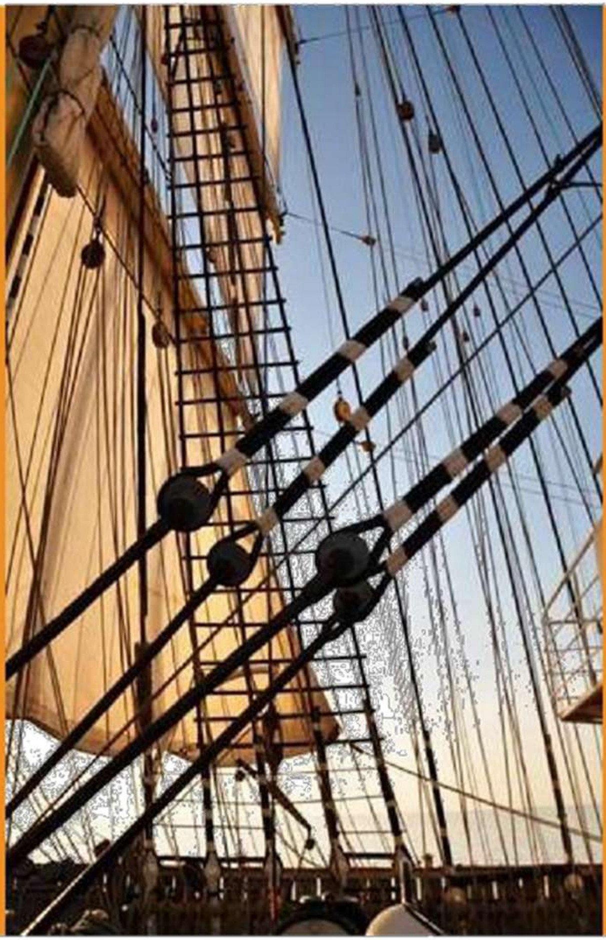
TAXCONNECT

TCS on Collection u/s 206C(1H) with GST E-Invoice

Implementation from 1st October 2020



By -

Team Tax Connect

E-Mail - info@taxconnect.co.in
Call - +91 80177 41711
Website: www.taxconnect.co.in
https://twitter.com/cavivekjalan
https://in.linkedin.com/in/cavivekjalan
www.facebook.com/cavivekjalan

[MUMBAI BANGALORE KOLKATA DELHI]

Provisions u/s 206C(1H) of Income Tax Act

TAXCONNECT

206C (1H) - A seller, who **receives** any amount as consideration for sale of goods of aggregate value exceeding **Rs.50 Lakhs in any previous year**, other than **exported goods or** payment for scrap, etc [206C(1)]; motor vehicles [(206C(1F)]or to AD Banks [(206C(1G)] shall, **at the time of receipt of such amount**, collect from the buyer, a sum equal to **0.1% (0.075% for 2020-21)** of the sale consideration exceeding Rs.50 Lakhs:

Provisions u/s 206C(1H) of Income Tax Act

TAXCONNECT

This is applicable only to those businesses whose LY turnover is more than Rs.10 Crs.

If the buyer has not provided PAN or Aadhaar, then the TCS rate shall be 1%

Buyers for which this provision is not applicable-

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

(B)a local authority

(C)a person importing goods into India

(D) Who have deducted TDS under any other provisions

Effect

1) You need to collect TCS from Customers and they will get the Credit in Form 26AS

2) Suppliers will collect TCS from you and you will get the Credit in Form 26AS

3) Advance Income Tax Computation will change for FY 2020-21.

4) Billing may change. ERP change is required

5) TCS returns will be very elaborate henceforth

Safeguards & Issues

1) No TCS need to be collected at the time of invoicing. Rather the business need to wait for the time of receipt of consideration which may come after a time lag. This is surely going to make the whole accounting and controlling process difficult as business may have to raise separate debit note / invoice for TCS at the time of receipt of payment.

A liberal view of collecting TCS at the time of generation of invoices itself can be taken (unless the amount has been received in advance) as it will make the system of accounting simple and cash outflow on account of TCS would be only 0.10% of invoice value which would not be that substantial amount. However it is expected that Govt may come with a notification providing more practical solution for the same.

Safeguards & Issues

2) The proposed provisions provides that TCS @ 0.1%/0.075% need to be collected on receipt of consideration and such consideration would be inclusive of GST/ other indirect taxes. **So on pure reading of this section it appears that TCS need to be collected on the amount inclusive of indirect taxes which is otherwise not applicable on TCS on other product (such as scrap in which TCS is collected on base value before indirect taxes).**

Even if the intention of law is to collect TCS on base value before tax then even it will be very difficult to bifurcate the total consideration received into base amount and indirect tax amount.

Under GST corrigendum to Circular 76/50/2018 dated 7th March 2019 has clarified that for the purpose of determination of value of supply under GST, **Tax collected at source (TCS) under the provisions of the Income Tax Act, 1961 would not be includible** as it is an interim levy not having the character of tax.

Safeguards & Issues

TAXCONNECT

As per FAQ on TCS - every person being a seller shall, at the time of debiting of the amount payable by the buyer to the account of the buyer or at the time of receipt of such amount from the said buyer in cash or by the issue of a cheque or draft or by any other mode, whichever is earlier, collect from the buyer. Hence, amount debited to the account of buyer or payment shall be received by seller inclusive of VAT/ excise/GST. TCS to be collected on inclusive of GST. *The said view was also affirmed by Madhya Pradesh HC in case of **Vinod Rathore (278 ITR 122)***

Safeguards & Issues

3) Multi State organizations do Stock Transfers against tax invoices. In these cases accounts are settled between them on periodic basis and net payable / receivables are settled between them.

Though the two units may have different TANs, considering that the PAN of both the units remains same, a view may be taken that no TCS shall be collected for such inter-unit transfers. However a clarification on this will help further

Safeguards & Issues

4) Since TCS need to be paid on the amount of consideration received (rather than at the time of billing), so it may be difficult to **collect the amount of TCS from customers** as they may insist for some invoice or proof of payment of TCS which may be difficult to substantiate on the part of vendor at times.

5) There is always a time lag in receipt of payment from customers and date of billing. Since the TCS provisions are applicable on consideration received w.e.f 01.10.2020, hence **whether the amount received on account of billing done during FY 2019-20 will be liable to TCS.**

Safeguards

6) Categorisation of buyers into CG (Central Govt), SG (State Govt), local authority, embassy etc would become mandatory as in this cases TCS is not applicable on sale of goods. **It may be noted that exemption from TCS is not applicable for PSUs customers.**

7) For those companies whose profitability and consequently tax liability is low, like dealership companies, this TCS would be required be taken as a refund.

THANK YOU

TAXCONNECT

Team Tax Connect

E-mail-
info@taxconnect.co.in

URL: www.taxconnect.co.in
https://twitter.com/cavivekjalan
https://in.linkedin.com/in/cavivekjalan
www.facebook.com/cavivekjalan

Call:
+91 80177 41711

[MUMBAI BANGALORE KOLKATA DELHI]