

Section 194Q (TDS) and Section 206C(1H) (TCS)

In the last year, the Government implemented TCS provisions u/s. 206C(1H) for “**Seller of Goods**” on receipts / advances from / for sales of goods exceeding Rs. 50 Lakhs as consideration during a financial year. “Seller” means a person whose total sales, gross receipts or turnover from the business carried on by him / it exceeded Rs. Ten crores during the financial year immediately preceding the financial year in which consideration / advance exceeding Rs. 50 Lakh are received.

There were cases where the turnover of the Seller was less than Rs. 10 crores but the receipts from sale of goods to buyers were exceeding Rs. 50 Lakh. Under such circumstances, there was no obligation to collect TCS from the seller. The Government has now come up with a similar type of provision for the Purchasers (Buyers) by introducing TDS applicability u/s. 194Q to resolve such a situation. Let us understand both these provisions.

PARTICULARS	SECTION 194Q	SECTION 206C(1H)
Purpose	Tax to be deducted	Tax to be collected
Applicable to the	Buyer / Purchaser	Seller
Who is the Counter Party?	Resident Seller	Resident Buyer
Effective Date	01/07/2021	01/10/2020
Meaning of Buyer	Explanation to Section 194Q (1) mentions: “buyer” means a person whose total sales, gross receipts or turnover from the business carried by him exceed ten crore rupees during the financial year immediately preceding the financial year in which the purchase of goods is carried out	Explanation (a) to Section 206C(1H) mentions: “buyer” means a person who purchases any goods, but does not include - a) Government b) Local Authority c) Importer of the goods
Meaning of Seller	Not defined	Explanation (b) to Section 206C(1H) mentions: “seller” means a person whose total sales, gross receipts or turnover from the business carried by him exceed ten crore rupees during the financial year immediately preceding the financial year in

		which the sale of goods is carried out
What is the trigger point?	When the turnover/ Gross receipts/ sales (excluding GST) from business of the Buyer exceeds Rs. 10 crores during the year	When the turnover/ Gross receipts/ sales (excluding GST) from business of the Seller exceeds Rs. 10 crores during the year
	Purchase of goods of aggregate value exceeds Rs. 50 Lakhs	Sale consideration received exceeds Rs. 50Lakhs
Rate of TDS / TCS	An amount equal to 0.1 per cent of such sum exceeding fifty lakh rupees as Income Tax.	A sum equal to @ 0.1 percent of the sales consideration exceeding fifty lakh rupees as Income Tax
Rate of TDS / TCS where PAN / Aadhar not furnished	If PAN not furnished by seller, then @ 5% in place 0.1%	If buyer does provide PAN or Aadhaar Number, the @ 5% in place of 0.1%
Time of Deduction / Collection	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	At the time of receipt of such amount, collect from buyer, a sum equal to 0.1 percent of the sale consideration exceeding fifty lakh rupees a
Over-riding the other TDS / TCS Sections of the Act	Section 194Q(5) provides: The provisions of this section shall not apply to a transactions on which- a) Tax is deductible under any 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	Second proviso to Section 206C(1H) provides “the provisions of this sub-section shall not apply, if the buyer is liable to deduct tax at source under any other provisions of this Act on the goods purchased by him from the seller and has deducted such amount
When to deduct / collect?	At the time of payment or credit, whichever is earlier	At the time of receipt
Advances	TDS to be deducted on advance payment made	TCS to be collected on advance receipts

Rates	0.10%	0.1% (0.75% for FY 2020-21)
	5% if PAN is not available	1% if PAN is not available
	On amount exceeding Rs. 50 lakhs	On amount exceeding Rs. 50 lakhs
Not applicable to	Transactions on which TDS is applicable under other provisions of the Act	Transactions on which TCS / TDS is applicable under other provisions of the Act (e.g. where TDS is applicable u/s. 194Q, this section will not apply)
Exclusions	--	If the buyer is an
	--	Importer of goods or
	--	Central Government, State Government or Local Authority or
	--	Embassy, HC, Consulate, trade representative of a foreign country
Is TAN required	Yes	Yes
When to deposit / collect?	Tax so deducted should be deposited by 7th of next month	Tax so collected should be deposited by 7th of next month
Which form to file the Return	26Q	27EQ
Certificate to be issued in which form?	Form 16A	Form 27D

TCS provisions are already in force and now, TDS provisions u/s. 194Q will become effective from 01/07/2021, there would be interesting situations.

When the buyers and sellers both are having turnover in excess of Rs. 10 Crore in preceding financial years and are covered by the Section 194Q and 206C(1H):

SITUATIONS	SECTION 194Q	SECTION 206C(1H)
Where the Buyer has purchased goods or made advance payment	Buyer would be deducting the TDS @ 0.1% on the payment / advance made for purchase of goods after 01/07/2021	As TDS has already been deducted u/s 194Q, seller would not collect any TCS from the buyer
Buyer has paid the dues out of the payable balance as on 30/06/2021	Buyer would not deduct TDS	Seller would collect the TCS on such amount received
Buyer has bought the goods but returned later on without crediting in the Seller's Account	No obligation to deduct TDS	No amount received
Buyer has bought the goods but returned later on after crediting in the Seller's Account and debiting on return of the goods	TDS would have to be deducted from the credited amount despite subsequent debit by way of return of goods. Therefore, accounting entry of credit should be passed after full acceptance of the goods	No amount received
Buyer was liable but did not deduct TDS	--	Seller would be liable to collect TCS as second proviso to Section 206C (1H) fails to operate.

Conclusion:

In a nutshell, it can be said that only if conditions of Sec 194Q are not satisfied and the sale of goods exceed Rs 50L where the seller's TO in the previous year is >Rs.10 Crores then Sec 206(1H) shall apply and TCS at the rate as specified.

EXAMPLES OF CHALLENGES WHICH WILL NEED GOVT. CLARIFICATIONS:

a) How would the buyer deduct the TDS of A Public Sector Companies/ Undertakings (PSU). If the PSU is collecting the TCS in their `Sale Bills' and now, when the buyer would become liable to TDS, then how would the buyer deduct TDS and make balance payment to the PSU?

The PSU would ask the buyers to deposit the TDS first and thereafter, claim reimbursement from PSU on the basis of Form 16A.

b) Electric Distribution Companies called DISCOMs of the various states are collecting TCS in their Electricity bills since `Electricity' is goods. How would such DISCOMs accept `Net of TDS' payment?

They may also follow the same route as mentioned above.

c) How would the `Seller' come to know that `Buyer' is liable to deduct TDS u/s 194Q?

The Income Tax Rules should bring out the form for submission to the `Seller' by the buyer to this effect. Without standard format, buyers would be designing their own formats. A case in point is the declaration being furnished by Transporters u/s. 194C (6) where, in the absence of a standard format, every transporter has developed the format as per their convenience.

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