

## 34 Penalties and Prosecutions

### Penalties

No penalty can be imposed to the assessee without allowing a reasonable opportunity of being heard to the Assessee.

SN	Default / Offence	Penalty
1	Default in making payment of any tax	Not exceeding the amount of tax in arrears U/S 221 (1)
2	Concealment of particulars of income or fringe benefit or furnishing inaccurate particulars of income for fringe benefit	Not less than the amount of tax sought to be avoided and not exceeding three times the amount of tax sought to be evaded. U/S 271(1)(c)
3	Failure to maintain prescribed books or accounts and documents by persons carrying on business or profession.	Rs. 25,000 U/S 271(A)
4	Failure to get the accounts audited or to furnish the audit report before the due date for filing of return.	0.5 % of total sales, turnover or gross receipts or Rs. 1,50,000 whichever is less. U/S 271(B)
5	Failure to deduct tax at source	Amount equal to the tax which he failed to deduct or pay U/S 271(C)
6	Accepting any loan or deposit of Rs. 20,000 or more otherwise than by Account payee cheque.	Amount equal to the loan or deposit so accepted. U/S 271(D)
7	Failure to answer any question in contravention of legal colligation sign any statement made by him or comply with summons.	Rs. 10,000 U/S 272(A)
8	Failure to apply for allotment of Permanent Account Number (PAN).	Rs. 10,000 U/S 272(B)
9	Knowingly quotes a false PAN No. in any document	Rs. 10,000 U/S 272(B)
10	Failure to apply for allotment of Tax Deduction or Collection Account No.	Rs. 10,000 U/S 272(B)

### Procedure for imposing Penalty

The penalty proceedings may be initiated either in the course of the assessment proceedings or separately. Penalty may be imposed, if the Assessing Officer is satisfied that there is a default on the part of the assessee. If the Assessee can prove and satisfy the Assessing Officer that there was a reasonable cause for the default, then penalty should not be imposed except u/s 221(i) & 271(i) (C).

[Sec. 273B & 274]



## Prosecution

Any person committing the offence is liable for being prosecuted. It is not necessary that the person should be an Assessee under *Income Tax Act*.

The Chief Commissioner or Director General of Income Tax is empowered to compound an offence either before or after the prosecution proceedings. These powers are, however, discretionary and cannot be challenged in the Court of Law.

SN	Offence	Punishment
1	Removal or parting with or otherwise dealing with books of account, documents, money, bullion, jewellery or other valuable article or thing put under restraint during the search	Rigorous imprisonment up to two years and fine (Sec. 275A)
2	Failure in affording the authorised officer, the necessary facility to inspect the books of account or other documents U/S 132(1)(iib)	Rigorous imprisonment up to two year s and fine (Sec. 275B)
3	Fraudulent removal, concealment, transfer or delivery of any property or any interest in the property with the intention to thwart recovery of tax	Rigorous imprisonment up to two years and fine (Sec. 276)
4	Failure to deposit the tax deducted at source or tax collected at source	Rigorous imprisonment up to seven years (not less than 3 months) and fine (Sec. 276BB)
5	Wilful attempt to evade any tax, penalty or interest	Rigorous imprisonment up to seven years (Not less than three months) and fine (Sec. 276C(1))
6	Wilful attempt to evade the payment of any tax, penalty or interest levied under Income Tax Act.	Rigorous imprisonment up to three years (not less than three months) and fine (Sec 276(C)(2))
7	Wilful failure to furnish in due time return of income for return of fringe benefit	Rigorous imprisonment up to seven years (not less than 3 months), and fine. (Sec.276CC)
8	Wilful failure to produce accounts and documents as directed by issue of notice u/s 142(1), or to get the accounts audited as directed u/s 142(2A)	Rigorous imprisonment up to one year or fine or both (Sec. 276(C))
9	Making of a statement in verification or delivery of an account or statement which is false and which the concerned person knows or believes to be false or does not believe to be true	Rigorous imprisonment up to three years (not less than three months) (Sec. 277)
10	Falsification of books or documents, etc. to induce or shed any other person to evade any tax, penalty or interest	Rigorous imprisonment up to three years (not less than three months) and fine (Sec. 277A)
11	Abetting or inducing another person to make and deliver an account or statement or declaration relating to any taxable income or taxable fringe benefits which is false and which he either knows or believes to be false	Rigorous imprisonment up to seven years (not less than three months) and fine (Sec. 278)