

Recent changes in TDS and TCS provisions under income tax law

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TAX UPDATE



**Practical aspects of
Recent changes in
TDS and TCS
provisions under
income tax law**

Scope of discussion

- Section 194M,194N,194O,194P,194Q, 206AB, 206C(1H), 206CCA
- Circular no 11/2021 dated 21-06-2021
- Circular no . 17/2020 Dated 29-9-2020 on 206C(1H)
- Circular no 13/2021 dated 30-06-2021
- Circular no 12/2021 dated 25-06-2021 extending various due dates.

CONTENTS

- ❑ Changes by Finance Act 2021 in the TDS and TCS provisions
- ❑ Important changes by Finance Act 2020 in the TDS and TCS provisions
- ❑ Implications of changes and Issues.
- ❑ Preparation for smooth transition with regard to new changes applicability from 01-07-2021.
- ❑ Extension of various due date under income tax related to TDS and TCS.
- ❑ FAQ

Legal provisions of new changes by Finance Act 2021

Special provision for TDS at higher rate for deductee being non-filers of ITR in last two AYs.

[Section 206AB]

Non applicability of new section:

Tax deducted under following sections shall not be covered under high tax rate of deduction under newly inserted section 206AB:

SECTIONS	Cases of non applicability
192	TDS on salary or pension income at the average rate of income-tax applicable for the AY,
192A	- Payment of accumulated balance due to an employee from Employees' Provident Fund where Tax to be deducted if payment exceed ₹ 50,000/- @ 10% or maximum marginal rate if PAN not provided,
194B	Winnings from lottery or crossword puzzle –TDS @ rate in force . i.e rate as per section 115BB @ 30%,
194BB	Winnings from horse race, TDS @ rate in force . i.e rate as per section 115BB @ 30%,
194LBC	Income in respect of investment in securitization trust; or
194N	Cash withdrawal from a bank/post office/ co-operative bank exceeding ₹ 1 crore TDS @ 2%.

Applicability date of new section 206AB for higher TDS rate for default in filing of ITR : 01-07-2021

Conditions for applicability of this section :

1. where tax is required to be deducted at source under the provisions of Chapter XVIIIB except TDS under few sections like 192, 192A, 194B, 194BB, 194LBC or 194N as listed above.
2. **Payment to specified person** : “ **specified person**” means: a **person** who has not filed the returns of income (ITR) for **both** of the two assessment years (AYs.) relevant to the two previous years immediately prior to the previous year in which tax is required to be deducted, for which the time limit of filing return of income under section 139(1) has expired; i.e default in filing of ITR in both the Ays for higher rate of TDS and
3. aggregate of tax deducted at source **and** tax collected at source in his case is ₹ 50000/- or more in **each** of these two previous years.

PERSON: Such person may be any one as per section 2(31) including — (i) an individual, (ii) a Hindu undivided family, (iii) a company, (iv) a firm, (v) an association of persons (AOP) or a body of individuals (BOI), whether incorporated or not, (vi) a local authority, and (vii) every artificial juridical person,

Such person shall not include a non- resident who does not have a permanent establishment (PE) in India. So non-resident not having a PE in India excluded from this section but covered under section 195.

Meaning of PE in India: “permanent establishment” includes a fixed place of business through which the business of the enterprise is wholly or partly carried on.’

When status of ITR ?

Status of ITR as per due date under section 139(1) to be considered and not the belated ITR , because ITR could be filed even after due date (called belated ITR) under section 139(4) upto 31st March of the AY .i. e 31st march of the next FY, not only that ITR could be filed in pursuance of notice u/s 142(1) or even notice under section 148 but all these ITR shall not be applicable for deduction of tax because reference in section is only of section 139(1). Means higher TDS rate if ITR not filed on or before due date u/s 139(1) even if ITR filed belated, but circular has granted relief and no higher tax if ITR filed so relaxation .

How to check limit of ₹ 50000/- TDS and TCS?

- This limit is aggregate for each AYs relevant to previous years in preceding two AYs . Example Suppose TDS during AY 19-20 ₹ 51000 in AY 2020-21 ₹ 34000/- and in AY 2021-22 is ₹52000/- higher TDS provision shall not be applicable.
- This limit to be checked in each of the two just preceding AYs. For example: TDS of Mr. X in AY 2021-22 is ₹ 45000/- and in AY 2020-21 ₹ 60000/- higher rate of TDS shall not be applicable.
- This limit is for a deductee and not per deductor. For example in AY 2020-21 TDS of Mr. X deducted by A ltd ₹ 30000/- and by Y ltd ₹ 25000/- then aggregate is exceeding ₹ 50000/- so provision of higher TDS shall be applicable if default in filing of ITR by due date.

Illustration of applicability /non applicability:

Cases	ITR status as per due date	Aggregate of TDS & TCS amount in preceding FYs.	Applicable/non applicable
Case-1 Payee is individual person resident in India	AY 2021-22 not filed AY 2020-21 filed	FY 20-21 -₹ 51000/- FY 19-20 ₹ 55000/-	For 2 QTR of AY 2022-23 – higher rate u/s 206AB not applicable because due date of filing ITR extended to 30 th September 2021 and one year ITR filed.
Case-2 Payee is individual person resident in India	AY 2021-22 not filed AY 2020-21 filed	FY 20-21 -₹ 49000/- FY 19-20 ₹ 55000/-	For 2/3/4 QTR of AY 2022-23 – higher rate u/s 206AB not applicable because amount of TDS &TCS in both the FY not exceeding the threshold limit ₹ 50000/- in each FY and ITR of one AY filed.
Case-3 Payee is individual person resident in India	AY 2021-22 not filed till 31-12-2021 (suppose due date expired on 30-09-2021) AY 2020-21 filed	FY 20-21 -₹ 52000/- FY 19-20 ₹ 55000/-	For 4 QTR of AY 2022-23 – higher rate u/s 206AB not applicable although amount of TDS &TCS in both the FY exceeding the threshold limit ₹ 50000/- in each FY and ITR of one AY 2020-21 filed .
Case-4 Payee is a proprietor firm subject to tax audit resident in India	AY 2021-22 filed in August 2021 AY 2020-21 not filed	FY 19-20 -₹ 51000/- FY 19-20 ₹ 55000/-	For 2 QTR of AY 2022-23 – higher rate u/s 206AB not applicable because ITR filed before extended due date u/s 139(1) for AY 2021-22 but not filed for AY 2020-21.
Case-5 Payee is a company not subject to tax audit non-resident in India and not having PE in India.	AY 2020-21 not filed AY 2019-20 not filed	FY 19-20 -₹ 51000/- FY 19-20 ₹ 55000/-	For 4 QTR of AY 2022-23 – higher rate u/s 206AB not applicable as expressly excluded and will be covered in section 195.

Cause of concern is high TDS rate as under:

cases		Rate of applicable TDS
Case-1	ITR not filed for last 2 AYs but payee has furnished PAN (section 206AA is not applicable) and aggregate of TDS & TCS exceeds ₹ 50000/- in each FY.	<p>higher of the following rates, namely:—</p> <p>(i) at twice the rate specified in the relevant provision of the Act; or</p> <p>(ii) at twice the rate or rates in force; or</p> <p>(iii) at the rate of 5% .</p>
Case-2	ITR not filed for last 2 AYs and payee has not furnished PAN (section 206AA is applicable) and aggregate of TDS & TCS exceeds ₹ 50000/- in each FY.	<p>higher of the following</p> <p>(i) rates as per this section 206AB as calculated above</p> <p>(ii) section 206AA</p>

Rate as per section 206AA: higher rate of TDS applicable if payee has not furnished PAN to deductor or provided invalid PAN to deductor. Rate of TDS in such cases shall be higher of the following rates, namely:—

- (i) at the rate specified in the relevant provision of this Act; or
- (ii) at the rate or rates in force; or
- (iii) at the rate of 20% (in the case of deduction of tax under section 194-O rate is 5%):

Illustrations:

Cases	ITR status as per due date	Aggregate of TDS & TCS amount in preceding FYs.	Applicable/non applicable	Nature of payment and applicable section of TDS	Rate of TDS due to section 206AB
Case-1 Payee is individual person resident in India	AY 2021-22 not filed AY 2020-21 not filed	FY 20-21 -₹ 51000/- FY 19-20 ₹ 55000/-	For 2 QTR of AY 2022-23 – higher rate u/s 206AB not applicable because due date of filing ITR extended.	Contractor	PAN furnished-1 % PAN not furnished-20% .
Case-2 Payee is individual person resident in India	AY 2021-22 not filed AY 2020-21 filed	FY 20-21 -₹ 51000/- FY 19-20 ₹ 55000/-	For 3/4 QTR of AY 2022-23 – higher rate u/s 206AB not applicable although amount of TDS &TCS in both the FY exceeding the threshold limit ₹ 50000/- in each FY but default of ITR filing in only one AY.	Professional advocate	– PAN furnished-10% PAN not furnished-20% .
Case-3 Payee is individual person resident in India	AY 2021-22 not filed till 31-12-2021 (suppose due date expired on 30-09-2021) AY 2020-21 not filed	FY 20-21 -₹ 52000/- FY 19-20 ₹ 55000/-	For 4 QTR of AY 2022-23 – higher rate u/s 206AB applicable because amount of TDS &TCS in both the FY exceeding the threshold limit ₹ 50000/- in each FY and default in ITR for both the Ays and for AY 2021-22 before due date u/s 139(1) expired and ITR not filed till 31-12-2021 so higher rate.	Commission u/s 194H	PAN furnished-10 % PAN not furnished-20% .
Case-4 Payee is a proprietor firm subject to tax audit resident in India	AY 2021-22 filed in August 2021 AY 2020-21 not filed	FY 19-20 -₹ 51000/- FY 19-20 ₹ 55000/-	For 2 QTR of AY 2022-23 – higher rate u/s 206AB not applicable because ITR filed before extended due date u/s 139(1) for AY 2021-22.	Rent u/s 194-I of building	PAN furnished-10 % PAN not furnished-20%.
Case-5 Payee is a partnership firm not subject to tax audit resident in India.	AY 2020-21 not filed AY 2019-20 not filed	FY 19-20 -₹ 51000/- FY 19-20 ₹ 55000/-	For 4 QTR of AY 2022-23 – higher rate u/s 206AB applicable.	Rent u/s 194-I of plant and machinery @ 2%	PAN furnished-5 % PAN not furnished-20%.

Extract of section 206AB:

(1) Notwithstanding anything contained in any other provisions of this Act, where tax is required to be deducted at source under the provisions of Chapter XVIIIB, **other than sections** 192, 192A, 194B, 194BB, 194LBC or 194N on any sum or income or amount paid, or payable or credited, by a person (hereafter referred to as deductee) to a specified person, the tax shall be deducted at the higher of the following rates, namely:—

- (i) at twice the rate specified in the relevant provision of the Act; or
- (ii) at twice the rate or rates in force; or
- (iii) at the rate of 5%.

(2) If the provisions of section 206AA 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.

(3) For the purposes of this section **“specified person”** means a person who has not filed the returns of income for both of the two assessment years relevant to the two previous years immediately prior to the previous year in which tax is required to be deducted, for which the time limit of filing return of income under sub-section (1) of section 139 has expired; and the aggregate of tax deducted at source and tax collected at source in his case is ₹ 50000/- or more in each of these two previous years:

Provided that the **specified person shall not include a non- resident** who does not have a permanent establishment in India.

Explanation.—For the purposes of this sub-section, the expression “permanent establishment” includes a fixed place of business through which the business of the enterprise is wholly or partly carried on.’.

issue: Verification of filing of ITR for last two AYs.

To ease this compliance burden the Central Board of Direct Taxes is issuing a **new functionality "Compliance Check for Sections 206AB & 206CCA"**. This functionality is made available through reporting portal of the Income-tax Department. The tax deductor or the collector can feed the single PAN (PAN search) or multiple PANs (bulk search) of the deductee or collectee and can get a response from the functionality, if such deductee or collectee is a specified person. For PAN Search, response will be visible on the screen which can be downloaded in the PDF format. For Bulk Search, response would be in the form of downloadable file which can be kept for record.

The logic of the new functionality "**Compliance Check for Sections 206AB & 206CCA**" is as under: **para 3**

- A list of specified persons is prepared as on the start of the financial year 2021-22, taking previous years 2018-19 and 2019-20 as the two relevant previous years. List contains name of taxpayers who did not file return of income for both assessment years 2019-20 and 2020-21 and have aggregate of TDS and TCS of ₹50000/- or more in each of these two previous years.
- During the financial year 2021-22, no new names are added in the list of specified persons. This is a taxpayer friendly measure to reduce the burden on tax deductor a collector of checking PANs of non-specified person more than once during the financial year.
- If any specified person files a **valid return of income (filed & verified)** for assessment year 2019-20 or 2020-21 during the financial year 2021-22, his name would be removed from the list of specified persons. This would be done on the date of filing of the valid return of income during the financial year 2021-22.
- If any specified person files a valid return of income (filed & verified) for assessment year 2021-22, his name would be removed from the list of specified persons. This will be done on the due date of filing of return of income for A. Y. 2021-22 or the **date of actual filing of valid return**(filed & verified) whichever is later.
- If the aggregate of TDS and TCS, in the case of a specified person, in the previous year 2020-21, is less than ₹50000/-, his name would be removed from the list of specified persons. This would be done on the first due date under sub-section (1) of section 139 of the Act falling in the financial year 2021-22. For the financial year 2021-22 this due date of 31st July 2021 has been extended to 30th Sept 2021 for non audit cases.
- Belated and revised TCS & TDS returns of the relevant financial years filed during the financial year 2021-22 would also be considered for removing persons from the list of specified persons on a regular basis.

How functionality will work what to do in every quarter for deduction or collection of tax?

The deductor or the collector may check the PAN in the functionality at the beginning of the financial year and then he is not required to check the PAN of non-specified person during that financial year. To illustrate, let us assume that a deductor has 10,000 vendors that he deals with. He can use the functionality in the bulk search mode and can get the result of all these 10,000 PANs at one go. Let us assume that the functionality has shown that out of these 10,000 PANs, 5 PANs are **specified persons** for the purposes of sections 206AB and 206CCA of the Act. Now with respect of the remaining 9,995 PAN, it is clear that they are not in the list of specified persons for that financial year. Since no new name would be added in the list of specified persons during the financial year, the deductor or collector can be assured that these 9,995 PANs would remain outside the list of specified persons during that financial year. Thus, deductor or collector need not check again with respect to these 9,995 PANs during that financial year.

There are chances that the 5 PANs which are of specified persons may move out of the list during the financial year and for that there will be need to recheck at the time of making tax deduction or tax collection.

Fresh list of specified person every year: The list would be drawn afresh at the start of each financial year and the above process would have to be repeated. For example, at the beginning of the financial year 2022- 23 a fresh list would be prepared with previous years 2019-20 and 2020-21 as the two relevant previous years. Then, no name would be added to the list of specified persons during the financial year and only name would be removed based on the logic given in the para 3rd to 6th bullets of paragraph 3 above.

**Tax deduction on pension and interest
to payee being resident senior citizen
having age 75 years or more- 194P**

Applicability: New section 194P inserted by finance act 2021 **W.E.F 01-04-2021. AY 2022-23**

Nature of payment: pension and interest.

Deductor: "specified bank" as the Central Government may, by notification in Official Gazette, specify;

Eligible payee: person receiving payment must be "**specified senior citizen**" being resident senior citizen having age 75 years or more-having pension income and interest income in the same bank only and except that no other income.

Threshold limit: basic exemption limit for individual as per relevant finance act read with rebate u/s 87A from tax.

Amount of TDS: firstly compute gross total income including pension income and interest income and from that allow deduction available chapter VIA. Apply tax rate as per relevant Finance Act and from the tax so calculates allow rebate from tax allowed under section 87A, and final amount shall be amount of TDS to be deducted by the banks.

Declaration: Need to file declaration to the specified bank that he has no income except pension and interest received from the specified bank.

No need to file ITR: once tax deducted under section 194P on pension and interest income no need to file ITR.

EXTRACT OF SECTION 194P

Extract of section '194P. Deduction of tax in case of specified senior citizen.—

(1) Notwithstanding anything contained in the provisions of Chapter XVII-B, in case of a specified senior citizen, the specified bank shall, after giving effect to the deduction allowable under Chapter VI-A and rebate allowable under section 87A, compute the total income of such specified senior citizen for the relevant assessment year and deduct income-tax on such total income on the basis of the rates in force.

(2) The provisions of section 139 shall not apply to a specified senior citizen for the assessment year relevant to the previous year in which the tax has been deducted under sub-section (1).

Explanation.—For the purposes of this section,—

(a) "specified bank" means a banking company as the Central Government may, by notification in Official Gazette, specify;

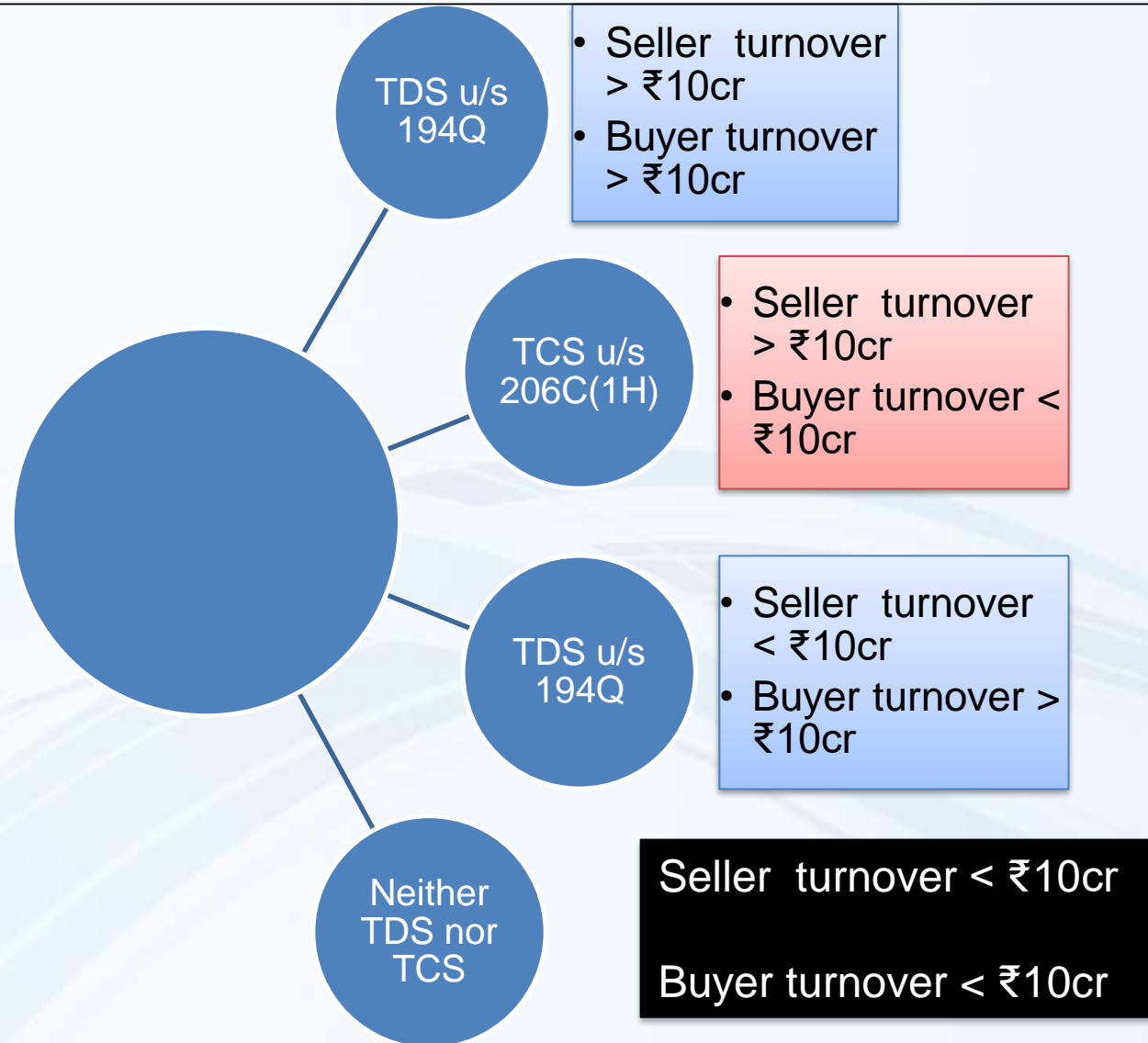
(b) "**specified senior citizen**" means an individual, being a resident in India—

(i) who is of the **age of 75 years or more** at any time during the previous year;

(ii) who is having income of the **nature of pension and no other income except the income of the nature of interest received or receivable from any account maintained by such individual in the same specified bank** in which he is receiving his pension income; and

(iii) has furnished a declaration to the specified bank containing such particulars, in such form and verified in such manner, as may be prescribed.'

Applicability of TDS and TCS provisions in different situations

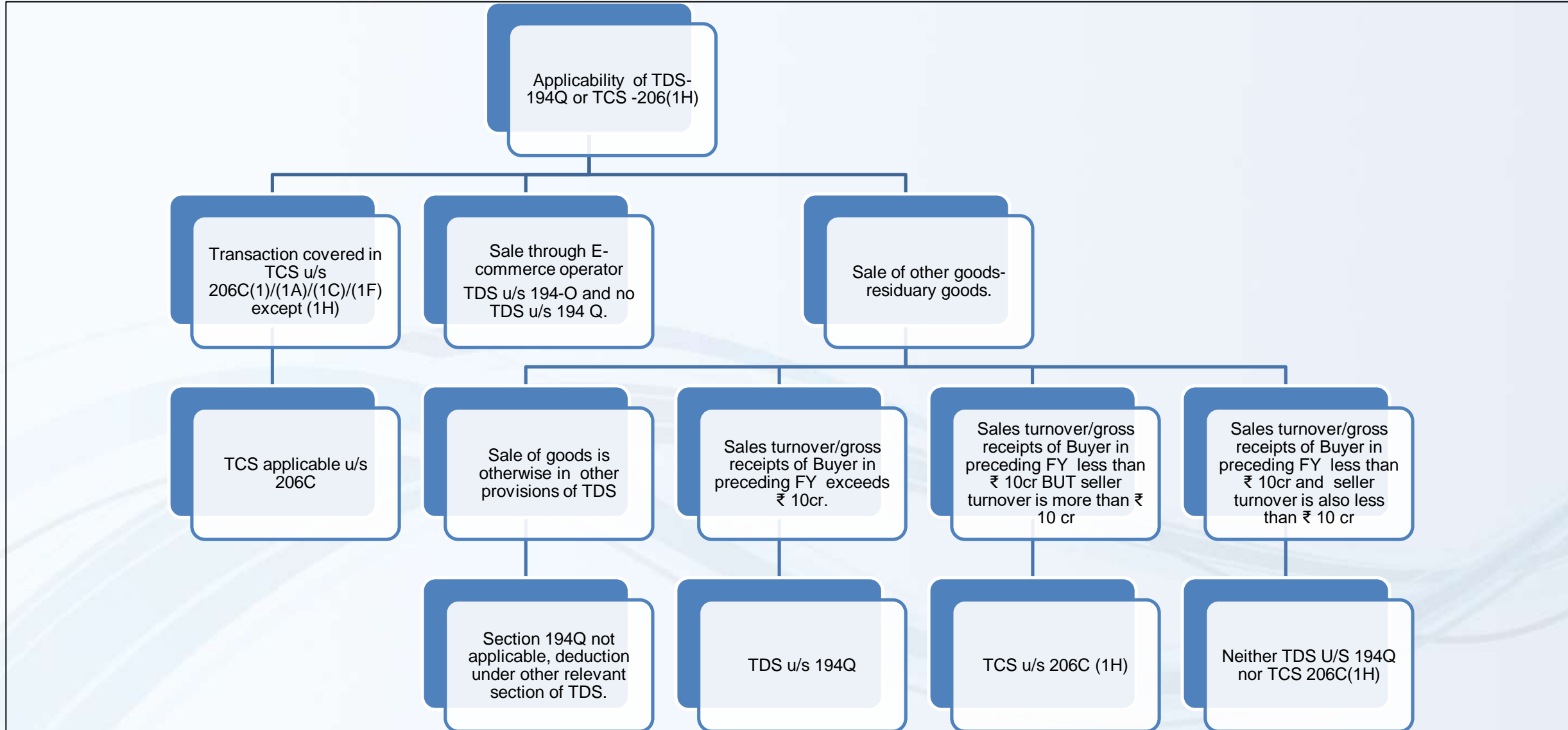


Turnover/sales/ gross receipts of business –both sale of goods as well as provision of service of preceding FY to be checked it must exceed ₹ 10 cr.

For section 194Q: Aggregate of purchases of the current FY to be checked and it must exceed ₹ 50 lakh.

For section 206C(1H) : consideration received for sale of goods in the current FY to be checked and it must exceed ₹ 50 lakh to a person **EXCLUDING** goods exported out of india or goods other wise covered in TCS provisions under other subsection of section 206C.

SUMMARY OF APPLICABILITY OF TDS AND TCS PROVISIONS



TCS under section 206C (1H)

TCS provisions u/s 206C (1H):

Inserted by Finance Act 2021 w. e.f. **1-10-2020** and continuing

Who will collect tax?

Seller being a person whose total sales, gross receipts or turnover from the business carried on by him exceed ₹ 10 crore during the financial year immediately preceding the FY in which tax to be collected). Here turnover sales, gross receipts of preceding FY to be considered . **For example:**

Case-1 suppose turnover during FY 19-20 of X Ltd is ₹ 8.50 crore but during FY 20-21 is ₹ 15 crore TCS provision of section 206C(1H) not applicable for FY 2020-21 because turnover of preceding FY is less than ₹ 10 crore.

Case-2 ₹ suppose turnover during FY 19-20 of X Ltd is ₹ 15 crore but during FY2020-21 is ₹ 8.50 crore TCS provision of section 206C(1H) applicable for FY 2020-21 because turnover of preceding FY is exceeding ₹ 10 crore

From whom tax shall be collected?

Every person, from whom amount of consideration for sale of any goods of the **value or aggregate of such value** exceeding ₹ 50 lakh in any previous year, **other than the goods** being exported out of India or goods covered in section 206C(1) or section 206C (1F) or section 206C (1G)

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.

Threshold limit for TCS : amount of consideration for sale of any goods of the **value or aggregate of such value** exceeding ₹ 50 lakh in any previous year, **EXCLUDING** export of goods or goods other wise covered in TCS provisions under other subsection of section 206C.

Meaning of consideration: not defined in income tax law but very well defined in CGST for valuing the supply and levy and collection of GST as under: as per section 2(31)consideration" in relation to the supply of goods or services or both includes—

- (a) any payment made or to be made, whether in money or otherwise, in respect of, in response to, or for the inducement of, the supply of goods or services or both, whether by the recipient or by any other person but shall not include any subsidy given by the Central Government or a State Government;
- (b) the monetary value of any act or forbearance, in respect of, in response to, or for the inducement of, the supply of goods or services or both, whether by the recipient or by any other person but shall not include any subsidy given by the Central Government or a State Government:

Provided that a deposit given in respect of the supply of goods or services or both shall not be considered as payment made for such supply unless the supplier applies such deposit as consideration for the said supply;

Meaning of value: Value not defined under income tax law but defined in section 15 of the CGST/SGST law for collection of GST. As per section 15. (1) The value of a supply of goods or services or both shall be the **transaction value**, which is the price actually paid or payable for the said supply of goods or services or both where the supplier and the recipient of the supply are not related and the **price is the sole consideration** for the supply.

(2) The value of supply **shall include**—

- (a) any taxes, duties, cesses, fees and charges levied under any law for the time being in force **other than this Act, the State Goods and Services Tax Act, the Union Territory Goods and Services Tax Act and the Goods and Services Tax (Compensation to States) Act**, if charged separately by the supplier;
- (b) any amount that the supplier is liable to pay in relation to such supply but which has been incurred by the recipient of the supply and not included in the price actually paid or payable for the goods or services or both;
- (c) incidental expenses, including commission and packing, charged by the supplier to the recipient of a supply and any amount charged for anything done by the supplier in respect of the supply of goods or services or both at the time of, or before delivery of goods or supply of services;
- (d) interest or late fee or penalty for delayed payment of any consideration for any supply; and
- (e) subsidies directly linked to the price excluding subsidies provided by the Central Government and the* State Governments.

Explanation.— For the purposes of this sub-section, the amount of **subsidy** shall be included in the value of supply of the supplier who receives the subsidy.

(3) The value of the supply **shall not include** any **discount** which is given—

- (a) before or at the time of the supply if such discount has been duly recorded in the invoice issued in respect of such supply; and
- (b) after the supply has been effected, if—
 - (i) such discount is established in terms of an agreement entered into at or before the time of such supply and specifically linked to relevant invoices; and
 - (ii) input tax credit as is attributable to the discount on the basis of document issued by the supplier has been reversed by the recipient of the supply.

(4) Where the value of the supply of goods or services or both cannot be determined under sub-section (1), the same shall be determined in such manner as may be prescribed. Ie as per valuation rules from 27 to 35.

Exclusion of sale of goods from section 206C (1H) applicability: certain goods are otherwise specifically covered in different subsections of section 206C so they will continue to cover under those subsections. Section 206C(1H) is a residuary provisions for goods otherwise not covered elsewhere.

Such exclusions are as under:

1. **Export of goods.**
2. **Goods covered u/s 206C(1)** - Alcoholic Liquor for human consumption, Tendu leaves, Timber obtained under a forest lease, Timber obtained by any mode other than under a forest lease, Any other forest produce not being timber or tendu leaves, Scrap, Minerals, being coal or lignite or iron ore.
3. **Goods covered u/s 206C(1F):** motor vehicle exceeding ₹10 lakh value
4. **Goods covered u/s 206C(1G):** *sale of foreign exchange or foreign security by authorised dealer exceeding ₹ 7 lakh*
5. **If TDS provision applicable in respect of any transaction where 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. In other words, If tax deductible but not deducted because turnover of purchaser is less than ₹ 10cr or due to any other reason TCS provision automatically got attracted.**

Q. Whether tax to be collected from buyer being a person whose income is exempt ?

A. As per para 4.5.2 of the circular no 13/2021 dated 30-06-2021 “Similarly, with respect to sub-section (1 H) of section 206C of the Act, it is clarified that the provisions of this sub-section shall not apply to sale of goods to a person, being a buyer, who as a person is exempt from income tax under the Act (like person exempt under section 10) or under any other Act passed by the Parliament (Like RBI Act, ADB Act etc.).”

Note: as per para 4.5.3 of the above referred circular , “The above clarifications would not apply if only part of the income of the person (being a seller or being a buyer, as the case may be) is exempt”.

S-194 Q Vs. 206C – which provision will override.

Conclusion: From combined reading of section 194Q read with section 206C it is clear that TDS provisions of section 194 Q shall not be applicable if sale of goods otherwise covered under section 206C except section 206C (1H). if tax deduction under any other section is applicable then this section 194Q shall not be applicable means this is residuary provision for deduction of tax on sale of goods. Sale of certain goods expressly excluded from section 206C (1H) applicability because covered under TCS and sale of residuary goods, if covered under TDS provisions then excluded from TCS provisions so if transaction of sale is covered in section 194Q which is applicable on sale of any goods otherwise not covered in TCS in any way , section 206(1H) shall not be applicable due to 2nd proviso to section 206C(1H). In other words if transaction of purchase is covered in TDS and tax deducted under TDS provisions under section 194Q then such transaction shall be excluded from TCS u/s 206C(1H) .

Q. Receipt of sale consideration before 01-10-2020 whether section 206C(1H) shall be applicable?

A. Since sub-section (1H) of section 206C of the Act applies on receipt of sale consideration, the provision of this sub-section shall not apply on any sale consideration received before 1st October 2020. Consequently it 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. Para 4.4.2 (ii).

Q. Receipts of sale consideration on or after 01-10-2020 for credit sale made before 01-10-2020, whether TCS provision u/s 206C(1H) applicable?

A. Since the threshold of ₹50 lakh is with respect to the previous year, calculation of receipt of sale consideration for triggering TCS under sub-section (1H) of section 206C shall be computed from 1st April, 2020. Hence, if a person being seller has already received ₹50 lakh or more up to 30th September 2020 from a buyer, the TCS under sub-section (1H) of section 206C shall apply on all receipt of sale consideration during the previous year, on or after 1st October 2020, from such buyer. Para 4.4.2 (iii).

Q. Amount received against credit sale of goods of ₹ 60 lakh before 01-07-2021 on which TCS applicable but amount received on or after 01-07-2021, Whether TCS shall be collected?

A. Yes , because section 206C(1H) is still in statue books and TCS to be collected at the time of receipts of amount of consideration . So on outstanding balance TCS shall be collected and on fresh sale on or after 01-07-2021 tax shall be deducted by the buyer, probably due to all these reasons 206C(1H) is still in statute book and still continuing.

Q. Sale of motor vehicle : first sale by car company to car dealer and second sale from car dealer to consumer, which transaction is covered in TDS and TCS?

A.

- (i) Receipt of sale consideration from a dealer to car manufacturer etc, would be subjected to TCS under sub-section (1H) of the Act, if such sales are not subjected to TCS under sub-section (1F) of section 206C of the Act.
- (ii) In case of sale by dealer to consumer, receipt of sale consideration for sale of motor vehicle of the value of ₹10 lakh or less to a buyer would be subjected to TCS under sub-section (1H) of section 206C of the Act, if the receipt of sale consideration for such vehicles during the previous year exceeds ₹ 50 lakh rupees during the previous year. This may happen if car dealer has sold so many car to company like tour operator etc, in such cases TCS to be collected.
- (iii) In case of sale to consumer, receipt of sale consideration for sale of motor vehicle of the value exceeding ₹ 10 lakh would not be subjected to TCS under sub-section (1H) of section 206C of the Act because such sales are subjected to TCS under sub-section (1F) of section 206C of the Act. Refer para **4.5.2**

Q Amount on which tax to be collected ? Whether GST or other tax to be excluded?

As per para 4.6.1 of the circular no 17 of 2020 dated 29-9-2020, 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 (1H) 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 (1H) of section 206C of the Act since the collection is made with reference to **receipt of amount of sale consideration.so TCS on gross amount including GST.**

Note: position is not the same while deducting tax under section 194Q or any other section of TDS provision. While deducting tax on sale of goods tax to be deducted on basic amount exclusive of GST and similarly in respect of supply of service also TDS on basic amount exclusive of GST .

Note: For service refer circular no 17 of 2020 dated 29th Sept 2020 and for TDS on purchase of **goods** refer circular no 13 dated 30-06-2021.

Note: TCS to be collected on the amount of consideration received so discount already been adjusted and only on net amount received TCS shall be applicable and that too on amount exceeding ₹50 lakh.

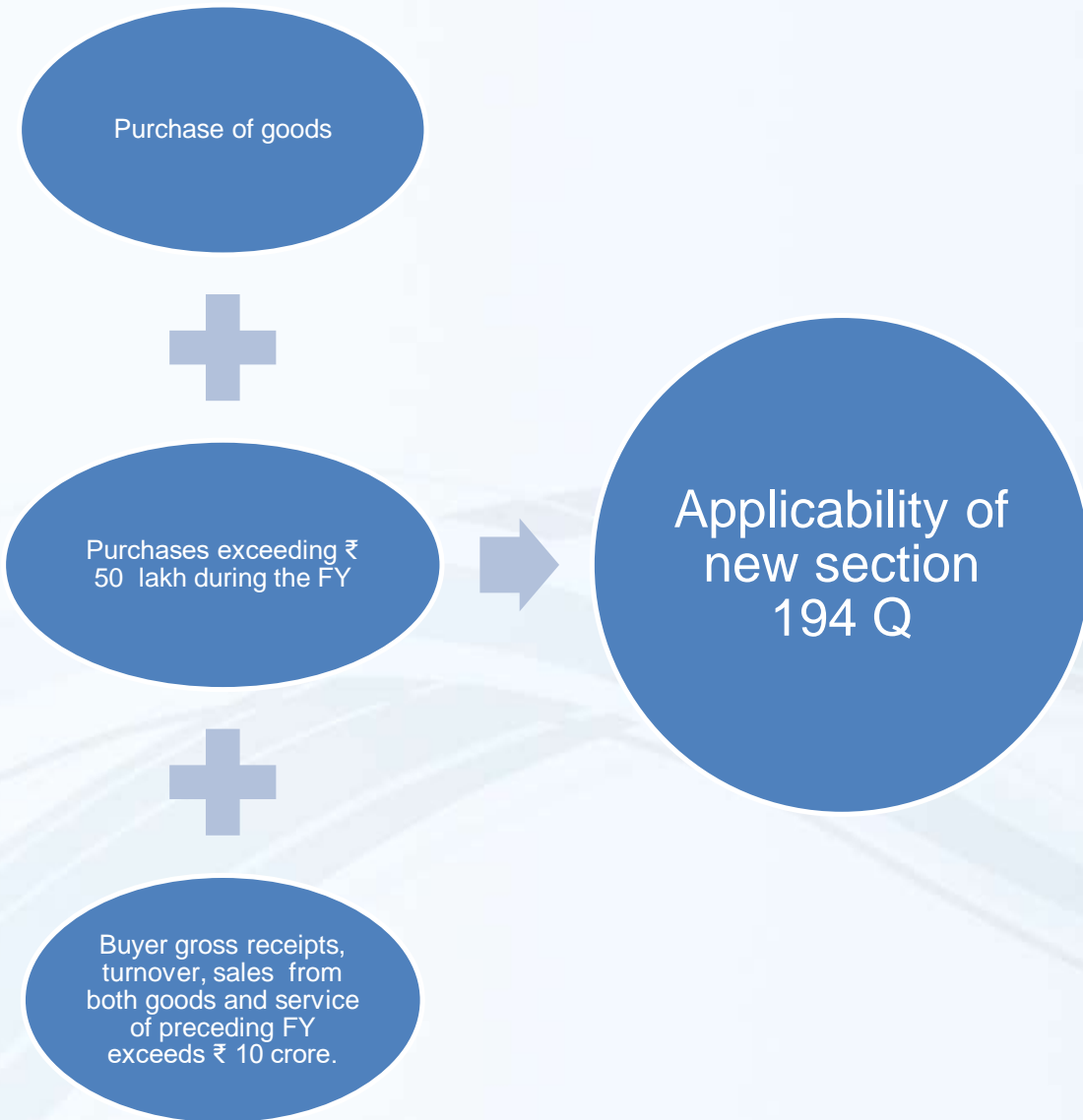
Note: in the case of sales return the consideration received against sale shall be net of sales return only. If goods sold for ₹ 1 crore and amount received is ₹ 90 lakh during the FY but entire goods returned, the amount received is just advance and not consideration against sale of goods so no need of TCS.

Q. whether provisions of section 206C(1H) of the Act shall apply on fuel supplied to non-resident airlines at airports in India.

A. As per Para 4.7.1 of the **circular no. 17 of 2020 dated 29-9-2020**, to remove difficulties it is provided that the provisions of sub-section (1H) of section 206C of the Act shall not apply on the sale consideration received for fuel supplied to non-resident airlines at airports in India.

Note: no exclusion to petroleum company so TCS applicable on sale of petroleum product to petrol pump owner.

**Tax deduction on purchase of goods
exceeding ₹ 50 lakh in a FY from a person.
[section 194Q]**



- ✓ Rate of TDS @ 0.1%
- ✓ Amount on which tax to be deducted: aggregate of purchases during FY- ₹ 50 Lakh.
- ✓ Turnover/sales/gross receipts of FY 2020-21 to be checked for FY 2021-22 and that too of goods and service both .
- ✓ Turnover/sales/gross receipts of buyer to be checked.
- ✓ aggregate of purchases of current year from a person to be checked exceeding ₹ 50 lakh

- **Date of applicability** : 01-07-2021
- TDS on purchase or purchases of goods during the FY by **specified buyer**.
- **Specified buyer** means a person whose total **sales, gross receipts or turnover from the business** carried on by him exceed **₹10 crore** during the **immediately preceding financial year**. So for deduction of tax during FY 2021-22, we have to check the turnover, gross receipts or sale of the buyer of FY 2020-21. However certain buyer are excluded from the obligation of tax deduction and deposit as Central Government may, by notification in the Official Gazette specify.
- **Threshold limit is ₹ 50lakh** : Purchase or **aggregate of purchases of goods** during the FY **exceeding ₹ 50 lakh**. We have to check aggregate of purchases during the current FY. As soon as aggregate of purchases cross the threshold limit during the FY TDS provisions become applicable. Suppose aggregate of purchases during last year FY 2020-21 was ₹ 1 crore but during FY 2021-22 till date purchases is less than ₹ 50 lakhs no need to deduct tax.
- **Seller must be a resident person**. So in the case of import we have to check residential status of the company from who we are importing goods. If Seller Company is resident in India, we have to deduct tax even on import of goods.
- Specified buyer of goods shall deduct TDS.

Q. Whether provisions of section 194Q of the Act shall apply to buyer in the year of incorporation?

A. As per para 4.7.1 of circular no 13/2021 dated 30-06-2021, It is clarified that under section 194Q of the Act a buyer is required to have total sales or gross receipts or turnover from the business carried on by him exceeding ₹10 crore during the financial year immediately preceding the financial year in which the purchase of good is carried out. Since this condition would not be satisfied in the year of incorporation, the provisions of section 194Q of the Act shall not apply in the year of incorporation.

Q. Whether provisions of section 194Q of the Act shall apply to a buyer who has turnover or gross receipt exceeding Rs 10 crore but total sales or gross receipts or turnover from business is Rs 10 crore or less. ?

A. As per para 4.8 of the circular no 13 dated 30-06-2021, It is clarified that for the purposes of section 194Q of the Act, a buyer is required to have total sales or gross receipts or turnover from the business carried on by him exceeding ₹10 crore during the financial year immediately preceding the financial year in which the purchase of good is carried out. Hence, the sales or gross receipts or turnover from business carried on by him must exceed Rs 10 crore. His turnover or receipts from non-business activity is not to be counted for this purpose.

Rate of TDS: 0.1 %

Amount on which tax to be deducted: sum of purchases exceeding ₹50 lakh. For example suppose purchase during FY 2021-22 is ₹ 1.20 crore PLUS GST of ₹ 14,40,000/- then TDS on ₹ 70 lakh only @ 0.1 %

Timing of deduction of TDS: at the time of credit of such sum to the account of the seller or at the time of payment thereof by any mode, whichever is earlier? In other words if credit entry to the account of creditor in respect of purchases on 20-07-2021 but payment to the party /creditor in 03-08-2021 tax to deducted on 20-07-2021 only and not on 03-08-2021.

Para 4.2 of circular:

Q. Advances for purchase of goods before 01-07-2021 or purchases before 01-07-2021 but payment after 01-07-2021- whether TDS u/s 194Q shall be applicable?

A. As per para 4.2.2 (i) It hereby clarified that,-

(i) Since section 194Q of the Act mandates buyer to deduct tax on credit of sum in the account of seller or on payment of such sum, whichever earlier, the provision of this sub-section shall not apply on any sum credited or paid before 1st July 2021. If either of the two events had happened before 1st July 2021 , that transaction would not be subjected to the provisions of section 194Q of the Act.

Q. How threshold of ₹ 50 lakh specified under this section shall be computed?

A. As per para 4.2.2 (ii) It hereby clarified that since the threshold of ₹ 50 lakh is with respect to the previous year, calculation of sum for triggering TDS under section 194Q shall be computed from 1st April, 2021. Hence, if a person being buyer has already credited or paid ₹50 lakh or more up to 30th June 2021 to a seller, the TDS under section 194Q shall apply on all credit or payment during the previous year, on or after 1st July 2021 , to such seller.

Adjustment for GST, purchase returns etc.

Q. Whether TDS on GST also? no

para 4.3.1 It is requested to clarify that whether adjustment is required to be made for GST or purchase returns for the purpose of tax deduction under section 194Q of the Act. Vide circular no 17 of 2020 dated 29th Sept 2020 it was clarified that no adjustment on account of 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.**

However, the situation is different so far as TDS is concerned. It has been clarified in circular no 23 of 2017 dated 19th July 2017 as under "wherever in terms of the agreement or contract between the payer and the payee, the component of '**GST on services**' comprised in the amount payable to a resident is indicated separately, tax shall be deducted at source under Chapter XVII-B of the Act on the amount paid or payable without including such 'GST on services' component. GST for these purposes shall include Integrated Goods and Services Tax, Central Goods and Services Tax, State Goods and Services Tax and Union Territory Goods and Services Tax. "

4.3.2 Accordingly with respect to TDS under section 194Q of the Act, it is clarified that when tax is deducted at the time of credit of amount in the account of seller and in terms of the agreement or contract between the buyer and the seller, the component of GST comprised in the amount payable to the seller is indicated separately, tax shall be deducted under section 194Q of the Act on the amount credited without including such GST. However, if the tax is deducted on payment basis because the payment is earlier than the credit, the tax would be deducted on the whole amount as it is not possible to identify that payment with GST component of the amount to be invoiced in future.

Note: Under GST tax to be paid on advances received against supply of service and also in respect of supply of goods as per section 13/12 of the CGST/SGST Act except cases covered by notification and person receiving advance has to issue receipt voucher against advances received as per rule 50 of the CGST/SGST rule mentioning the amount of GST besides other details, so at present in every case information of amount of GST shall be available. So considering the arguments in circular, in the case of advances also tax to be deducted on basic amount only and not on GST portion .

Q. How to tackle TDS already deducted at the time credit but later on purchase return of goods ?

As explained as per para 4.3.3 Further, with respect to **purchase return** it is clarified that the tax is required to be deducted at the time of payment or credit, whichever is earlier. Thus, before purchase return happens, the tax must have already been deducted under section 194Q of the Act on that purchase. If that is the case and against this purchase return the money is refunded by the seller, then this tax deducted may be adjusted against the next purchase against the same seller. No adjustment is required if the purchase return is replaced by the goods by the seller as in that case the purchase on which tax was deducted under section 194Q of the Act has been completed with goods replaced.

Q. Whether non-resident can be buyer under section 194Q of the Act? It is requested to clarify whether provisions of section 194Q of the Act shall apply to a buyer being a non-resident?

A. As per para 4.4.1 to remove difficulties, it is clarified that the provisions of section 194Q of the Act shall not apply to a non-resident whose purchase of goods from seller resident in India is not effectively connected with the permanent establishment of such non resident in India. For this purpose, "permanent establishment" shall mean to include a fixed place of business through which the business of the enterprise is wholly or partly carries on.

Q. Whether tax is to be deducted on advance payment?

A. Yes, as per para 4.6.1 of the circular no 13/2021 dated 30-06-2021, It is clarified that since the provisions apply on payment or credit whichever is earlier, the provisions of section 194Q of the Act shall apply to advance payment made by the buyer to the seller.

Non applicability of provisions of this section: As per section 194Q(5)

- 1. Tax deducted under any other section.** In other words this section is general residuary section and therefore if tax deducted/deductible in any other section no tax deduction under this section again.
- 2. Tax is collectible under the provisions of section 206C other than under section 206C (1H).** In other words if TCS provision applicable except TCS u/s 206C (1H) no need to deduct tax under this section.
- 3. non applicability** as per circular no 13/2021 dated 30-06-2021 para 4 in respect of transaction in securities and commodities, transaction in electricity , renewable energy certificate.

Extract of section 194Q (5):

The provisions of this section shall not apply to a transaction on which—

- (a) tax is deductible under any of the provisions of this Act; and**
- (b) tax is collectible under the provisions of section 206C other than a transaction to which sub-section (1H) of section 206C applies.**

Extract of para 4 of the circular no 13/2021 dated 30-06-2012 :

4.1 Applicability on transactions carried through various Exchanges:

4.1.1 It has been represented that there are practical difficulties in implementing the provisions of Tax Deduction at Source (TDS) contained in section 194-Q of the Act in case of certain exchanges and clearing corporations. It has been stated that sometime in these transactions there is no one to one contract between the buyers and the sellers.

4.1 .2 In order to remove such difficulties, it is provided that the provisions of section 194Q of the Act shall not be applicable in relation to,-

(i) **transactions in securities and commodities** which are traded through recognized stock exchanges or cleared and settled by the recognized clearing corporation, including recognized stock exchanges or recognized clearing corporation located in International Financial Service Centre;

(ii) **transactions in electricity, renewable energy certificates and energy saving certificates traded** through power exchanges registered in accordance with Regulation 21 of the CERC; and

Q. Whether tax is to be deducted when the seller is a person whose income is exempt ?

A. As per para 4.5.1 of the circular no 13/2021 dated 30-06-2021, It is requested to clarify whether provisions of section 194Q of the Act shall apply to a seller whose income is exempt. To remove difficulty, it is clarified that the provisions of section 194Q of the Act **shall not apply** on purchase of goods from a person, being a seller, who as a person is exempt from income tax under the Act (like person exempt under section 10) or under any other Act passed by the Parliament (Like RBI Act, ADB Act etc.).

4.5.2 Similarly, with respect to sub-section (1 H) of section 206C of the Act, it is clarified that the provisions of this sub-section shall not apply to sale of goods to a person, being a buyer, who as a person is exempt from income tax under the Act (like person exempt under section 10) or under any other Act passed by the Parliament (Like RBI Act, ADB Act etc.).

4.5.3 The above clarifications would not apply if only part of the income of the person (being a seller or being a buyer, as the case may be) is exempt.

Extract of section '194Q.

(1) Any person, being a buyer who is responsible for paying any sum **to any resident** (hereafter in this section referred to as the seller) for purchase of any goods of the value or aggregate of such value exceeding ₹ 50 lakh in any previous year, shall, at the time of credit of such sum to the account of the seller or at the time of payment thereof by any mode, whichever is earlier, deduct an amount equal to 0.1 per cent. of such sum exceeding fifty lakh rupees as income-tax.

Explanation.—For the purposes of this sub-section, “**buyer**” means a person whose total sales, gross receipts or turnover from the business carried on by him exceed ₹10 crore **during the financial year immediately preceding the financial year** in which the purchase 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.

(2) Where any sum referred to in sub-section (1) is credited to any account, whether called “suspense account” or by any other name, in the books of account of the person liable to pay such income, such credit of income shall be deemed to be the credit of such income to the account of the payee and the provisions of this section shall apply accordingly.

(3) If any difficulty arises in giving effect to the provisions of this section, the Board may, with the previous approval of the Central Government, issue guidelines for the purpose of removing the difficulty.

(4) Every guideline issued by the Board under sub-section (3) shall, as soon as may be after it is issued, be laid before each House of Parliament, and shall be binding on the income-tax authorities and the person liable to deduct tax.

(5) The **provisions of this section shall not apply** to a transaction on which—

(a) tax is deductible under any of the provisions of this Act; and

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

Comparison of section 194Q and 206C(1H)

Section 194Q

- buyer shall deduct TDS on purchases made from a person exceeding ₹ 50 lakh in a FY
- **Buyer** turnover/gross receipts/sales exceeds ₹ 10 crore in preceding FY.
- Rate of TDS: 0.1%
- Buyer not being a person, as the Central Government may, by notification in the Official Gazette, specify granting relaxation from TDS provisions.
- Applicable on all sale of all goods except goods expressly covered under TCS u/s 206C.
- Tax not be deducted on GST charged separately

Section 206C(1H)

- Seller shall collect TCS on sale consideration *of any goods of value exceeding ₹ 50 lakhs* . Certain seller are excluded from such compliances such as seller *not being a person as the Central Government may, by notification in the Official Gazette, specify.*
- **Seller** turnover/gross receipts/sales exceeds ₹ 10 crore in preceding FY
- Rate of TDS: 0.1%
- **certain buyer excluded from TCS** such as *Central Government, a State Government, an embassy, a High Commission, legation, commission, consulate and the trade representation of a foreign State, local authority , 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;*
- Applicable to residuary goods not otherwise covered in TCS provisions in other subsections.
- Tax on gross consideration including GST charged on invoice.

CONCLUSION:

From combined reading of section 194Q read with section 206C it is clear that TDS provisions of section 194 Q shall not be applicable if sale of goods otherwise covered under section 206C except section 206C (1H).

if tax deduction under any other section of TDS applicable then section 194Q shall not be applicable means this is residuary provision for deduction of tax on sale of goods.

Sale of certain goods expressly excluded from section 206C (1H) applicability because covered in other TCS provisions.

Purchase of residuary goods if covered under TDS provisions then excluded from TCS provisions so if transaction of purchase is covered in section 194Q which is applicable on sale of any goods otherwise not covered in TCS in any way , section 206(1H) shall not be applicable due to 2nd proviso to section 206C(1H). In other words if transaction of **purchase is covered in TDS and tax deducted under TDS provisions under section 194Q** then such transaction shall be excluded from TCS .

FAQ on new section 194Q

FAQ:

Q. Section 194Q Vs. section 206C(1H). Which section has overriding effect?

A. Section 194Q shall be applicable because exclusion from section 194Q is of transaction covered under section 206C except 206C(1H). In other words 194 Q shall be applicable on **aggregate of purchases** of all the goods otherwise not specifically covered in section 206C and section 206C (1H) 2nd proviso has specific exclusion that if transaction covered in TDS will be excluded from TCS.

Q. which period of purchase to be taken while calculating ₹ 50lakh? Whether from 01-07-2021 or from 01-04-2021

A. For calculating limit of ₹ 50 lakh aggregate of purchases since 01-04-2021 shall be considered although provisions made applicable from 01-07-2021 because limit is for FY .

Q. What would happen if purchases during FY 2021-22 till 30-06-2021 is ₹ 60 but no purchase on or after 01-07-2021?

A. No TDS u/s 194Q since from 01-07-2021 i.e date of applicability no transaction of sale /purchase, however TCS provision under section 206C(1H) may be applicable if other conditions are satisfied.

FAQ:

Q. What would happen if supply of goods and service both , supply of goods ₹ 49 lakh during FY 2021-22 and supply of service ₹ 49 lakh during FY 2021-22 ?

A. TDS provisions under section 194Q not applicable but section 194C or other provision may be applicable.

Q. Purchases during FY 2021-22 of ₹ 1 crore after 01-07-2021 but full advance payment already made upto 30-06-2021 whether tax under section 194Q? How to comply TDS provisions of section 194Q?

A. Since payment already made before applicability of provision of section 194Q for purchase and no more payment required to be done and tax to be deducted at the time of payment or credit to party so provision of section 194Q not applicable. Further section 206C(1H) shall be applicable since at the time of receipt of consideration for sale of goods TCS provisions were already in application.

Q. Treatment of GST and other taxes whether to be included in the aggregate value of purchases for verifying the threshold limit. Whether tax to be deducted on gross amount inclusive of GST or exclusive of GST?

A. Value of goods to be checked and it will be exclusive of GST . Circular no 13/2021 dated 30-06-2021

**Section 194-O, 194Q
&
206C(1H)**

As per para 4.9.5 after conjoint reading of all these provisions the following is clarified:

- (i) If tax has been deducted by the e-commerce operator on a transaction under section 194-O of the Act [including transactions on which tax is not deducted on account of sub-section (2) of section 194-O], that transaction shall not be subjected to tax deduction under section 194Q of the Act.
- (ii) Though sub-section (1H) of section 206C of the Act provides exemption from TCS, if the buyer has deducted tax at source on goods purchased by him, to remove difficulties it is clarified that this exemption would also cover a situation where instead of the buyer the e-commerce operator has deducted tax at source on that transaction of sale of goods by seller to buyer through e-commerce operator.
- (iii) If a transaction is both within the purview of section 194-O of the Act as well as section 194Q of the Act, tax is required to be deducted under section 194-O of the Act and not under section 194Q of the Act.

Para 4.9.5 (iv) Similarly, if a transaction is both within the purview of section 194-O of the Act as well as sub-section (1H) of section 206C of the Act, tax is required to be deducted under section 194-O of the Act. The transaction shall come out of the purview of section 206C(1H) of the Act after tax has been deducted by the e-commerce operator on that transaction. Once the e-commerce operator has deducted the tax on a transaction, the seller is not required to collect the tax under of section 206C(1H) of the Act on the same transaction. It is clarified that here primary responsibility is on e-commerce operator to deduct the tax under section 194-O of the Act and that responsibility cannot be condoned if the seller has collected the tax under sub-section (1H) of section 206C of the Act. This is for the reason that the rate of TDS under section 194-O is higher than rate of TCS under sub-section (I H) of section 206C of the Act

Para 4.9.5 (v) If a transaction is both within the purview of section 194-Q of the Act as well as of section 206C(1H) of the Act, the tax is required to be deducted under section 194-Q of the Act. The transaction shall come out of the purview of sub-section (1H) of section 206C of the Act after tax has been deducted by the buyer on that transaction. Once the buyer has deducted the tax on a transaction, the seller is not required to collect the tax under sub-section (1H) of section 206C of the Act on the same transaction. However, if, for any reason, tax has been collected by the seller under sub-section (1H) of section 206C of the Act, before the buyer could deduct tax under section 194-Q of the Act on the same transaction, such transaction would not be subjected to tax deduction again by the buyer. This concession is provided to remove difficulty, since tax rate of deduction and collection are same in section 194Q and subsection (1H) of section 206C of the Act.

TDS ON CERTAIN PAYMENTS BY INDIVIDUAL OR HUF U/S 194M

TDS ON CERTAIN PAYMENTS BY INDIVIDUAL OR HUF U/S 194M: Individual or HUF not subject to tax audit u/s 44AB making payment exceeding ₹ 50 lakh to a resident (may be any person including firm , company) for carrying out any work or commission or brokerage or fee for professional services during the FY for business or non- business work shall deduct TDS @ 5% on at the time of credit or payment whichever is earlier.

Applicability date: w. e .f **01-09-2019**

Person generally coming into this provision: outsourcing the construction of residential property, new factory or other commercial establishment where payment exceeds ₹ 50lakh to a contractor.

Who is liable to deduct tax?

Individual or HUF making payment to a resident **exceeding ₹ 50 lakh** in a FY for any work, commission or fee for professional or technical services.

Threshold limit: ₹ 50 lakhs in aggregate in a FY to a person being resident. Same person may get payment for any work to be done, commission/ brokerage and fee for professional technical services then combined limit for all the three. Example – payment by Mr. X to Mr. Y during FY 2020-21 ₹ 45 Lakh for construction of residential house to a contractor being resident in India and payment during FY 2021-22 ₹ 48 Lakh no need to deduct tax.

Note: limit for commission or brokerage and fee for professional services is too high and rarely any transaction will be covered.

Nature of payment: payment for carrying out **any work** (including supply of labour for carrying out any work) in pursuance of a contract, by way of commission (not being insurance commission referred to in [section 194D](#)) or brokerage or by way of fees for professional services.

Meaning of work: work" shall include—

- (a) Advertising;
- (b) Broadcasting and telecasting including production of programmes for such broadcasting or telecasting;
- (c) Carriage of goods or passengers by any mode of transport other than by railways;
- (d) Catering;
- (e) manufacturing or supplying a product according to the requirement or specification of a customer by using material purchased from such customer or its associate, being a person placed similarly in relation to such customer as is the person placed in relation to the assessee under the provisions contained in clause (b) of sub-section (2) of section 40A,]

but does not include manufacturing or supplying a product according to the requirement or specification of a customer by using material purchased from a person, other than such customer or associate of such customer.

Note: definition of work is inclusive one.

The provisions of [section 203A](#) shall not apply to a person required to deduct tax in accordance with the provisions of this section. In other words No need of TAN for deducting and depositing tax.

**TDS ON CASH WITHDRAWAL EXCEEDING ₹ 1 CRORE FROM
A BANK/POST OFFICE/COOPERATIVE BANK
UNDER SECTION 194N:**

Applicability date: section 194 N Inserted by Finance Act 2020 w. e. f 01-07-2020

When TDS provision applicable: if cash withdrawal in aggregate during FY exceeding ₹ 1 crore from one or more accounts maintained by the recipient with (i) a banking company (including any bank or banking institution referred to in section 51 of that Act); (ii) a co-operative society engaged in carrying on the business of banking; or (iii) a post office. Here all the types of bank accounts are covered may be saving, current or any other.

Threshold limit for deduction of TDS by BANK etc.: ₹ 1 crore for a FY from a bank/post office/ co-operative society. In other words if account holder has 3 bank accounts in a bank overall limit is ₹ 1crore but if 3 bank accounts in 3 different banks then limit will ₹ 1 crore for each bank.

RATE OF TDS IF REGULAR IN FILING OF ITR: 2% OVER AND ABOVE ₹ 1 CRORE.

RATE OF TDS IF ITR NOT FILED LAST 3 AYs: Lower threshold limit of ₹ 20 lakh in aggregate if account holder has not filed ITR for last 3 AYs for which due date for filing ITR u/s 139(1) already expired. i. e belated return could be filed before 31st March but here for TDS only original due date to be considered.

RATE OF TDS:

CASH WITHDRWAL	RATE OF TDS
ABOVE ₹ 20 LAKHS – ₹ 1 CRORE	2%
ABOVE ₹ 1 CRORE	5%

Note: central government is empowered to give relaxation to certain payee subject to satisfaction of certain conditions.

Conclusion : *plan out expenditure in such a way that maximum payment through banking channels and if not possible and transactions are legitimate business expenditure then open more bank accounts with different bank to save TDS and blockage of working capital and mandatory refund .*

TDS on transactions through E-commerce operator

TDS on Payment to E-commerce participant by the E-commerce operator or customer directly in respect of sale of goods or provision of services through digital or electronic facility or platform [section 194-O]

Applicability: inserted by Finance act 2020 W.E.F 01-10-2020

Who will deduct TDS?

E-Commerce operator shall deduct if sum credited or paid or likely to be credited or paid during the previous year exceeds threshold limit.

Meaning of E-commerce operator: *E-commerce operator means a person who owns, operates or manages digital or electronic facility or platform for electronic commerce;*

Whose tax to be deducted/payee?

Where sale of goods or provision of services of an E-commerce participant is facilitated by an e-commerce operator through its digital or electronic facility or platform (by whatever name called) and if sum credited or paid or likely to be credited or paid during the previous year exceeds threshold limit.

Meaning of E-commerce participant: *e-commerce participant" means a person resident in India selling goods or providing services or both, including digital products, through digital or electronic facility or platform for electronic commerce;*

Threshold limit:

Type of payee –all the payee must be resident.	Threshold limit for the FY
Individual or HUF	Gross amount of such sale or services or both during the previous year does not exceed ₹ 5 lakh provided such e-commerce participant has furnished his PAN or Aadhaar number to the e-commerce operator.
Individual or HUF	No threshold limit, if supplier of goods or person providing service does not provide PAN / Aadhaar . i.e TDS on every transaction.
Other payee like LLP, firm , company, AOP, BOI etc.	Nil threshold limit. i.e TDS on every transaction.

Rate of TDS: 1% of the gross amount of such sales or services or both. In the case of individual /HUF providing PAN/Aadhaar if gross amount exceeds ₹ 5 lakh, TDS on full amount because rate of TDS is on the gross amount of such sales or services.

Amount on which tax to be deducted?

Tax to be deducted on gross amount of such sales or services or both.

If any payment made by a purchaser of goods or recipient of services directly to an e-commerce participant for the sale of goods or provision of services or both, facilitated by an e-commerce operator, shall be deemed to be the amount credited or paid by the e-commerce operator to the e-commerce participant and shall be included in the gross amount of such sale or services for the purpose of deduction of income-tax. Therefore TDS @ 1% on the gross amount of sale or service provided through the e-commerce operator irrespective of the fact whether payment made by customer directly or payment from customer firstly received by e-commerce operator and then paid by such e-commerce operator to the e-commerce participant.

Note: this different from the provision of TCS under section 52 of the CGST/SGST Act where TCS by e-commerce operator from e-commerce participant only when payment collected by the e-commerce operator from the customer and after deducting the amount of TCS balance paid to the e-commerce participant.

Note: deduction under GST by way of TCS u/s 52 is different from TDS under income tax u/s 194-O.

When tax to be deducted?

Tax to be deducted at the time of credit of amount of sale or services or both to the account of an e-commerce participant or at the time of payment thereof to such e-commerce participant by any mode, whichever is earlier.

If any payment made by a purchaser of goods or recipient of services directly to an e-commerce participant for the sale of goods or provision of services or both, facilitated by an e-commerce operator, shall be deemed to be the amount credited or paid by the e-commerce operator to the e-commerce participant, accordingly tax to be deducted at the time payment by customer.

Non –applicability of other TDS provisions pertaining to deduction of tax: Notwithstanding anything contained in Part B of Chapter-XVII(section 192 to 206B) , a transaction in respect of which tax has been deducted by the e-commerce operator under sub-section (1), or which is not liable to deduction under sub-section (2) [under section 194-O(2) payee is individual/HUF and gross amount of sale and provision of service is upto ₹ 5 lakh only and providing PAN/Aadhaar)], shall not be liable to tax deduction at source under any other provision of this Chapter.

Person responsible for paying to e-commerce participant: e-commerce operator shall be deemed to be the person responsible for paying to e-commerce participant. So e-commerce operator shall obtain TAN and deduct the tax in time, make the payment of tax to government and file TDS statement and issue TDS certificate and other compliances time to time.

Clarification regarding non-applicability of section 194-O:

provisions of section 194-O, and sub-section (1H) of section 206C, of the Act shall not be applicable in relation to,—

- i. **transactions in securities and commodities** which are traded through recognized stock exchanges or cleared and settled by the recognized clearing corporation, including recognized stock exchanges or recognized clearing corporation located in International Financial Service Centre;
- ii. **transactions in electricity, renewable energy certificates and energy saving certificates traded through power exchanges** registered in accordance with Regulation 21 of the CERC;

Non -Applicability TDS on payment gateway:

Para 4.2.1 In e-commerce transactions, the payments are generally facilitated by payment gateways. It is represented that in these transactions, there may be applicability of section 194-O twice i.e. once on e-main commerce operator who is facilitating sell of goods or provision of services or both and once on payment gateway who also happen to qualify as e-commerce operator for facilitating service. To illustrate a buyer buys goods worth one lakh rupees on e-commerce website "XYZ". He makes payment of one lakh rupees through digital platform of "ABC". On these facts liability to deduct tax under section 194-O may fall on both "XYZ" and "ABC".

Para 4.2.2 In order to remove this difficulty, it is provided that the payment gateway will not be required to deduct tax under section 194-O of the Act on a transaction, if the tax has been deducted by the e-commerce operator under section 194-O of the Act, on the same transaction. Hence, in the above example, if "XYZ" has deducted tax under section 194-O on one lakh rupees, "ABC" will not be required to deduct tax under section 194-O of the Act on the same transaction. To facilitate proper implementation, "ABC" may take an undertaking from "XYZ" regarding deduction of tax.

Special provision of TCS for non-filers of (ITR) income-tax return [Section 206CCA]

Application : The newly inserted section is applicable from 01-07-2021.

Conditions for applicability of this section:

Tax to be collected from specified person at higher rate from return defaulter under the newly inserted section 206CCA under chapter XVII-BB .

“specified person” means: a person who has not filed the returns of income (ITR) for **both** of the two assessment years (AYs.) relevant to the two previous years immediately prior to the previous year in which tax is required to be collected, for which the time limit of filing return of income under section 139(1) has expired; and the aggregate of tax deducted at source and tax collected at source in his case is ₹ 50000/- or more in **each** of these two previous years.

PERSON: Such person may be any one as per section 2(31) including — (i) an individual, (ii) a Hindu undivided family, (iii) a company, (iv) a firm, (v) an association of persons (AOP) or a body of individuals (BOI) , whether incorporated or not, (vi) a local authority, and (vii) every artificial juridical person,

Such person shall not include a non- resident who does not have a permanent establishment (PE) in India. So non-resident not having a PE in India excluded from this section but covered under section 195.

Meaning of PE in India: “permanent establishment” includes a fixed place of business through which the business of the enterprise is wholly or partly carried on.’

Status of ITR : status of ITR as per due date under section 139(1) to be considered and not the belated ITR , because ITR could be filed even after due date (called belated ITR) under section 139(4) upto 31st March of the AY .i. e 31st march of the next FY, not only that ITR could be filed in pursuance of notice u/s 142(1) or even notice under section 148 but all these ITR shall not be applicable for deduction of tax because reference in section is only of section 139(1). Means higher TDS rate if ITR not filed on or before due date u/s 139(1) even if ITR filed belated. However circular 13/2021 dated 30-06-2021 has granted relief and even belated ITR filed shall also grant relaxation from higher rate of TDS/TCS.

Collectee: collectee is the person from who tax collected as TCS under chapter XVII-BB.

Illustration of applicability /non applicability:

Cases	ITR status as per due date	Aggregate of TDS & TCS amount in preceding FYs.	Applicable/non applicable
Case-1 Collectee is individual person resident in India	AY 2021-22 not filed AY 2020-21 not filed	FY 20-21 -₹ 51000/- FY 19-20 ₹ 55000/-	For 2 QTR of AY 2022-23 – higher rate u/s 206CCA not applicable because due date of filing ITR extended to 30 th September 2021.
Case-2 Collectee is individual person resident in India	AY 2021-22 not filed AY 2020-21 filed	FY 20-21 -₹ 49000/- FY 19-20 ₹ 55000/-	For 2/3/4 QTR of AY 2022-23 – higher rate u/s 206CCA not applicable because amount of TDS &TCS in both the FY not exceeding the threshold limit ₹ 50000/- in each FY.
Case-3 Collectee is individual person resident in India	AY 2021-22 not filed till 31-12-2021 (suppose due date expired on 30-09-2021) AY 2020-21 not filed	FY 20-21 -₹ 52000/- FY 19-20 ₹ 55000/-	For 4 QTR of AY 2022-23 – higher rate u/s 206CCA applicable because amount of TDS &TCS in both the FY exceeding the threshold limit ₹ 50000/- in each FY and ITR of AY 2021-22 & 2020-21 not filed before due date u/s 139(1)
Case-4 collectee is a proprietor firm subject to tax audit resident in India	AY 2021-22 filed in August 2021 AY 2020-21 not filed	FY 19-20 -₹ 51000/- FY 19-20 ₹ 55000/-	For 2 QTR of AY 2022-23 – higher rate u/s 206CCA not applicable because ITR filed before extended due date u/s 139(1) for AY 2021-22.
Case-5 collectee is LLP non-resident in India and not having PE in India.	AY 2020-21 not filed AY 2019-20 not filed	FY 19-20 -₹ 51000/- FY 19-20 ₹ 55000/-	For 4 QTR of AY 2022-23 – higher rate u/s 206CCA not applicable as expressly excluded.

Cause of concern is high rate of TCS:

Cases		Rate of applicable TDS
Case-1	ITR not filed for last 2 AYs but collectee has furnished PAN (section 206CC is not applicable) and aggregate of TDS & TCS exceeds ₹ 50000/- in each FY.	higher of the following rates, namely:— (i) at twice the rate specified in the relevant provision of the Act; or (ii) at the rate of 5%
Case-2	ITR not filed for last 2 AYs and collectee has not furnished PAN (section 206AA is applicable) and aggregate of TDS & TCS exceeds ₹ 50000/- in each FY.	higher of the following (i) rates as per this section 206CCA as calculated above (ii) section 206CC

Rate as per section 206CC: If PAN not furnished/ valid PAN not furnished/ PAN of other person furnished , tax shall be collected at the higher of the following rates, namely:—
(i) at twice the rate specified in the relevant provision of this Act; or
(ii) at the rate of 5% .

Illustrations:

Cases	ITR status as per due date	Aggregate of TDS & TCS amount in preceding FYs.	Applicable/non applicable	Nature of Transaction of TCS	Rate of TDS due to section 206AB
Case-1 Collectee is individual person resident in India	AY 2021-22 not filed AY 2020-21 not filed	FY 20-21 -₹ 51000/- FY 19-20 ₹ 55000/-	For 2 QTR of AY 2022-23 – higher rate u/s 206CCA not applicable because due date of ITR filing extended.	Sale of tendu leaves seller shall collect from buyer TCS @ 5% in normal case u/s 206C(1)	PAN furnished- TDS 5 % PAN not furnished- TDS 10% .
Case-2 collectee is individual person resident in India	AY 2021-22 not filed AY 2020-21 not filed	FY 20-21 -₹ 51000/- FY 19-20 ₹ 55000/-	For 3/4 QTR of AY 2022-23 – higher rate u/s 206CCA applicable because amount of TDS &TCS in both the FY exceeding the threshold limit ₹ 50000/- in each FY.	Sale of alcoholic liquor for human consumption seller shall collect from buyer TCS @ 1 % in normal case u/s 206C(1)	PAN furnished-5% PAN not furnished- 5% .
Case-3 collectee is individual person resident in India	AY 2021-22 not filed till 31-12-2021 (suppose due date expired on 30-09-2021) AY 2020-21 not filed	FY 20-21 ₹ 52000/- FY 19-20 ₹ 55000/-	For 4 QTR of AY 2022-23 – higher rate u/s 206CCA applicable because amount of TDS &TCS in both the FY exceeding the threshold limit ₹ 50000/- in each FY and ITR of AY 2021-22 & AY 2020-21 not filed before due date u/s 139(1)	Licence to collect toll fee at Toll plaza allotted to contractor- normal TCS @ 2%	PAN furnished- TDS @5 % PAN not furnished- TDS @ 5% .
Case-4 collectee is a proprietor subject to tax audit resident in India	AY 2021-22 filed in August 2021 AY 2020-21 not filed	FY 2020-21 -₹ 51000/- FY 19-20 ₹ 55000/-	For 2 QTR of AY 2022-23 – higher rate u/s 206CCA NOT applicable because ITR filed before due date u/s 139(1) for AY 2021-22.	Currency conversion by authorised dealer for overseas tour programme/ payment under liberalised remittance scheme TCS @5% in excess of ₹ 7 lakh.	PAN furnished-TDS @ 5 % PAN not furnished- 10%.

issue: 1 verification of filing of ITR for last two AYs.

To ease this compliance burden the Central Board of Direct Taxes is issuing a **new functionality "Compliance Check for Sections 206AB & 206CCA"**. This functionality is made available through reporting portal of the Income-tax Department. The tax deductor or the collector can feed the single PAN (PAN search) or multiple PANs (bulk search) of the deductee or collectee and can get a response from the functionality, if such deductee or collectee is a specified person. For PAN Search, response will be visible on the screen which can be downloaded in the PDF format. For Bulk Search, response would be in the form of downloadable file which can be kept for record.

The logic of the new functionality "**Compliance Check for Sections 206AB & 206CCA**" is as under: **para 3**

- A list of specified persons is prepared as on the start of the financial year 2021-22, taking previous years 2018-19 and 2019-20 as the two relevant previous years. List contains name of taxpayers who did not file return of income for both assessment years 2019-20 and 2020-21 and have aggregate of TDS and TCS of ₹50000/- or more in each of these two previous years.
- During the financial year 2021-22, no new names are added in the list of specified persons. This is a taxpayer friendly measure to reduce the burden on tax deductor a collector of checking PANs of non-specified person more than once during the financial year.
- If any specified person files a **valid return of income (filed & verified)** for assessment year 2019-20 or 2020-21 during the financial year 2021-22, his name would be removed from the list of specified persons. This would be done on the date of filing of the valid return of income during the financial year 2021-22.
- If any specified person files a valid return of income (filed & verified) for assessment year 2021-22, his name would be removed from the list of specified persons. This will be done on the due date of filing of return of income for A. Y. 2021-22 or the **date of actual filing of valid return**(filed & verified) whichever is later.
- If the aggregate of TDS and TCS, in the case of a specified person, in the previous year 2020-21, is less than ₹50000/-, his name would be removed from the list of specified persons. This would be done on the first due date under sub-section (1) of section 139 of the Act falling in the financial year 2021-22. For the financial year 2021-22 this due date of 31st July 2021 has been extended to 30th Sept 2021 for non audit cases.
- Belated and revised TCS & TDS returns of the relevant financial years filed during the financial year 2021-22 would also be considered for removing persons from the list of specified persons on a regular basis.

How functionality will work what to do in every quarter for deduction or collection of tax?

The deductor or the collector may check the PAN in the functionality at the beginning of the financial year and then he is not required to check the PAN of non-specified person during that financial year. To illustrate, let us assume that a deductor has 10,000 vendors that he deals with. He can use the functionality in the bulk search mode and can get the result of all these 10,000 PANs at one go. Let us assume that the functionality has shown that out of these 10,000 PANs, 5 PANs are **specified persons** for the purposes of sections 206AB and 206CCA of the Act. Now with respect of the remaining 9,995 PAN, it is clear that they are not in the list of specified persons for that financial year. Since no new name would be added in the list of specified persons during the financial year, the deductor or collector can be assured that these 9,995 PANs would remain outside the list of specified persons during that financial year. Thus, deductor or collector need not check again with respect to these 9,995 PANs during that financial year.

There are chances that the 5 PANs which are of specified persons may move out of the list during the financial year and for that there will be need to recheck at the time of making tax deduction or tax collection.

Fresh list of specified person every year: The list would be drawn afresh at the start of each financial year and the above process would have to be repeated. For example, at the beginning of the financial year 2022- 23 a fresh list would be prepared with previous years 2019-20 and 2020-21 as the two relevant previous years. Then, no name would be added to the list of specified persons during the financial year and only name would be removed based on the logic given in the para 3rd to 6th bullets of paragraph 3 above.

Circular No 12 dated 25-06-2021

TDS statement of quarter ending March 2021 could be filed before 15th July 2021: The Statement of Deduction of Tax for the last quarter of the Financial Year 2020-21 , required to be furnished on or before 31st May, 2021 under Rule 31A of the Income-tax Rules,1962 (hereinafter referred to as "the Rules"), as extended to 30th June, 2021 vide Circular NO.9 of 2021 , further extended and may be furnished on or before 15th July. 2021.

Issue of TDS certificate before 31st July. 2021 : The Certificate of Tax Deducted at Source in Form No.16, required to be furnished to the employee by 15th June, 2021 under Rule 31 of the Rules, as extended to 15th July, 2021 vide Circular NO.9 of 2021 , may be furnished on or before 31st July. 2021.

Uploading of form 15G/15H 31st August,2021 : Uploading of the declarations received from recipients in Form No. 15G/15H during the quarter ending on 30th June, 2021 , which is required to be uploaded on or before 15th July,2021 , may be uploaded by 31st August,2021 ;

Tax exemption for expenditure on covid treatment / amount received by family member on death of covid patients

PRESS RELEASE 25-06-2021

Exemption of financial help received for covid treatment: Many taxpayers have received financial help from their employers and well wishers for meeting their expenses incurred for treatment of Covid-19. In order to ensure that no income tax liability arises on this account, it has been decided to provide income-tax exemption to the amount received by a taxpayer for medical treatment from employer or from any person for treatment of Covid-19 during **FY 2019-20 and subsequent years**. No limit here.

Note: employer may also claim allowance of expenses as business expenditure.

Death of covid patient, payment from employer exempt fully , payment from others exempt upto ₹ 10 lakh in aggregate : Unfortunately, certain taxpayers have lost their life due to Covid-19. Employers and well-wishers of such taxpayers had extended financial assistance to their family members so that they could cope with the difficulties arisen due to the sudden loss of the earning member of their family. In order to provide relief to the family members of such taxpayer, it has been decided to provide income-tax exemption to ex-gratia payment received by family members of a person from the employer of such person or from other person on the death of the person on account of Covid-19 during FY 2019-20 and subsequent years. The exemption shall be allowed without any limit for the amount received from the employer and the exemption shall be limited to Rs. 10 lakh in aggregate for the amount received from any other persons.

Note: employer may also claim allowance for expenses because it is business expenditure.

Necessary legislative amendments for the above decisions shall be proposed in due course of time.

Extension of other due date

Filing of form 10A/firm 10AB till 31st August, 2021: The application under Section 10(23C), 12AB, 35(1) (ii)/ (ia) / (iii) and 80G of the Act in Form No. 10A/ Form No.10AB. for registration/ provisional registration/ intimation/ approval! provisional approval of Trusts/ Institutions/ Research Associations etc. required to be made on or before 30th June. 2021 . may be made on or before 31st August, 2021 ;

Extension of date for making investment to claim exemption from capital gain u/s 54/54F upto 30th September, 2021: The compliances to be made by the taxpayers such as investment, deposit, payment, acquisition, purchase, construction or such other action, by whatever name called, for the purpose of claiming any exemption under the provisions contained in Section 54 to 54GB of the Act, for which the last date of such compliance falls between 1st April,2021 to 29th September, 2021 (both days inclusive), may be completed on or before **30th September, 2021;**

Equalization Levy Statement 31st July,2021: The Equalization Levy Statement in Form No.1 for the Financial Year 2020- 21 , which is required to be filed on or before 30th June, 2021 , may be furnished on or before 31st July,2021 ;

Exertion of date of quarter ending on 30th June, 2021: The Quarterly Statement in Form No. 15CC to be furnished by authorized dealer in respect of remittances made on different PAN for the quarter ending on 30th June, 2021, required to be furnished on or before 15th July, 2021 under Rule 37 BB of the Rules, may be furnished on or before **31st July, 2021 ;**

Last date of linkage of Aadhaar with PAN under section 139AA of the Act, which was earlier extended to 30th June, 2021 is further extended to **30th September, 2021**.

Last date of payment of amount under Vivad se Vishwas (without additional amount) which was earlier extended to 30th June, 2021 is further extended to 31st August, 2021.

Last date of payment of amount under Vivad se Vishwas (with additional amount) has been notified as **31st October, 2021**.

Time Limit for passing assessment order which was earlier extended to 30th June, 2021 is further extended to **30th September, 2021**.

Time Limit for passing penalty order which was earlier extended to 30th June, 2021 is further extended to 30th September, 2021.

Time Limit for processing Equalization Levy returns which was earlier extended to 30th June, 2021 is further extended to **30th September, 2021**.

Thank You

**THANK YOU
CA PP SINGH**

Contact details for any issue/clarification

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