benefitted if they adopted and implemented such a policy in all sincerity.



Form 16 is a Certificate of Tax Deducted at Source to be issued to the employee by the employer under Section 203 of the Income Tax Act, 1961. The timeline for issue of Form 16 has already passed. This article helps you ensure that you have answers to questions that may arise while you file your Income Tax Returns with the Income Tax department.

What is TRACES?

TRACES refers to **TDS Reconciliation Analysis and Correction Enabling System**. This system helps ensure that the amount deducted from an employee is duly credited to his PAN before furnishing the TDS certificate. This is a new initiative by the Income Tax department from the Financial Year 2013-14.

What is Part A of Form 16?

Part A holds the details of tax deducted vide the respective challan number. This is directly fetched from the TRACES database, based on the quarterly returns filed by the employer.

Can information in Part A be edited by the employer?

No. An employer cannot amend or modify the data provided in Part A. However, any corrections with respect to the amount of TDS deducted vis-à-vis amount disclosed in part A can be modified through a revised return. On the other hand, information like address of the employee, father's name, etc., cannot be edited since it is picked up from the PAN application. Any change to this information has to be made in the Income Tax database.

Part A of my Form 16 shows an incorrect period of employment. How can this be rectified?

This part of Form 16 is not actually wrong. The Form intends to show the Financial Year for all employees, but has been erroneously captioned to mention the Period of Employment. We have requested TRACES to change the caption from Period of Employment to Financial Year. For the actual Period of Service with the Current Employer, please refer to Part B.



My PAN is incorrect in Part A. How can this be rectified?

Generally, PAN details are verified during the end of the financial year. If you still find your PAN to be incorrect, you can approach your employer to have this information modified in Part A. Please note that this would involve a lot of work for your employer in revising all the returns filed with TRACES and regenerating Part A. A minimum of seven working days is required, after filing the corrected returns, for the modified Part A to appear in TRACES.

What is Certificate Number in part A?

Certificate Number is the number generated by TRACES for each employee. This acts as the control number for the Income Tax department.

What is Last Updated Date in Part A? The last updated date in my Part A is June while the date on Form 16 is 31 May 2015. Will there be any issues because of this?

Last Updated Date is the date on which the latest revision on returns has happened. Even if there is a change in this date for one employee, the Last Updated Date changes for the entire set of employees mapped to this TAN. You need not be concerned about the variance in these dates.

Should Part A be digitally signed?

Not necessary. It would suffice if the entire document is digitally signed.

What are the instances where I may not get Part A from TRACES though I have paid taxes during the financial year?

This can happen if your PAN is invalid, or if you have procured a duplicate PAN anytime since obtaining the original PAN.



How do I know if my PAN is invalid or if taxes are not credited to my PAN for the financial year?

1. Go to this website: <https://incometaxindiaefiling.gov.in/portal/index.do>;
2. Register your PAN Card and password (search for REGISTER);
3. Once you are registered, go to Login page (Search for LOGIN);
4. Go to MY ACCOUNT section (at the top) and sub section – VIEW TAX CREDIT STATEMENT (FORM 26AS);
5. Choose assessment year, date of birth and click SUBMIT;
6. It will ask you for confirmation to redirect to NSDL website to view your Form 26AS;
7. Click on the bottom button which says VIEW FORM 26AS;
8. You can now see your Form 26AS.

What is Part B?

Part B is the summary of your salary earned during the financial year. In cases where previous employment income is not added in Part B, please refer to the Form 16 from your previous employer and add the same to ensure correct filing of returns.

It is important that you declare the same amount of income and tax from your previous employment to your current employment for the financial year 2014–15. Any difference to this will mean a difference in your total tax liability.

What is the link between Part A and Part B?

Part A shows the taxes deducted from you and paid to the Income Tax Department by the employer while Part B shows your total tax liability for the financial year 2014–15. Taxes in Part A should be greater than or equal to taxes in Part B. If not, you can expect a notice from the Income Tax department after filing your returns.

Will there be an extension for filing returns this year?

No extension has been notified yet, and the due date for filing returns is 31 July 2015.

How do I validate signatures in Form 16?

You can validate the digital signature in your form 16 by following the steps provided below:

1. Open the attached Form 16. On the first page of Form 16, you will see VALIDITY UNKNOWN with a question mark (?) against the digital signature;
2. Right click on VALIDITY Unknown and select VALIDATE SIGNATURE. Select SIGNATURE PROPERTIES;
3. Further select SHOW CERTIFICATE, select TRUST, click on ADD TO TRUSTED IDENTITIES and select OK;
4. Further select OK and close all windows. The digital signature will be validated with a tick (✓) mark.



Withdrawal of EPF

The Employees Provident Fund Organization, in their internal circular on Section 192A of Income Tax Act, advised the Regional Provident Fund Commissioner's Office to implement the provisions of said section with effect from 1 June 2015. The circular states as follows –

TDS will be deducted in respect of the following cases:

- TDS @ 10% if Form –15G/15H is not submitted, provided that PAN is submitted.
- TDS @ maximum marginal rate (i.e. 34.608%) if employee fails to submit PAN.
- If the withdrawal is more than Rs.2,50,000 for the Individual and Rs.3,00,000 for the Senior Citizen with less than 5 years of Service.

TDS will not be deducted for the following cases

- Transfer of EPF from one account to another account (change of employer).
- Termination of Employment due to ill Health of the Employee.
- Discontinuation of Business by the Employer.
- Completion of the Specific Project by the Employer.
- In case of any other cause beyond the control of the Employee.
- If Employee withdraws PF after a period of Five Years.
- If PF payment is less than Rs.30,000 with service less than 5 years.
- If employee submits Form 15 G declaration by senior citizens having no taxable income with PAN.
- If employee submits Form 15 H declaration by an Individual having no taxable income with PAN.

Service Tax – Revision in Rate

The rate of Service Tax has been increased from 12% to 14% with effect from 1 June 2015. Also, the levy of education cess and SHE cess, in addition to service tax, has been removed.

About Allsec

Allsec is a global company with vast expertise in providing Business Process Solutions across various industry verticals.

Founded in 1998, Allsec Technologies Limited began as an integrated contact centre for businesses intending to outsource their support processes. Gaining over 15 years of domain experience, the company has rapidly expanded with acquisitions across the globe and has extended its expertise to a wide gamut of processes that augment and support businesses.

Our solutions are testimony to the fact that we are a highly customer-centric, flexible and transparent service provider. By taking process responsibility, improving cost efficiencies, and adding value to client businesses through continuous process improvements and quality assurances, Allsec distinguishes and enhances business experience for its clients.



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