

New TCS Provisions On Sale Of Goods under Section 206C(1H) Of Income Tax Act, 1961

From October 1, 2020, our Government has introduced a new provision for collecting TCS for the sale of goods and depositing the same to the Government. These provisions are given in Section 206C (1H) of the Income Tax Act and here we are discussing this provision in a very simple language with some practical examples so that the Tax payers can understand the New provisions and follow them easily since it is a new provision.

The CBDT has also issued a [circular No. 17](#) in this regard on 29 September 2020, which will also help in understanding this provision practically. Subsequently a press release dated 30 September 2020 also came from CBDT which also help us in understanding this provision which is mentioned in section 206C(1H) of Income Tax Act, 1961.

Page Contents

- [I. What Is The New Provision As Mentioned In Section 206C\(1H\)?](#)
- [II. Was It Necessary To Bring TCS under Section 206C\(1H\) Provision At This Time?](#)
- [III. Practical Examples Of TCS](#)
- [IV. Important Matters Connected With TCS](#)
- [V. Government Version On Certain TCS Matters](#)
- [VI. Section 206C\(1H\) Of Income Tax Act, 1961](#)

I. What Is The New Provision As Mentioned In Section 206C(1H)?

The new provisions of TCS have come into force with effect from 1 October 2020 and according to it if your turnover is more than 10 crores in the previous financial year i.e. the year ended 31 March 2020, then this year you will have to collect and deposit TCS on your receipts from sale of goods from such buyers from whom you received more than Rs. 50 Lakhs as sale consideration during the current Financial year. The TCS is payable on the amount of receipt which is greater than 50 Lakhs and received after 1st. Oct. 2020. The rate of TCS is 0.1% and Presently due to corona Pandemic 25% discount has been given in this tax rate till 31 March 2021 and its effective rate is 0.075%.



If your sales are less than 10 crores in the year ended March 31, 2020 then you do not have to collect this TCS since these provisions are not applicable in such situation. Apart from this, if you receive payments above 50 lakhs in a full year but you have not received any payments on or after 1 October 2020, then you do not have to collect any TCS i.e. on payments received before 30 September 2020 no TCS is payable.

Payments received here refer only to payments received in connection with “sale” of goods. This is receipt based TCS hence even if you received payments in advance for supply of Goods, the TCS provisions are applicable.

II. Was It Necessary To Bring TCS under Section 206C(IH) Provision At This Time?

No at all. This is not the time to experiment because at this time the condition of Indian economy is not very good due to which there is a shortage of **working capital**, so the government was advised by the experts that this provision should be postponed at this time but still It has been implemented. Nearly all buyers who make purchases above Rs.50.00 Lakhs and then pay the amount of this purchase are all registered under GST, so what is the significance of this provision? Second, it will be applied on all points such as manufacturer to distributors, distributors to dealer and dealers to sub-dealers. There are many sectors which will be badly affected by this, such as automobile Sector.

But Now our government has implemented, then it is our duty to understand it and follow it.

III. Practical Examples Of TCS

Now let us try to understand the scope of this TCS provision with the help of some examples assuming that your turnover for the Financial year ending with 31st March 2020 is more than 10 Crores and TCS provisions as mentioned in Section 206C(1H) are applicable on you: –

1. If the amount “received” in relation to your sale from one buyer is Rs. 5 crores from 1st April 2020 to 30th September 2020 but out of this you have to supply Rs.2 crores goods now after 1st of October. It means that you have received Rs.2 Crores as advance before 1st. Oct. 2020 and the supply for the same is to be made after 1st, Oct. 2020.

In this situation you do not have to collect any TCS on it now though you have to supply the goods on or after 1st. Oct. 2020 as it is a receipts-based tax and if it is applicable 1 October 2020 and you are not going to receive any amount on or after 1st. Oct. 2020.

2. You have made a sale of Rs. 5 crores from 1 April 2020 to 30 September 2020 to one buyer out of which Rs. 4.00 crores was received till 30 September and payment of Rs.1.00 crore was received on or after 1st. October 2020, even then you have to collect TCS on Rs. 1.00 Crore though no supply is made on or after 1st. Oct. 2020 because it is a tax based on receipt of payment and you are getting Rs.1.00 crore on or after October 1, 2020.

3. If you have made the sale of Rs. 60.00 lakhs to any one dealer between 1 April 2020 to 30 September 2020 and out of this Rs 45.00 lakhs are received up to 30 September 2020 and Rs 10.00 lakhs are received on 2 October 2020, then you have to collect the TCS on Rs. 5.00 Lakhs only out of this receipt because this tax is to be levied on the recovery of more than Rs. 50.00 lakhs in the whole year and in this case the total recovery is Rs. 55.00 lakhs, then TCS is to be paid on the amount exceeding Rs. 50.00 Lakhs. Since this provision is applicable only on the excess of receipt over Rs. 50 Lakhs.

4. In order to find the Limit of Rs. 50 lakhs all the amount received from 1 April 2020 will be counted as this limit is based on the whole financial year but TCS is to be collected on the amount which you receive on or after 1 October 2020 since the provision is applicable from 1st. Oct. 2020. Let us try to understand this point also. If your receipt is Rs.50 Lakhs before 30th September, then TCS will have to be collected on every amount received by you on or after 1st October 2020 because your annual limit of Rs.50 Lakhs was completed by 30th September 2020. Now on October 1 2020, if you collect only 5 lakh rupees, then you have to collect and deposit TCS on it, because you have completed your collection limit of Rs.50.00 lakh in this financial year already before 30th 2020.

5. You do not need to divide whatever amount is received after 30th September, which bill it is related to, or whether the payment is related to a supply which is made before 30th September 2020 or after. This provision has been made in such a way that if you have to collect and deposit this TCS from a buyer, then you have to collect it on your receipts on or after 1st. Oct. 2020 and this is receipt based tax and you have to get all the amount received after 30th September without seeing when the goods for which payment is received is sold. Here the amount of sales is not important but the amount received in that regard is important for collection and deposit of TCS.

IV. Important Matters Connected With TCS

After these examples, let's consider some other issues related to this provision, so that you will not have any problem in following these provisions. Let us start: –

1. Does This Also Apply To The Supply Of Services?

No. The provision that has been brought at this time is only in relation to “**sale of goods**” and services have been kept away from this provision. Therefore, this provision is not applicable to the payment of consideration received in relation to supply of services.

2. Is There Any Relaxation In This Rate In The Corona Period?

Due to the corona outbreak, there is a 25 percent discount on this rate till 31 March 2021 and the effective rate will be 0.075% up to this date. This TCS is to be deposited on receipt of payment and the last date for deposit of the same will be the 7th day after the end of the month. If your buyer who comes under this TCS does not have a PAN number / Aadhaar number, which is hardly any buyer you have, then this rate of tax will be 1% percent and there is no relaxation of it.

3. Should It Be Charged In TCS Bill?

It is not mandatory in the law and it depends on choice of the seller. If it is collected and deposited on receipt of payment then the requirement of law is complete and it is immaterial whether it is charged in the Invoice or not.

But you want to use the invoice as a tool to inform the buyer that you are under obligation to charge TCS then it should be charged in the bill itself so that your buyer knows that he and you are within the purview of this TCS and there will be no dispute at the time of payment when you ask your buyer to pay TCS. This will let your buyer know that your sales were more than 10 crores in the previous year and you will charge the TCS. Not only big manufacturers are coming under the purview of this provision, but distributors, dealers, sub dealers and traders will also come, so they can charge it in their bills, if they choose to do so. If you do.

not do so, you will have to make a debit note for this TCS upon receipt of payment. Remember that ultimately you have to collect this payment from your buyers only.

If it is charged in the bill or debit note is issued with respect to this TCS the TCS amount is to be charged on whole the amount received by the seller and no adjustment in this respect is required for GST etc.

Let us see the relevant part of the Circular No.17 issued by the CBDT: –

It is requested to clarify that whether adjustment is required to be made for sales return, discount or indirect taxes including GST for the purpose of collection of tax under sub-section (IH) of section 206C of the Act. It is hereby clarified that no adjustment on account of sale return or discount or indirect taxes including GST is required to be made for collection of tax under sub-section (IH) of section 206C of the Act since the collection is made with reference to receipt of amount of sale consideration.

Now after reading this circular and if you choose to charge TCS in your bill / invoice then you have to follow this System as given in this illustration: –

DESCRIPTION	AMOUNT
Value of Goods	7500000.00
Add: – GST 18%	1350000.00
Total	8850000.00
TCS 0.075 %	6638.00
Total Invoice Value	8856638.00

4. Will These TCS Provisions Also Apply To The Advance Received In Respect Of Goods?

Yes, these provisions are applicable to the “amount” received in connection with the sale and if any advance related to it is received on or after October 1, 2020 then the provisions of TCS will also be applicable.

But one thing to keep in mind that even if the advance amount is received before October 1, 2020 and the supply is made on or after October 1, 2020 then TCS is not required to be collected because no amount is received on or after 1st. Oct. 2020.

5. If The Sale Is Before October 1, 2020 And Payment Is Due On Or After October 1, 2020, What Will Be TCS'S Position In This Case?

Now you have already been told that this provision is payment based and if payment is received on or after October 1, 2020 then the provisions of TCS will apply to it though sale is made before this date.

6. When To Deposit TCS After Collecting It From The Buyers?

The responsibility for payment of TCS will be on receipt of payment from the buyer and you have to deposit it to the government on the 7th day of the end of the month in which you receive the payment. For example, if you receive payment in October 2020, then you have to pay its TCS by 7 November 2020.

7. If The Goods Already Being Charged By TCS Under Existing Provisions Of TCS In Income Tax Act, 1961 How These Goods Will Be Covered Under These New Provisions Of TCS.

The goods on which TCS is already being charged will remain under the same provision on which TCS was depositing till now, these new provisions of TCS will not apply in relation to those items. Such as Tendu leaves, liqueurs for human consumption, scraps etc. Remember that the existing provisions of TCS already applicable on these goods will continue to applied issued on these items will continue.

8. TCS Is Already Applicable For Selling Of Motor Vehicles Above Rs. 10 Lakhs, Then How This Levy Will Affect The Automobile Sector With Respect Will This New Provision Of TCS Under Section 206C(1H)?

TCS is applicable to automobiles sector for selling of a Motor vehicle above Rs. 10 lakhs to the customer but it is not applicable from the manufacturer to the distributor, dealer or sub-dealer hence this sector is not free from this new TCS provision and this provision of TCS is applicable to automobile sector also.

9. Is There Any Exceptions Available From This TCS Under This Section?

Yes, if this amount has been received in connection with this sale, then the provisions of TCS will not apply on the

following: –

- i. Goods sold during export.
- ii. If the buyer is Central Government, State Government, Embassy of any other country etc., local bodies like – Municipality etc., any person who is importing goods into India- These are excluded from the definition of Buyer.

Remember that all the purchases made by them are exempt from this TCS but on the sale made by them, if applicable, they have to be collected and deposited TCS from the buyers.

- iii. Goods which are already under TCS provisions like Tendu leaves, liquor for human consumption, scraps etc. In this regard, see the previously applicable TCS provision in the Income Tax Act, 1961. These goods will be governed by the existing provisions of TCS and new TCS provision will not be applicable on these goods.

- iv. Importers in India – These are excluded from the definition of buyer.

v. If the Government notifies anyone who is to be excluded from the definition of buyer. Till today no such notification has not been issued by the Government.

V. Government Version On Certain TCS Matters

Let us have a look at some of the practical issued which has been discussed in the press release dated 30th Sept. 2020 issued by the Ministry of Finance. The relevant part are being reproduced here for your benefit: –

1. Rate of TCS

Finance Act, 2020 amended provisions relating to TCS with effect from 1st October, 2020 to provide that seller of goods shall collect tax @ 0.1 per cent (0.075% up to 31.03.2021) if the receipt of sale consideration from a buyer exceeds Rs. 50 lakhs in the financial year. Further, to reduce the compliance burden, it has been provided that a seller would be required to collect tax only if his turnover exceeds Rs. 10 crore in the last financial year. Moreover, the export of goods has also been exempted from the applicability of these provisions.

2. No TCS On Receipts Before 1st. Oct. 2020

It has been reported in the media that TCS has been made applicable to the amount received before 1st October, 2020. It is clarified that this report is not correct. In this connection, it may be noted that this TCS shall be applicable only on the amount received on or after 1st October, 2020. For example, a seller who has received Rs. 1 crore before 1st October, 2020 from a particular buyer and receives Rs. 5 lakh after 1st October, 2020 would be required to collect tax on Rs. 5 lakh only and not on Rs. 55 lakhs [i.e Rs.1.05 crore – Rs. 50 lakh (threshold)] by including the amount received before 1st October, 2020.

3. The Threshold Of Rs. 50 Lakhs Is To Be Calculated On Full Year Basis

It has also been reported in certain section of the media that every transaction will attract this TCS. This report is not correct. It may be noted that this TCS applies only in cases where receipt of sale consideration exceeds Rs. 50 lakh in a financial year. As the threshold is based on the yearly receipt, it may be noted that only for the purpose of calculation of this threshold of Rs. 50 lakh, the receipt from the beginning of the financial year i.e. from 1st April, 2020 shall be taken into account. For example, in the above illustration, the seller has to collect tax on receipt of Rs. 5 lakh after 1st October, 2020 because the receipts from 1st April, 2020 i.e. Rs. 1.05 crore exceeded the specified threshold of Rs. 50 lakh.

4. Bill To Bill Bifurcation Of Receipts Is Not Required

Further, the seller in most of the cases maintains running account of the buyer in which payments are generally not linked with a particular sale invoice. Therefore, in order to simplify and ease the compliance of the collector, it may be noted that this TCS provision shall be applicable on the amount of all sale consideration received on or after

1st October, 2020 without making any adjustment for the amount received in respect of sales made before 1st October, 2020. Mandating the collector to identify and exclude the amount in respect of sales made up to 30th September, 2020 from the amount received on or after the 1st of October, 2020 would have resulted into undue compliance burden for the collector and also litigation.

It has been reported in certain section of the media that this TCS is an additional tax. This is obviously not correct. In this regard, it may be noted that TCS is not an additional tax but is in the nature of advance income-tax/TDS for which the buyer would get the credit against his actual income tax liability and if the amount of TCS is more than his tax liability, the buyer would be entitled for refund of the excess amount along with interest.

5. It Is Applicable On Receipt Exceeding Rs. 50.00 Lakhs From A Buyer

It may also be noted that this TCS shall be applicable only on the receipt exceeding Rs. 50 lakh by a seller from a particular buyer. Therefore, on payment of Rs. 1 crore made by a buyer to a particular seller only Rs.5,000 (Rs. 3,750 this year) i.e. [0.1% of (Rs. 1 crore – Rs. 50 lakh)] shall be collected. Hence, in case of a person making payment of Rs.1 crore each to 10 different sellers, the total tax collected shall be only Rs.50,000 (Rs. 37,500 this year) i.e 10 x [0.1% of (Rs. 1 crore- Rs. 50 lakh)] on the total payment made for purchase of Rs. 10 crore to ten different sellers.

6. The TCS Liability Is Only For Over 10 Crore Turnover Sellers

It has also been reported in certain section of media that every seller will have to collect TCS. This is also not correct. In this context, it may be noted that in order to reduce the compliance burden, this TCS is made applicable to only those sellers whose business turnover exceeds Rs. 10 crores. In other words, those having turnover of less than Rs. 10 crores will not be required to collect TCS. There are only around 3.5 lakh persons who have disclosed business turnover of more than Rs. 10 crore in FY 2018-19. There are around 18 lakh entities which already deal with TDS/TCS. Therefore, this TCS collection under these new provisions would be required to be made by persons who, in most of the cases, would already be complying with the other provisions of TDS/TCS.

7. It Will Not Be A Big Burnden On Assesses

Assuming a net profit of 8% on sales, his business income in respect of this payment of Rs. 10 crore made for purchase would be around Rs. 87 lakh. The income-tax liability on the income of Rs. 87 lakh for an individual in the new taxation regime would be around Rs. 27 lakh. Hence, the amount of TCS collected i.e. Rs.50,000 (Rs. 37,500 this year) would be a miniscule part of his actual tax liability and would be easily adjusted against his tax liability. In a rare case, if his tax liability is less than even Rs.50,000 (Rs. 37,500 this year), he shall be entitled for refund of excess TCS with interest.

These are the **Government versions** on certain matters on which you may agree or not but since the matters have been clarified by the Government through Press release dated 29th Sept 2019 hence these should be in knowledge of Tax payers. Most of the clarification are reasonable and according to Law as appeared in section 206C(1H) but clarification regarding burden of Tax is not logical and the rate of Net profit taken in the example is amazingly on a very higher side but this illustration will not affect your Liability of TCS under this provision.

VI. Section 206C(1H) Of Income Tax Act, 1961

Every person, being a seller, who receives any amount as consideration for sale of any goods of the value or aggregate of such value exceeding fifty lakh rupees in any previous year, other than the goods being exported out of India or goods covered in sub-section (1) or sub-section (1F) or sub-section (1G) shall, at the time of receipt of such amount, collect from the buyer, a sum equal to 0.1 per cent of the sale consideration exceeding fifty lakh rupees as income-tax:

Provided that if the buyer has not provided the Permanent Account Number or the Aadhaar number to the seller, then the provisions of clause (ii) of sub-section (1) of section 206CC shall be read as if for the words “five per cent”, the words “one per cent” had been substituted:

Provided further that the provisions of this sub-section shall not apply, if the buyer is liable to deduct tax at source under any other provision of this Act on the goods purchased by him from the seller and has deducted such amount.

Explanation.—For the purposes of this sub-section,—

(a) “buyer” means a person who purchases any goods, but does not include,—

(A) the Central Government, a State Government, an embassy, a High Commission, legation, commission, consulate and the trade representation of a foreign State; or

(B) a local authority as defined in the Explanation to clause (20) of section 10; or

(C) a person importing goods into India or any other person as the Central Government may, by notification in the Official Gazette, specify for this purpose, subject to such conditions as may be specified therein;

(b) “seller” means a person whose total sales, gross receipts or turnover from the business carried on by him exceed ten crore rupees during the financial year immediately preceding the financial year in which the sale of goods is carried out, not being a person as the Central Government may, by notification in the Official Gazette, specify for this purpose, subject to such conditions as may be specified therein.