Income Tax TDS / TCS on Purchases / Sale of Goods [Section 194Q / 206C(1H)]

[with effect from 1st July 2021]

Finance Act 2021 has introduced a new Section 194Q in Income Tax Act, 1961 to provide for deduction of Income Tax at Source [TDS] from payments for purchase of Goods, whereas a similar provision for collection of Income Tax at Source [TCS] was already introduced through introduction of sub-section (1H) to Section 206C w.e.f. 1-10-2020.

1 Section 194Q - Provision enacted

Any person (referred as buyer), whose total sales, gross receipts or turnover from business carried on by him exceed Rs.10 [ten] crore during financial year immediately preceding the financial year in which purchase of goods is carried out, other than

i) person, notified for this purpose by notification in the Official Gazette, by the Central Government subject to such conditions as may be specified therein.

who is responsible for paying any sum to any resident (referred as seller) for purchase of any goods of the value or aggregate of such value exceeding Rs.50 [fifty] lakh in any previous year

1) at the time of credit of such sum to the account of the seller; or
2) at the time of payment thereof by any mode,

whichever is earlier

deduct an amount equal to 0.10% of such sum exceeding Rs.50 [fifty] lakh, except where

a) tax is deductible under any of the provisions of Income Tax Act, 1961; or
b) tax is collectible under the provisions of section 206C other than a transaction to which sub-section (1H) of section 206C applies.

1.1 Applicability of Provision

a) Applicable to **Buyer** whose total sales, gross receipts or turnover from business carried on by him exceed Rs.10 crore during immediately preceding financial year
b) if Buyer is responsible for paying any sum to any resident seller;
c) payment for purchase of any goods of the value or aggregate of such value exceeding Rs.50 [fifty] lakh in any previous year;
d) Buyer should deduct on such sum exceeding Rs.50 [fifty] lakh.

1.2 Rate of TDS

a) 0.10%
b) 5.00% in the case of -
    i) if seller is defaulter in Income Tax Return filing and covered under Section 206AB
    ii) if seller fails to furnish his Permanent Account Number [PAN].

1.3 Applicability of TDS or TCS ?

As mentioned earlier, provision of TCS on similar nature of transactions was already introduced through sub-section (1H) of Section 206C.

In such cases, whether TDS provision of Section 194Q or TCS provision of Section 206C(1H) become applicable needs to be verified. Lets analyse the provision of sub-section (1H) of Section 206C.

Income Tax TDS / TCS on Purchases / Sale of Goods [Section 194Q / 206C(1H)]

[with effect from 1st July 2021]

2 Section 206C(1H) - Provision enacted

Any person (referred as seller), whose total sales, gross receipts or turnover from business carried on by him exceed Rs.10 [ten] crore during financial year immediately preceding the financial year in which sale of goods is carried out, other than

i) person, notified for this purpose by notification in the Official Gazette, by the Central Government subject to such conditions as may be specified therein.

who receives any amount as consideration for sale of any goods of the value or aggregate of such value exceeding Rs.50 [fifty] lakh in any previous year, other than

A) the goods being exported out of India; or
B) goods covered in Section 206C(1) viz.
   a) Alcoholic Liquor for human consumption;
   b) Tendu leaves;
   c) Timber obtained under a forest lease;
   d) Timber obtained by any mode other than under a forest lease;
   e) Any other forest produce not being timber or tendu leaves;
   f) Scrap;
   g) Minerals, being coal or lignite or iron ore.
C) goods covered in Section 206C(1F) viz. sale of a motor vehicle of the value exceeding Rs.10 [ten] lakh
D) goods covered in Section 206C(1G) viz. goods for which remittance out of India from a buyer under Liberalised Remittance Scheme of Reserve Bank of India is made

collect an amount equal to 0.10% of sale consideration exceeding Rs.50 [fifty] lakh, except

i) where 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**.

from the buyer i.e. a person who purchases any goods, but does not include

1) Central Government;
2) State Government;
3) an embassy;
4) a High Commission;
5) legation;
6) commission;
7) consulate;
8) trade representation of a foreign State;
9) a local authority;
10) a person importing goods into India;
11) 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;

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2.1 Applicability of Provision

a) Applicable to **Seller** of Goods whose total sales, gross receipts or turnover from business carried on by him exceed Rs.10 crore during immediately preceding financial year;

b) receipt against sale of any goods of the value or aggregate of such value exceeding Rs.50 [fifty] lakh in any previous year;

c) Seller should collect on such sum exceeding Rs.50 [fifty] lakh.

2.2 Rate of TCS

a) 0.10%

b) 1.00% if buyer has not furnished PAN or Aadhar Number;

c) 5.00% if buyer is defaulter in Income Tax Return filing & covered under Section 206CCA

3 Basic Comparisons of two provisions viz. 194Q and 206C(1H)

Particulars	Section 194Q	Section 206C(1H)
Liability to deduct / collect	Buyer whose total sales, gross receipts or turnover from business carried on by him **exceed Rs.10 crore** during immediately preceding financial year	Seller whose total sales, gross receipts or turnover from business carried on by him **exceed Rs.10 crore** during immediately preceding financial year
Deductible / Collectible on	any sum payable for purchase of any goods exceeding Rs.50 lakh	receipt against sale of any goods exceeding Rs.50 lakh
Time of Deduction/Collection	Time of Credit or payment whichever is earlier	Time of Receipt
Rate of TDS / TCS		
if the opposite party is covered u/s 206AB or 206CCA (non-filer of ITR)	5.00%	5.00%
if the opposite party has not furnished PAN	5.00%	- -
if the opposite party has not furnished PAN OR AADHAR	- -	1.00%
Others	0.10%	0.10%

So, basically TDS provisions are applicable to Buyer and TCS provisions are applicable to Seller, if their turnover exceeds 10 crore in preceding financial year.

Accordingly, if only one party viz. Seller or Buyer is having turnover exceeding Rs.10 crore, the applicability will be decided on the basis of whose turnover exceeds Rs.10 crore. If turnover of buyer exceeds, TDS will apply and if turnover of seller exceeds, TCS will apply.

Income Tax TDS / TCS on Purchases / Sale of Goods [Section 194Q / 206C(1H)]

[with effect from 1st July 2021]

3.1 Situations where Seller and Buyer, both having more than 10 crore sales turnover and transaction value and receipt value more than 50 lakh

A) As the Seller's turnover exceeds Rs.10 crore during the previous financial year and the receipt value is more than 50 lakh, Section 206C(1H) is applicable.

B) Similarly, as the Buyer's turnover exceeds Rs.10 crore during the previous financial year and the transaction value is more than 50 lakh, Section 194Q is also applicable.

C) Section 206C(1H) provides that **where the buyer is liable to deduct tax at source** under any other provision of this Act on goods purchased by him from the seller **and has deducted such amount**, seller is **not required to collect tax** at source.

D) However, Section 194Q provides that **buyer** is **not required to deduct tax** at source

i) tax is deductible under any of the provisions of Income Tax Act, 1961; or

ii) tax is collectible under the provisions of section 206C other than a transaction to which sub-section (1H) of section 206C applies.

Thus if on a transaction TCS is required under section 206C(1H) as well as TDS under section 194Q, then on that transaction only TDS under section 194Q shall be applicable. [Reference - Memorandum Explaining Provisions of Finance Act, 2021]

<table>
<tr><th rowspan="2">Sr No</th><th colspan="2">Nature of Transactions</th><th colspan="2">Liability for</th></tr>
<tr><th>As per Seller</th><th>As per Buyer</th><th>TDS u/s 194Q</th><th>TCS u/s 206C(1H)</th></tr>
<tr><td rowspan="4">1)</td><td>Sale of goods on 05-07-2021</td><td>Purchase of goods on 05-07-21</td><td rowspan="4">Yes</td><td rowspan="4">No</td></tr>
<tr><td>Bill raised on 05-07-2021</td><td>Bill recorded in books of accounts on 06-07-2021</td></tr>
<tr><td>Receipt on 08-08-2021
after deducting TDS</td><td>Payment made on 07-08-2021
after deducting TDS</td></tr>
<tr><td colspan="2">**Note** As per Section 194Q, TDS is payable at the time of credit of sum (bill recorded on 06-07-2021)
As per Section 206C(1H), TCS to be done at the time of receipt of payment (receipt on 08-08-2021)
On the date of receipt, TDS was deducted by buyer u/s 194Q so seller is not required to collect TCS.</td></tr>
<tr><td rowspan="4">2)</td><td>Sale of goods on 05-07-2021</td><td>Purchase of goods on 05-07-21</td><td rowspan="4">Yes</td><td rowspan="4">Yes</td></tr>
<tr><td>Bill raised on 05-07-2021</td><td>Bill recorded in books of accounts on 06-07-2021</td></tr>
<tr><td>Receipt on 08-08-2021
without TDS</td><td>Payment made on 07-08-2021
without TDS</td></tr>
<tr><td colspan="2">**Note** As per Section 194Q, TDS is payable at the time of credit of sum (bill recorded on 06-07-2021)
As per Section 206C(1H), TCS to be done at the time of receipt of payment (receipt on 08-08-2021)
On date of receipt, TDS was not deducted by buyer under any provision so seller is required to pay TCS.</td></tr>
</table>

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[with effect from 1st July 2021]

3.1 Situations where Seller and Buyer, both having more than 10 crore sales turnover and transaction value and receipt value more than 50 lakh (continued)

Sr No	Nature of Transactions		Liability for	
	As per Seller	**As per Buyer**	**TDS u/s 194Q**	**TCS u/s 206C(1H)**
3)	Sale of goods on 05-07-2021	Purchase of goods on 05-07-21	**Yes**	**Yes**
	Bill raised on 05-07-2021 adding TCS @0.10%	Bill recorded with TCS in books on 06-07-2021		
	Receipt on 08-08-2021 **along with TCS**	Payment made on 07-08-2021 **with TCS without TDS**		
	Note As per Section 194Q, TDS is payable at the time of credit of sum (bill recorded on 06-07-2021) TCS was collected u/s 206C(1H) and thus exemption from TDS will not be available.			
	As per Section 206C(1H), TCS to be done at the time of receipt of payment (receipt on 08-08-2021) On the date of receipt, TDS was not deducted by buyer under any provision, so seller is required to collect TCS and also pay to Government.			

4 Clarifications

A) **Calculation of Limits** - The turnover limit or transaction limit are prescribed in respect of the previous year or financial year and thus the calculation of such limits should be done from 1st day of April of corresponding year even though the applicability of provision is from middle of the year.

i) Under Section 194Q, since the threshold of Rs.50 lakh is with respect to the previous year, calculation of aggregate value for purchase of any goods shall be computed from 1st April, 2021. Hence, if a person being buyer has already effected purchases of Rs.50 lakh rupees or more up to 30th June 2021 from a seller, the TDS under section 194Q shall apply on all purchases or advances payment on or after 1st July 2021 from such seller.

ii) Similarly, under Section 206C(1H), since the threshold of Rs.50 lakh is with respect to the previous year, calculation of aggregate value of receipt of sale consideration shall be computed from 1st April, 2020. Hence, if a person being seller has already received Rs.50 lakh or more up to 30th September 2020 from a buyer, the TCS under section 206C(1H) shall apply on all receipt of sale consideration on or after 1st October 2020, from such buyer.

B) **Effective Date -**

i) As section 206C(1H) was effective from 1st October 2020, provision of this sub-section shall not apply on receipts before 1st October 2020, but would apply on all sale consideration including advance received for sale received on or after 1st October 2020 even if the sale was carried out before 1st October 2020.

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[with effect from 1st July 2021]

4 Clarifications (continued)

B) ii) As section 194Q is effective from 1st July 2021, provision of this section shall not apply on any purchases effected or advance paid before 1st July 2021.

C) **Inclusion of Taxes e.g. GST for Deduction / Collection**

i) Department vide its Circular No.17 of 2020 dated 29-09-2020, 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 section 206C(1H) since the collection is made with reference to receipt of amount of sale consideration. Accordingly Taxes such as GST will be included for calculation of amount on which TCS to be collected.

ii) However, considering the earlier clarification from CBDT vide Circular No.23/2017 dated 19-07-2017, GST component comprised in the amount payable indicated separately shall not be considered for TDS . A Clarification from the Department is expected in this regard.

D) **Applicability on Export or Imports of Goods**

i) Provisions of section 206C(1H) shall not be applicable in relation to amounts received for goods being exported out of India as specifically mentioned in main provision of section 206C(1H).

ii) Similarly, provision of section 194Q will not be applicable to imports of goods for which buyer is responsible to make payment to any person other than resident.

5 Changes in TDS and TCS Returns

A) Statements of tax deducted should contain particulars of amount paid or credited on which tax was not deducted in view of sub-section (5) of section 194Q.
Write "S" if no deduction is in view of the provisions of section 194Q(5).

B) Statements of tax collected should contain particulars of amount received or debited on which tax was not collected from the buyer in view of second proviso or clause (a) of the Explanation to section 206C(1H).
Write "G" if no collection is on account of the second proviso to section 206C(1H).
Write "H" if no collection is on account of clause (a) of Explanation to section 206C(1H).

Thank You