



# TDS AND TCS ON PURCHASE AND SALE

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# Key elements of New TDS Section 194Q

## TDS on Purchase of Goods

Section 194Q is applicable from 01.07.2021

Buyer's Turnover exceeds 10 Cr. in last year

TDS deducted over and above 50 Lakh in current year

TDS deducted @0.10% if PAN of Seller available. @5% if no PAN

TDS at credit or payment whichever is earlier.



# SECTION 206C(1H): HIGHLIGHTS

- Applicable in respect of all sale consideration ?(including advance received for sale) received on or after 1<sup>st</sup> October, 2020.
- For thresh-hold criteria of Rs. 50 Lakhs, sales for the period from April'20 – September'20 to be included
- No adjustment on account of sale return / discount
- No adjustment for indirect taxes is to be made for collection of tax – since TCS on receipt of consideration – CBDT Circular 17 dated 29.09.2020



# SECTION 194Q & SECTION 206C(1H)

Basis of Distinction	TDS on purchase of goods (Section 194Q)	TCS on Sale of Goods (Section 206C(1H))
Who is liable for deduction / collection	Buyer is liable to deduct tax	Seller is liable to collect the tax
Turnover Limit of deductor / collector	Total Sales / Turnover / Gross receipts from business in immediately preceding PY should exceed INR 10 crores – of Buyer	Total Sales / Turnover / Gross receipts from business in immediately preceding FY should exceed INR 10 crores – of Seller
Threshold for purchase / sale	INR 50 lakhs	INR 50 lakhs
Rate	0.1%	0.1%
Amount on which tax is to be deducted or collected	On the amount of purchase in excess of INR 50 lakhs	On the amount of sale consideration in excess of INR 50 lakhs
Time of collection / deduction	At the time of payment or credit whichever is earlier	At the time of receipt
Preference	First	Second

# SECTION 194Q & SECTION 206C(1H)

Situation	Buyer's Details	TDS u/s 194-Q	Seller's details	TCS u/s 206C(1H)
1	If the turnover etc of the buyer in the preceding financial year is more than 10 cr, and purchase of goods is Rs. 50 lakhs or more	Yes	NA	NA
2	Turnover is more than 10 cr, and purchase is less than 50 lakhs	No	Since sales is less than 50 lakhs	No
3	Turnover is less than 10 cr, and purchase is more than 50 lakhs	No	If turnover is more than 10 cr  If turnover is less than 10 cr	Yes  No
4	If turnover is less than 10 cr, and purchase is less than 50 lakhs	NA	Since sales are less than 50 lakhs	No

# SECTION 194Q

- Buyer responsible for paying any sum to a Resident, for purchase of any goods;
- Of the value or aggregate value exceeding Rs. 50 lakh in any previous year
- To deduct tax at source at the time of credit or payment whichever is earlier
- Rate of tax – 0.1% of the amount exceeding Rs. 50 lakh

# SECTION 194Q – OTHER POINTS

- Not applicable in cases
- where other TDS sections are applicable
- Transactions covered by TCS, other than TCS on goods
- PAN not furnished, TDS @ 5%
  
- Applicable w.e.f 1st July, 2021
  
- TCS u/s 206C(1H) vis – a –vis TDS u/s 194Q

# SECTION 194Q – OTHER POINTS

- Issues:
- Threshold of Rs. 50,00,000 - purchases from 1.4.21 to 30.6.21 to be included?
- Whether non-resident buyer liable to deduct TDS on purchase from resident seller?
- Import of goods & Export of Goods?
- Disallowance u/s 40(a)(ia) – for default in TDS – 30% disallowance



<b>Particulars</b>	<b>Scenario 1</b>	<b>Scenario 2</b>	<b>Scenario 3</b>
Turnover of Seller (In cr.)	12	6	12
Turnover of Buyer (In cr.)	6	12	12
Sale of goods (In cr.) (A)		2	2
Sales consideration paid during the year (In cr.) (B)	1	1	1
Who is liable to deduct or collect tax?	Seller	Buyer	Buyer
Rate of Tax (Seller/Buyer has provided PAN and has satisfied section 206AB)	0.1%	0.1%	0.1%
Amount on which tax to be deducted or collected (In Cr.) [Amount in excess of Rs. 50,00,000 is the taxable amount]	0.5 [(B) – 0.5]	1.5 [(A) – 0.5]	1.5 [(A) – 0.5]
Tax to be deducted or collected	5,000	15,000	15,000

<b>Seller's Turnover</b>	<b>Buyer's Turnover</b>	<b>Sale or purchase consideration for goods (after 1st July 2021)</b>	<b>Taxable amount</b>	<b>Seller / Buyer PAN</b>	<b>TDS</b>	<b>TCS</b>	<b>Obligated Person to deduct or collect tax</b>	<b>Relevant Section</b>
<b>(in Crores</b>	<b>(in crores)</b>	<b>(in lakhs)</b>						
7	15	55	5	Yes	0.10%	NA	Buyer	Section 194Q
15	6	59	9	Yes	NA	0.10%	Seller	Section 206C(1H)
18	16	65	15	Yes	0.10%	NA	Buyer	Section 194Q
5	11	53	3	No	5%	NA	Buyer	Section 194Q/ 206AA
16	7	56	6	No	NA	5%	Seller	Section 206C(1H)/ 206AA

Particulars	CGST Act, 2017	Customs Act, 1962	Sale of goods Act, 1930
Definition of Goods	Every kind of movable property other than services	Inclusive definition to cover all goods	Every kind of movable property
Inclusions	<b>Actionable claims</b> , crops, grass and things attached to land	Vessels, stores, baggage, <b>currency</b> , <b>negotiable instrument</b> & other kind of movable property	<b>Stocks &amp; shares</b> , Crops, Grass and things attached to Land
Exclusions	Money & Securities	-	Actionable claims & money

# SECTION 194Q – OTHER POINTS

- Issues:
- Whether TDS to be deducted inclusive of GST?
- Whether TDS is to be deducted in respect of Capital Goods?
- Whether the purchases made from a single seller from different locations/units to be aggregated?
- Whether TDS to be made from payment in respect of transaction in electricity?
- Purchase of Jewellery?



# SECTION 206C(1H) & 194Q : HIGHLIGHTS

- Goods – Whether software & other intangibles to be covered? – Canned software Vs Customised software
- No carve out for B2B transactions - TCS
- Goods sold to SEZ / EOU units – whether liable for TCS?
- Turnover – Determination?
- Gross Receipts / Sales / Turnover from Business

# DUE DATES OF TDS RETURNS

## Quarter

April- June

July- September

October- December

January- March

## Due Date

31<sup>st</sup> July of the Financial Year

31<sup>st</sup> October of the Financial Year

31<sup>st</sup> January of the Financial Year

31<sup>st</sup> May of the financial year immediately following the financial year in which deduction is made

## **Higher TDS/TCS for non-filer Section 206AB, 206CCA w.e.f. 1st July, 2021**

If any sum or income is liable to TCS or TDS (other than 192, 192A, 194B, 194BB, 194LBC, 194N) and the deductee (recipient from whose income TDS is done) or collectee (buyer from whom TCS is collected) has not filed his return for both of the immediately preceding two assessment year for which the time limit of filing return of income U/s 139(1) has expired, and TDS/TCS in each year exceeds Rs. 50,000/- then TDS/TCS at twice the rate specified in the relevant provision of the Act; or at twice the rate or rates in force; or at the rate of five per cent, whichever is higher, (non-resident who does not have permanent establishment in India are excluded under this provision).

If payment is being received by a person responsible for TCS then higher of the following will be the rate applicable :-

- (i) at twice the rate specified in the relevant provision of the Act; or
- (ii) at the rate of 5 per cent.

If the provision of section 206AA/206CC (doesn't have PAN or aadhaar), is applicable to a specified person, in addition to the provision of this section, the tax shall be deducted at higher of the two rates provided in this section and in section 206AA/206CC.

How the person responsible to TDS/TCS will find applicability of this provision and rate of TDS/TCS in this case :- Income tax portal will provide a specific window on the portal (window for 194N already available on portal) where the person responsible can enter the PAN of the person from whom TDS/TCS is to be done and mobile number of the person responsible then OTP will come on mobile, after entering the OTP, portal will give as a result normal rate or higher rate applicable. The person responsible can save screen shot of this for future reference.

### **Conclusion:**

The above information is compiled for the help of professionals and businesses. To avoid any disallowance, interest or penalty, kindly ensure proper compliance of TDS and TCS Provisions by taking note of applicable changes in law from time to time.

# SECTION 206AA & SECTION 206AB:

Section 206AA	Section 206AB
The rates specified in the relevant provision of the Act	Twice the rate specified in the relevant provision of the Act
The rate or rates in force	Twice the rate or rates in force
@ 20%	@ 5%
Higher of the above (A)	Higher of the above (B)

- The applicable rate will be higher of A & B
- Both the sections are non-obstante provisions
- Section 206AB specifically provides that if the provision of section 206AA are applicable, then tax shall be deducted at higher of the rates as per both sections.



# AMENDMENTS RELATED TO TDS / TCS:

- Higher TDS / TCS in case of Non-Filers of ROI – 206AB
- “Non-Filers”
- Not furnished ROI in two immediately preceding previous years, prior to the PY in which tax is required to be deducted;
- And for which the time limit u/s 139(1) has expired
- The aggregate of TDS / TCS is INR 50,000 or more in each of these PY
- W.e.f 01.07.2021

# AMENDMENTS RELATED TO TDS / TCS:

- Rate of TDS:
  - Twice the rate specified in the relevant provision
  - Twice the rates in force
  - At the rate of 5%
- No PAN has been furnished, rate determined above or rate specified u.s 206AA (higher)
- NA to non-resident who does not have a PE