

TCS as per Section 206C(1H) of Income Tax Act, 1961

Presented By

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Section 206C(1H)- Applicable w.e.f. 1st Oct 2020

206C(1H): Every person, being a seller, **who receives any amount** as consideration for sale of any goods of the value or aggregate of such value **exceeding fifty lakh rupees** in any previous year, **other than the goods being exported out of India** or goods covered in sub-section (1) or sub-section (1F) or sub-section (1G) shall, at the time of receipt of such amount, collect from the buyer, a **sum equal to 0.1 per cent** of the sale consideration exceeding fifty lakh rupees as income tax.

- **Provided** that if the buyer has not provided the Permanent Account Number or the Aadhaar number to the seller, then the provisions of clause (ii) of sub-section (1) of section 206CC shall be read as if for the words "five per cent", the words "one per cent" had been substituted
- **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.**

Explanation.—For the purposes of Section 206C(1H):

(a) "**buyer**" means a person who purchases any goods, but does not include,—

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

(B) a local authority as defined in the Explanation to clause (20) of section 10; or

(C) a 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;

(b) "**seller**" means a person whose total sales, gross receipts or turnover from the business carried on by him exceed ten crore rupees during the financial year immediately preceding the financial year in which the sale 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.

Seller as per section 206C(1H)

Condition

Person whose total sales, gross receipts or turnover from the business carried on by him exceeds Rs 10 Crore during the preceding financial year.

Exceptions

Person who is an **exclusive service provider**;

Sales on which **TDS is liable to be deducted and deduction have been made**,

Export of Goods,

Goods that are specifically covered under sub section (1), (1F) or (1G) of section 206, i:e

Transaction covered under Section 206C(1) :- Alcoholic Liquor for human consumption, Tendu Leaves, Timber or any other forest produce, scrap, minerals being coal or lignite or iron ore;

Transaction covered under Section 206C(1F) :- consideration for sale of a motor vehicle of the value exceeding ten lakh rupees.

Transactions covered under Section 206C(1G) :-Remittance outside India under LRS and Overseas tour package.

TCS as per Section 206C(1G) applicable w.e.f 01.10.2020

Nature of Transaction Goods and/or Service Liabile to TCS	Rate of TCS	
	If PAN or Aadhaar is furnished	If PAN or Aadhaar is not furnished
Remittance under Liberalised Remittance Scheme of RBI exceeding Rs 7 Lakhs		
a) If the remittance is a loan obtained from any financial institution as defined in section 80E, for the purpose of any education	0.5%	5%
(b) Others	5%	5%
Sale of Overseas Tour Package	5%	10%

Buyer as Section 206C(1H)

Buyer means any person who purchase **any goods**, but does not include-

- Central Government,
- State Government,
- An Embassy,
- High Commission,
- Legation,
- Commission,
- Consulate
- Trade Representation of a Foreign state.
- Local Authority as defined in the explanation to clause (20) of section 10 or
- A person importing goods into India

Or any other person as the Central Govt. may, by notification in the official Gazette, specify for this purpose, subject to such conditions as may be specified therein.

CBDT Circular No.17 of 2020 dated 29th Sep 2020

- ▶ **Clarification regarding consideration received on or after 1st October 2020 against sale of goods made before 1st October 2020**

4.4.2(ii) 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.

- ▶ **Clarification regarding threshold of 50 lakhs rupees.**

4.4.2(iii) Since the threshold of fifty lakh rupees 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 fifty lakh rupees 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.

CBDT Circular No. 17 of 2020 dated 29th Sep 2020

- ▶ **Clarification on Transactions of securities and commodities traded through recognized stock exchange and transaction of electricity sale.**

4.1.2 In order to remove such difficulties, it is provided that the provisions of section 206C(1H) 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.

CBDT Circular No. 17 of 2020 dated 29th Sep 2020

► Clarification regarding applicability of Section 206C(1H) on sale of Motor Vehicle.

4.5.1 The provisions of sub-section (1F) of section 206C of the Act apply to sale of motor vehicle of the value exceeding ten lakh rupees. Sub-section (1H) of section 206C of the Act exclude from its applicability goods covered under sub-section (1F). It has been requested to clarify that whether all motor vehicles are excluded from the applicability of sub-section (1H) of section 206C of the Act.

4.5.2 In this regard it may be noted that the scope of sub-sections (1H) and (1F) are different. While sub-section (1F) is based on single sale of motor vehicle, sub-section (1H) is for receipt above 50 lakh rupee during the previous year against aggregate sale of goods. While sub-section (1F) is for sale to consumer only and not to dealers, sub-section (1H) is for all sale above the threshold. Hence, in order to remove difficulty it is clarified that,-

(i) Receipt of sale consideration from a dealer 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.

CBDT Circular No. 17 of 2020 dated 29th Sep 2020

(ii) In case of sale to consumer, receipt of sale consideration for sale of motor vehicle of the value of ten lakh rupees 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 fifty lakh rupees during the previous year.

(iii) In case of sale to consumer, receipt of sale consideration for sale of motor vehicle of the value exceeding ten lakh rupees would not be subjected to TCS under sub-section (1H) of section 206C of the Act if such sales are subjected to TCS under sub-section (1F) of section 206C of the Act.

Example

If a car manufacturer having turnover of Rs 20,000 Crores during FY 2019-20 make the sales of Rs 100 Crores to M/s ABC (Car Dealer) during 01.04.2020 to 30.09.2020. Receipts during this period from M/s ABC are Rs 80 Crores. Sales of Rs 70 Crore are made to M/s ABC during 01.10.2020 to 31.03.2021 and receipts during this period are Rs 75 crores.

In this case TCS, u/s 206C(1H) shall be applicable as the transaction are between the car manufacturer and car dealer. Section 206C(1F) is applicable only when the retail sales are made to the customer. Hence in the above examples TCS @ 0.075% shall be collected by the car manufacturer on Rs 75 Crores.

Note: As per clarification issued in Circular 8/2016 dated 8-6-2016, TCS u/s 206C(1F) is not applicable on sale of motor vehicles by manufacturers to dealers/distributors.

CBDT Circular No. 17 of 2020 dated 29th Sep 2020

► Clarification on adjustment for sales return, discount or indirect taxes

4.6.1 : 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.

► Fuel supplied to non-resident airlines

4.7.1 : It is requested to clarify if the provisions of sub-section (1H) of section 206C of the Act shall apply on fuel supplied to non-resident airlines at airports in India.

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

Press Release dated 30th September 2020 Clarification on doubts arising on account on New TCS Provisions

- There are reports in certain sections of media wherein certain doubts have been raised regarding the applicability of the provisions relating to Tax Collection at Source (TCS) on certain goods introduced vide Finance Act, 2020. This press note is being issued to clarify those doubts about the applicability of these provisions.
- Finance Act, 2020 amended provisions relating to TCS with effect from 1st October, 2020 to provide that seller of goods shall collect tax @ 0.1 per cent (0.075% up to 31.03.2021) if the receipt of sale consideration from a buyer exceeds Rs. 50 lakh in the financial year. Further, to reduce the compliance burden, it has been provided that a seller would be required to collect tax only if his turnover exceeds Rs. 10 crore in the last financial year. Moreover, the export of goods has also been exempted from the applicability of these provisions
- It has been reported in the media that TCS has been made applicable to the amount received before 1st October, 2020. It is clarified that this report is not correct. In this connection, it may be noted that this TCS shall be applicable only on the amount received on or after 1st October, 2020. For example, a seller who has received Rs. 1 crore before 1st October, 2020 from a particular buyer and receives Rs. 5 lakh after 1st October, 2020 would be required to collect tax on Rs. 5 lakh only and not on Rs. 55 lakh [i.e Rs.1.05 crore - Rs. 50 lakh (threshold)] by including the amount received before 1st October, 2020.

Press Release (Contd.)

- ▶ It has also been reported in certain section of the media that every transaction will attract this TCS. This report is not correct. It may be noted that this TCS applies only in cases where receipt of sale consideration exceeds Rs. 50 lakh in a financial year. As the threshold is based on the yearly receipt, it may be noted that only for the purpose of calculation of this threshold of Rs. 50 lakh, the receipt from the beginning of the financial year i.e. from 1st April, 2020 shall be taken into account. For example, in the above illustration, the seller has to collect tax on receipt of Rs. 5 lakh after 1st October, 2020 because the receipts from 1st April, 2020 i.e. Rs. 1.05 crore exceeded the specified threshold of Rs. 50 lakh.
- ▶ Further, the seller in most of the cases maintains running account of the buyer in which payments are generally not linked with a particular sale invoice. Therefore, in order to simplify and ease the compliance of the collector, it may be noted that this TCS provision shall be applicable on the amount of all sale consideration received on or after 1st October, 2020 without making any adjustment for the amount received in respect of sales made before 1st October, 2020. Mandating the collector to identify and exclude the amount in respect of sales made up to 30th September, 2020 from the amount received on or after the 1st of October, 2020 would have resulted into undue compliance burden for the collector and also litigation.
- ▶ It has been reported in certain section of the media that this TCS is an additional tax. This is obviously not correct. In this regard, it may be noted that TCS is not an additional tax but is in the nature of advance income-tax/TDS for which the buyer would get the credit against his actual income tax liability and if the amount of TCS is more than his tax liability, the buyer would be entitled for refund of the excess amount along with interest.

Press Release (Contd.)

- ▶ It may also be noted that this TCS shall be applicable only on the receipt exceeding Rs. 50 lakh by a seller from a particular buyer. Therefore, on payment of Rs. 1 crore made by a buyer to a particular seller only Rs.5,000 (Rs. 3,750 this year) i.e. [0.1% of (Rs. 1 crore - Rs. 50 lakh)] shall be collected. Hence, in case of a person making payment of Rs.1 crore each to 10 different sellers, the total tax collected shall be only Rs.50,000 (Rs. 37,500 this year) i.e 10 x [0.1% of (Rs. 1 crore- Rs. 50 lakh)] on the total payment made for purchase of Rs. 10 crore to ten different sellers
- ▶ Assuming a net profit of 8% on sales, his business income in respect of this payment of Rs. 10 crore made for purchase would be around Rs. 87 lakh. The income-tax liability on the income of Rs. 87 lakh for an individual in the new taxation regime would be around Rs. 27 lakh. Hence, the amount of TCS collected i.e. Rs.50,000 (Rs. 37,500 this year) would be a miniscule part of his actual tax liability and would be easily adjusted against his tax liability. In a rare case, if his tax liability is less than even Rs.50,000 (Rs. 37,500 this year), he shall be entitled for refund of excess TCS with interest.
- ▶ It has also been reported in certain section of media that every seller will have to collect TCS. This is also not correct. In this context, it may be noted that in order to reduce the compliance burden, this TCS is made applicable to only those sellers whose business turnover exceeds Rs. 10 crore. In other words, those having turnover of less than Rs. 10 crore will not be required to collect TCS. There are only around 3.5 lakh persons who have disclosed business turnover of more than Rs. 10 crore in FY 2018-19. There are around 18 lakh entities which already deal with TDS/TCS. Therefore, this TCS collection under these new provisions would be required to be made by persons who, in most of the cases, would already be complying with the other provisions of TDS/TCS.

Clarification as per press release dated 30th Sep 2020

- TCS would be applicable @ 0.1% (0.075% till 31.03.2021)
- TCS would apply if the receipts against sales made to the buyer exceeds Rs 50 Lakhs in the Financial Year.
- For calculation of threshold limit of Rs 50 lakh, receipts from the beginning of Financial Year shall be taken into account.
- Exemption upto Rs 50 Lakh of receipts would be given by the seller to each buyer every year.
- TCS shall be applicable only on the amount received on or after 1st October, 2020.
- It may be noted that this TCS provision shall be applicable on the amount of all sale consideration received on or after 1st October, 2020 without making any adjustment for the amount received in respect of sales made before 1st October, 2020.

Few practical illustrations on TCS for FY 2020-21

Total Turnover during FY 19-20	Sales till 30.09.2020 to "M/s XYZ"	Sales from 01.10.2020 to "M/s XYZ"	Collection till 30.09.2020 from M/s XYZ	Collection on or after 01.10.2020 from M/s XYZ	TCS u/s 206C(1H) @ 0.075%	Remarks
6 Crores	11 Crores	7 Crores	10 Crores	8 Crores	Nil	No TCS shall be collected due to the reason that the Turnover of the assessee was less than 10 Crores in FY 2019-20
15 Crores	25 lakhs	65 lakhs	20 Lakhs	60 lakhs	2250	TCS applicable on (20+60-50) Rs 30 lakhs @ 0.075%
12 Crores	65 lakhs	85 lakhs	75 lakhs	40 Lakhs	3000	Threshold limit of Rs 50 lakhs has been consumed till 30.09.2020 hence TCS would be applicable on all receipts on or after 01.10.2020 i.e Rs 40 lakhs
20 Crores	85 lakhs	60 lakhs	Nil	1.25 Crores	5625	TCS applicable on (1.25 cr-50 lakhs) Rs 75 lakhs.

Draft letter issued by one of the seller to their existing buyers

As you may be aware, the Finance Act 2020 has introduced **TCS** [Section 206C (IH)] on **sale of goods**. The rate of TCS is 0.075% (upto 31st March 2021)/**0.1 percent**, however, if the buyer **fails to furnish PAN or Aadhaar**, the rate of TCS shall be **1 percent**. At the outset, we would like to mention that the TCS would be available as a credit through your 26AS and can be utilized against the final tax liability for the year.

Given that the levy & collection of TCS is **at the time of receipt of sale consideration** on sale of any goods in any previous year coupled with the fact that, the law is proposed to be made effective from 1st October 2020, we shall levy & collect TCS as under:

- For practical reasons, we shall levy TCS at applicable rates on every invoice (irrespective of the threshold of INR 50 lakhs), raised on or after 1st October 2020 on sale of goods & such TCS will be collected at the time of receipt of sale consideration.
- In case of on any advance collected on or after 1st October 2020 on the orders towards sale of goods, TCS shall be collected at the time of collection.
- Given that the levy & collection of TCS is at the time of receipt of sale consideration, going by the literal interpretation of the law, we would be raising debit notes for recovering TCS on all the outstanding receivables (towards sale of goods) as on 30th September 2020 which are collected from Oct 1, 2020 and beyond.
- TCS will be levied and collected on **the value of the invoice including GST and freight or any other charges on the invoice;**

FAQs

What would be the Rate of TCS if the buyer fails to provide his PAN or Aadhaar No.?

If the buyer fails to provide his valid PAN or Aadhaar Number, then the rate of TCS on Sale of Goods under section 206C(1H) shall be 1% of the Sales Consideration, instead of 0.1%. (Proviso to Sec 206C(1H))

CBDT vide Press Release dated 13.05.2020 has reduced the rates of TDS/TCS by 25% , hence under section 206C(1H) rate would be 0.075% which shall be applicable from 01-10-2020 to 31-03-2021. However, where the buyer does not provide his valid PAN/Aadhaar there is no reduction in rate of TCS and the prescribed rate of 1% shall prevail.

Whether TCS would be applicable on payment received on or after 01.10.2020 for the sales made on or before 30.09.2020 ?

Yes, TCS would be applicable on payment received on or after 01.10.2020 for the sales made on or before 30.09.2020 subject to other condition and threshold limits as discussed above. This has also been clarified in Circular no. 17 of 2020 dated 29.09.2020.

In this case, there can be two options. One is to raise a debit note as and when payment is received and the second one is to raise a debit note on 01.10.2020 itself in respect of all outstanding as on 30.09.2020 against sale of goods. In my view, the latter option is better.

Note: As the TCS rate will get revised to 0.1% w.e.f 01.04.2021 as against 0.075% applicable from 01.10.2020 to 31.03.2021. In such cases, as on 01.04.2021, the seller should issue debit note in respect of all outstanding as on 31.03.2021 of the difference in the TCS rate of 0.025% (0.1-0.075)

Whether TCS should be reflected on Invoice?

As per section 206C(1H) of the Income Tax Act, Tax should be collected from the buyer at the time of receipt of the amount . If this provision is strictly followed, the debit note should be raised at the time of receipt of payment against sale of goods. However, practical compliance would be difficult if this method is followed. Industry is following one of the following three methods.

- a) TCS is mentioned on the invoice, thus the liability is created on the buyer to make the payment of TCS to the seller at the time of sale of goods.
- b) Separate commercial debit note is raised to the buyer on the date of sale of goods itself.
- c) Commercial debit note is raised at the end of the month to the buyer for the amounts received by the seller during that particular month.

Whether GST should be included as part of turnover for the purposes of calculating the limit of Rs 10 Crores ?

The words used in Explanation to Section 206C(1H) are total sales, gross receipts or Turnover from the business carried on by him.

As the term turnover has not been defined for this particular section. In my view, the term "Sales", "Turnover" and "Gross receipts" are commercial terms, they should be construed in accordance with the method of accounting regularly followed by the assessee. In most of the cases, GST is not the part of the turnover as per the method of accounting followed by the assessee and the Trading, Profit & Loss A/c of the assessee reflects the Sales/Receipts excluding the GST Amount. Further, neither in the circular and nor in the press release issued by CBDT, it has been stated that the turnover of 10 crores would also include the GST amount. Hence, in my view, Turnover reflected in the books of accounts/ Financial statements of the assessee should be taken as the benchmark for the purposes of determining the turnover as per Section 206C(1H).

Whether TCS is applicable on GST component also ?

CBDT has clarified in Circular no. 17 of 2020 dated 29.09.2020 that TCS shall be applicable on GST component also. Copy of the extract of the Circular is as under:

4.6.1 : 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.

Note: Only sellers of goods are covered by this provision. Services are not covered. If a person sells goods as well as render services, then tax shall be collected only on the sale of goods

Whether GST is applicable on TCS component also ?

As per Circular No. 76/50/2018 dated 31.12.2018 issued vide F. No. CBEC-20/16/04/2018-GST, it was clarified that as per section 15(2) of CGST Act, , the taxable value for the purposes of GST shall include the TCS amount collected under the provisions of the Income Tax Act since the value to be paid to the supplier by the buyer is inclusive of the said TCS.

However, in the light of the representations received from the stakeholders, the matter was re-examined in consultation with the Central Board of Direct Taxes (CBDT). The CBDT has clarified that Tax collection at source (TCS) is not a tax on goods but an interim levy on the possible “income” arising from the sale of goods by the buyer and to be adjusted against the final income- tax liability of the buyer.

Thus, CBIC issued a corrigendum F. No. 76/50/2018-GST dt. 07.03.2019 and clarified that:

For the purpose of determination of value of supply under GST, Tax collected at source (TCS) under the provisions of the Income Tax Act, 1961 would not be includible as it is an interim levy not having the character of tax.”

Hence GST would not be applicable on TCS component.

Whether TCS u/s 206C(1H) would be applicable in case TDS is also applicable on that particular transaction?

The second provision to section 206C(1H) provides 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.

The two noteworthy conditions are-

1. The buyer is liable to deduct TDS, and
2. The buyer has actually deducted the TDS.

Both conditions are required to be satisfied.

Example: In case of works contract, both the goods and services are involved. However, such a transaction is covered under section 194C and is subject to TDS thereunder. Hence, there shall not be any TCS on works contract only if the buyer has deducted the tax.

Whether receipts upto Rs 50 Lakhs to be excluded every year ?

Yes, receipts upto Rs 50 Lakhs can be excluded every year for each buyer. The same has also been clarified through a press release dated 30.09.2020 citing an example as mentioned below:

It may also be noted that this TCS shall be applicable only on the receipt exceeding Rs. 50 lakh by a seller from a particular buyer. Therefore, on payment of Rs. 1 crore made by a buyer to a particular seller only Rs.5,000 (Rs. 3,750 this year) i.e. [0.1% of (Rs. 1 crore - Rs. 50 lakh)] shall be collected. Hence, in case of a person making payment of Rs.1 crore each to 10 different sellers, the total tax collected shall be only Rs.50,000 (Rs. 37,500 this year) i.e 10 x [0.1% of (Rs. 1 crore- Rs. 50 lakh)] on the total payment made for purchase of Rs. 10 crore to ten different sellers

How the seller should approach in such case ?

Assuming the seller has made sales of Rs 1 crore in a Financial Year to one of the buyer and the buyer has made the payment of Rs 1 crore to the seller. However the buyer has not paid the additional 0.1% TCS to the seller even after the several reminders made by the seller.

Whether TCS adjustment should be made in case of sales return ?

- I.** In Case goods are returned to the seller after the receipt of the payment by him and TCS has been collected by the seller, however the same has not been deposited by the seller to the Govt. as the sales return were made prior to the due date of deposit of TCS.
- II.** In Case goods are returned to the seller after the receipt of the payment by him and TCS has been collected by the seller, and the same has also been deposited by the seller to the Govt.
- III.** In case the goods are returned before the receipt of payment for sale and the TCS was not charged on the invoice.
- IV.** In case the goods are returned before the receipt of payment for sale and the TCS was charged on the invoice.

Whether TCS applicable on advance against sale of goods?

As per Circular No. 17 of 2020 dated 29.09.2020 it has been clarified that TCS would be applicable on advance against sale of goods. The copy of extract of para 4.4.2(ii) is as under:

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.

Implication of TCS if turnover discount given by the seller ?

As per Circular No. 17 of 2020 dated 29.09.2020 it has been clarified that no adjustment on account of discount is required to be made for TCS u/s 206C(1H). The copy of extract of para 4.6.1 is as under:

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.

Whether TCS u/s 206C(1H) is applicable on the transfer of goods from one branch to another?

TCS under this section is required to be collected by any person, being a seller receiving consideration for the sale of goods. Thus, the existence of two distinct parties as 'seller' and 'buyer' is a pre-requisite to construe a transaction as a sale. The condition of sale is not fulfilled in the context of branch transfer. Therefore, the provisions of this section shall not apply in the case of branch transfers.

If the buyer has multiple units, whether sales made to different units need to be aggregated for the purposes of 206C(1H)?

If different units of buyer are under the same PAN or Aadhaar number, the amount received from all such units shall be aggregated to compute the limit of Rs. 50 Lakhs

Where tax is required to be collected at source, the collectee is required to furnish his PAN or Aadhaar number to the collector failing which the tax is required to be collected at higher rates. If the PAN or Aadhaar number is available, the threshold limit of Rs. 50 lakhs shall be computed in respect of each PAN or Aadhaar number.

Example:

If the seller receives any payment of Rs 40 Lakhs from M/s ABC(Delhi) and Rs 50 Lakhs from M/s ABC (Mumbai) having same PAN, then the TCS needs to be collected by the Seller.

Can a buyer apply for the certificate for lower collection of TCS ?

An assessee can apply to the Assessing Officer to issue a certificate for collection of tax at lower rates. Such certificate shall be issued if existing and estimated tax liability of assessee justifies collection of tax at a lower rate.

However, Section 206C(9) of the Income-tax Act does not extend the benefit to apply for lower tax collection at source for the section 206C(1H). Hence, the assessee does not have the option to approach the assessing officer to issue lower tax collection certificate for transactions covered under section 206C(1H).

Whether TCS u/s 206C(1H) is applicable on sale of software ?

- ▶ Hon'ble Supreme Court in its landmark decision of *Tata Consultancy Services v. State of A.P* [2004] 141 Taxman 132 (SC) held that Canned software (off the shelf computer software) are 'goods'.
- ▶ The applicability to collect TCS shall be decided on the basis whether the sale of software has been treated as 'sale of goods' or 'sale of service'. If the same has been treated as a sale of service, it shall not be subject to TCS but the provisions of TDS under section 194J or 195, as the case may be, may apply. However, if the sale of software has been treated as a sale of goods then the seller shall be liable to collect TCS subject to the fulfilment of other conditions of this provision.

Other important points to remember

- Sellers would be required to obtain a Tax Deduction Account Number (TAN). If the person already have obtained TAN for compliance TDS provisions, then another TAN is not needed for TCS purpose.
- Tax collected during the month will be required to be deposited in Challan No 281 within a period of 7 days of next month.
- If the buyer **fails to furnish PAN or Aadhaar** , the rate of TCS shall be **1 percent**.
- If a collector fails to collect or after collection fails to pay it to the credit of Central Government, he shall be liable to pay interest at the rate of 1% for every month or part thereof on the amount of tax he failed to collect or pay. The interest shall be calculated for the period starting from the date on which tax was required to be collected and ending on the date on which tax is deposited. The interest is required to be paid before furnishing the TCS return.
- If there is a delay in filing of TCS return, the late filing fee shall be payable as per Section 234E. The fee for default in furnishing the TCS Statement shall be levied at the rate of Rs. 200 per day during which such failure continues. However, the amount of fee shall not exceed the total amount collectable.

Other important points to remember

- ▶ If a person fails to furnish TCS statement or does not furnish it by the due date, the AO may direct that the person shall be liable to pay penalty under Section 271H. The penalty under Section 271H may also be levied in case of furnishing of inaccurate information in the TCS statement. The minimum amount of penalty for failure to furnish TCS statement or providing inaccurate information therein is Rs. 10,000 which may extend up to Rs. 100,000.
- ▶ If a person fails to pay to the credit of the Central Govt., the tax collected by him as per section 206C, he shall be punishable with rigorous imprisonment for a term which shall not be less than three months but which may extend to Seven years and with fine (Section 276BB).

(Procedure for identification and processing of cases for prosecution has been laid down vide circular no. 24/2019 dated 09.09.2019)

Due date of furnishing of TCS Statements and Certificates

Quarter	Due-Date for 27EQ Statement)	for (TCS	Due date for issue of Form 27D (TCS Certificate)
Apr-Jun	15th July		30th July
Jul-Sep	15th Oct		30th Oct
Oct-Dec	15th Jan		30th Jan
Jan-Mar	15th May		30th May

Thank
you



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