



**Analysis of TDS on Purchase of Goods
Vs. TCS On sale of Goods
& Applicability of Higher Rate of TDS/ TCS
for Non-Fillers of ITR**

Article No : JS04/2021 dated 24.06.2021



Analysis of TDS on Purchase of Goods Vs. TCS On Sale of Goods

Analysis of Sec. 194 Q [TDS on Purchase of Goods]

Vs.

Sec. 206C(1H) (TCS on sale of Goods)

| Particulars | Section 194Q | Section 206C (1H) |
|--|--|--|
| Applicable W.E.F. | 1 st July 2021 | 01 st October 2020 |
| Applicable to | Buyer of the goods | Seller of the goods |
| Applicable to whom | A Buyer whose turnover > Rs. 10 Crores during the previous year in which the purchase of goods is carried out is | A Seller whose turnover > Rs. 10 Crores during the previous year in which the Sell of goods is carried out is |
| Not Applicable to Whom | Yet to be notify by central Govt. | Seller who: <ol style="list-style-type: none"> Exports the goods Sell goods to Central Govt., State Govt. and Local authority Sell goods to an embassy, high commission, consulate and Trade representation of foreign state |
| Counter party to the transaction must be | Resident Seller | Resident buyer |
| Applicable Tax | TDS to be deducted | TCS is to be collected |
| TDS/ TCS Applicable only if | Total aggregate Purchase from a single party in a year is > Rs. 50 Lacs [Total Purchases made starting from 01.04.2021, is to be considered for this Rs. 50 lacs limit] | Total aggregate Consideration received against sale of goods in a year is > Rs. 50 lacs |
| Rate of Tax | 0.1% | 0.1% |
| Rate of Tax (If PAN is not available) | 5% | 1% |

Analysis of TDS on Purchase of Goods Vs. TCS On Sale of Goods

| Particulars | Section 194Q | Section 206C (1H) |
|---|---|--|
| TDS/ TCS to be deducted / collected on the GST Amount | TDS to be deducted on | Yes/No |
| | Basic value of goods purchased | Yes |
| | GST charged in the invoice | No |
| | # Refer Authors Remarks No – 1 below | |
| Non applicability of section | When on any Transaction: | |
| | 1 | TDS is applicable in any other provision of Income tax Act |
| | 2 | TCS is collectible except 206 (1H) (i.e. TCS on sale of goods) |
| | Meaning thereby: When TDS has been deducted u/s 194Q by the buyer of the goods, then TCS U/s. 206C(1H) is NOT required to be collected by the seller of the goods for the same transaction. | |
| Effect of Non-Compliance | U/s. 40a(ia), 30 % of the total purchase exp on which TDS is not deducted, shall be disallowed to buyer of the goods | Interest and Late fee shall be applicable on the defaulting seller of the goods. |
| Time of Tax Deduction/collection | Payment or credit whichever is earlier | At the time of receipt |
| Tax Deposit due date | For April to Feb: 7 th day of next month For March: 30 th April | |
| Form to be filed | 26Q | 27EQ |
| Certificate to be issued to seller/buyer | Form 16A | Form 27D |

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Example for Applicability of Section 194 Q and 206C (1H)

| Sr. No. | Buyer's T/O in FY 20-21 | Seller's T/O in FY 20-21 | Transaction Value | Person obliged to deduct or collect Tax | Applicability of Section | TDS/ TCS to be deducted/ collected on |
|---------|-------------------------|--------------------------|-------------------|---|--------------------------|---------------------------------------|
| 1. | 51 Crores | 62 Crores | 80 Lakhs | Buyer will deduct TDS | 194 Q | 30 lacs |
| 2 | 51 Crores | 62 Crores | 40 Lakhs | -----NA---- | | |
| 3. | 8 Crores | 58 Crores | 63 Lakhs | Seller will collect TCS | 206C(1H) | 13 lacs |
| 4. | 58 Crores | 8 Crores | 63 Lakhs | Buyer will deduct TDS | 194Q | 13 lacs |
| 5. | 7 Crores | 9 Crores | 70 Lakhs | ----NA---- | | |
| 6. | Buyer Outside India | 60 Crores | 100 Lakhs | ----NA---- | | |
| 7. | 60 Cr. | Seller Outside India | 100 lakhs | ----NA---- | | |

Author's Remarks:

| Sr No | Particulars |
|-------|--|
| 1 | <ul style="list-style-type: none"> At Present it is not clarified by the department that, whether TDS is to be deducted on GST portion or not. But CBDT has issued circular No 23/2017 dated 19.07.2017, where it has been explicitly clarified that TDS is not required to be deducted on "GST on Service" Component. As TDS on the Goods is introduced for the first time in the history of income tax now, we believe that govt shall soon clarify and add that TDS is not required to be deducted on "GST on Goods Component also". |
| 2 | Lower deduction certificate will not be applicable for section 194Q, as because CBDT has not been amended section 197 in Finance Act 2021. |

Analysis of TDS on Purchase of Goods Vs. TCS On Sale of Goods

| Sr No | Particulars |
|-------|---|
| 3 | <ul style="list-style-type: none"><li data-bbox="285 281 1455 415">• In case of applicability of both TDS and TCS, primary responsibility to deduct TDS would be of buyer as per 5th clause of the section 194Q but it is not clarified yet, If buyer fails to deduct Tax then whether seller will be responsible or not.<li data-bbox="285 436 1455 531">• But it is advisable that if buyer gets failed to deduct TDS then seller will have to collect TCS, if the eligibility criteria are getting fulfilled by the Seller. |
| 4 | For the Seller, it is advisable to ask for declaration from buyer of the goods, whether are they going to deduct TDS u/s. 194 Q or not. Draft Format for such declaration is given here below as Annexure -1 |

[Draft of Declaration Format which can be obtained by the seller from the buyer so as to avoid TCS U/s 20C (1H)]

Declaration

To,

Date:

(Name of the Seller)

Subject : Declaration with respect to TDS compliance under Section 194Q of the Income-tax Act, 1961

Previous Year (PY) :2021-22

Assessment Year (AY) :2022-23

Permanent Account Number (PAN) : _____

Declaration for purposes of section 194Q of the Income-tax Act, 1961

Sales/Gross receipts/Turnover:

This is to declare that my/our sales/gross receipts/turnover for the financial Year 2020-21 exceeds the threshold of INR 10 crores as per section 194Q of Income Tax Act, 1961.

Yes

No

If yes, compliance to Section 194Q

I/We declare that with effect from 1st July 2021, I/we shall be deducting TDS at the rate of 0.1% on all purchases of goods as per the provisions of section 194Q of Income-tax Act 1961. We shall be sharing TDS deduction certificates to you as provisions of Income Tax Act and you are requested not to collect TCS on sale of goods as per section 206C (1H) of Income Tax act 1961.

In case, there is a failure in deducting/depositing taxes under section 194Q of the Income-tax Act, 1961, you may collect TCS from me/us along with applicable interest(s)/penalty(ies).

Thanking you,

Yours faithfully,

< Full Name of Buyer of goods & seal >

Applicability of Higher Rate of TDS/ TCS for Non-Fillers of ITR

| Analysis of Higher TDS Rate for TDS / TCS [Sec. 206AB and Sec. 206CCA] | | | | | | | | | | | | | | | | |
|---|---|--|--|------|-------------------------------------|-------|---|--|---|--|--------------------------|--------|---|------|---|---|
| Particulars | Section 206AB | Section 206CCA | | | | | | | | | | | | | | |
| Applicable for | All the provisions under which TDS is required to be deducted | All the provision under which TCS is required to be collected | | | | | | | | | | | | | | |
| Not Applicable for | <table border="1"> <thead> <tr> <th>Section</th> <th>Nature of transaction</th> </tr> </thead> <tbody> <tr> <td>192</td> <td>Salary</td> </tr> <tr> <td>192A</td> <td>Payment of accumulated balance due to an employee</td> </tr> <tr> <td>194B</td> <td>Winnings from lottery or crossword puzzle</td> </tr> <tr> <td>194BB</td> <td>Winnings from horse race</td> </tr> <tr> <td>194LBC</td> <td>Income in respect of investment in securitization trust</td> </tr> <tr> <td>194N</td> <td>Payment of certain amounts in cash by banks</td> </tr> </tbody> </table> | Section | Nature of transaction | 192 | Salary | 192A | Payment of accumulated balance due to an employee | 194B | Winnings from lottery or crossword puzzle | 194BB | Winnings from horse race | 194LBC | Income in respect of investment in securitization trust | 194N | Payment of certain amounts in cash by banks | No exclusion list given, thus applicable on all TCS provisions. |
| | Section | Nature of transaction | | | | | | | | | | | | | | |
| | 192 | Salary | | | | | | | | | | | | | | |
| | 192A | Payment of accumulated balance due to an employee | | | | | | | | | | | | | | |
| | 194B | Winnings from lottery or crossword puzzle | | | | | | | | | | | | | | |
| | 194BB | Winnings from horse race | | | | | | | | | | | | | | |
| | 194LBC | Income in respect of investment in securitization trust | | | | | | | | | | | | | | |
| 194N | Payment of certain amounts in cash by banks | | | | | | | | | | | | | | | |
| Applicable for | Specified person only | Specified person only | | | | | | | | | | | | | | |
| Specified person means | <p>A person:</p> <ul style="list-style-type: none"> • who has not filed the returns of income for both of the two A.Y. relevant to the two previous years • immediately prior to the P.Y. in which tax is required to be deducted or collected • for which the time limit of filing return of income has expired; AND <p>Aggregate of TDS and TCS for that person is Rs. 50,000 or more in EACH of these two previous years</p> <p>Does not include:</p> <p>a non-resident who does not have a permanent establishment in India</p> | | | | | | | | | | | | | | | |
| Rate of Tax to be deducted or collected | Higher of: | | | | | | | | | | | | | | | |
| | <table border="1"> <tbody> <tr> <td>(i)</td> <td>at twice the rate specified in the relevant provision of the Act</td> </tr> <tr> <td>(ii)</td> <td>at twice the rate or rates in force</td> </tr> <tr> <td>(iii)</td> <td>5 %</td> </tr> </tbody> </table> | (i) | at twice the rate specified in the relevant provision of the Act | (ii) | at twice the rate or rates in force | (iii) | 5 % | <table border="1"> <tbody> <tr> <td>(i)</td> <td>at twice the rate specified in the relevant provision of the Act</td> </tr> <tr> <td>(ii)</td> <td>5 %</td> </tr> </tbody> </table> | (i) | at twice the rate specified in the relevant provision of the Act | (ii) | 5 % | | | | |
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| | | | | | | | | | | | | | | | | |

Applicability of Higher Rate of TDS/ TCS for Non-Fillers of ITR

Analysis of Higher TDS Rate for TDS / TCS [Sec. 206AB and Sec. 206CCA]

| Particulars | Section 206AB | Section 206CCA |
|---|---|----------------|
| How to determine whether a person is a specified person or not: | <p>CBDT has issued a circular No 11 of 2021 dated 21.06.2021 for the same, which says :</p> <ol style="list-style-type: none"> 1 A New Feature called “Compliance Check for Sec 206AB & 206CCA” will be enabled on the IT Website soon. 2 IT Department has already compiled the list of persons for whom higher TDS/TCS Rate required (known as specified persons). It shall be prepared fresh every year by income tax department. 3 Deductor/ collector needs to check if the Vendor has complied by feeding the PAN Number of deductee / collectee (Bulk PAN Search facility also available) 4 If Vendor is not part of specified persons, than no need to do Higher TDS rate. This is to be checked only once in a year by the deductor / collector 5 Where a Vendor has been part of specified persons, the Deductor/ collector is to check before each transaction as the Vendor can move out of the specified persons list only after making pending compliance with department. | |

Authors Remarks:

- Thus there is no need to ask for the declaration related to filing of income tax returns for last 2 years from the vendors.
- As this verification is required to be done from income tax website only, once the utility is started by the department.



THANK YOU

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