Provisions of Deduction of Tax at Source U/s. 194Q and 206AB and Collection of Tax u/s. 206CCA

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As amended by Finance Act 2021

By E.A. Patil and Associates LLP Chartered Accountants

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Deduction of Tax at Source on the purchase of goods with effect from July 1, 2021

- Applicability of Section 194Q Who is liable for deduction of tax ?
 - Any person, being a Buyer, who is responsible for making payment of a sum to any <u>resident seller</u>
 - For purchase of <u>any goods</u> and
 - The value or aggregate of the value exceeds Rs.50 Lakhs in any previous year.
- Who is "Buyer"
 - A person having total sales/gross receipts/turnover from business activities exceeding <u>Rs.10 Crores</u> in immediately preceeding <u>financial year</u> in which the purchases of goods took place
 - Buyer will not include specified person as notified by Government
- Time of deduction
 - At the <u>time of credit or payment of a sum</u> thereof, whichever is earlier.

Rate

- @0.1% of the purchase value above Rs.50 Lakhs
- If PAN is not available , the rate would be 5%.
- **Effective Date** 1st July 2021
- Which transactions are excluded/When the section will not be applicable?
 - If the transaction is already covered for deduction of tax at source in some other section
 - Vide circular No 13 of 2021, securities purchased via stock exchange or IFSC and transaction in electricity as per Regulation 21 of CERC is not covered under TDS.
 - If the transaction is covered under the provisions of Section 206C (Other than 206C(1H) – Collection of tax at source on sale of goods)
 - Tendu leaves
 - Timber,
 - sale of scrap,
 - sale of liquor,
 - Minerals being coal, lignite, iron ore
 - purchase of vehicle

How to determine the limit of Rs.10 Crore

- Gross Receipts / Sales / Turnover of business carried on by the Assessee
- Turnover of Sales and Services, both are to be included.
- Whether GST forms part of the Turnover ?
- Export Incentives / Duty Drawbacks / Bank Interest ?
- Gross Receipts –Builders on account of bookings
- Applicability of TDS Vs TCS

Particulars	Scenario 1	Scenario 2	Scenario 3
Turnover of Seller in previous FY	12 Cr	06 Cr	12 Cr
Turnover of Buyer in previous FY	06 Cr	12 Cr	15 Cr
Value of Sale of Goods	75 Lakhs	75 Lakhs	75 Lakhs
Sale Consideration paid during FY	65 Lakhs	65 Lakhs	65 Lakhs
Applicability of TDS or TCS	Seller – TCS	Buyer-TDS	Buyer - TDS
Rate	0.1%	0.1%	0.1%
Amount liable for tax, after reducing threshold limit of Rs.50 Lakhs	15 Lakhs	25 Lakhs	25 Lakhs
Amount of Tax	1,500	2,500	2,500

Particulars	FY 2020-21	FY 21-22	FY 22-23
Turnover of the Buyer	12 Crores	9 Crores	15 Crores
Purchases from A			
April to June	60 Lakhs	40 Lakhs	55 Lakhs
July	23 Lakhs	25 Lakhs	30 Lakhs
Aug to March	20 Lakhs	18 Lakhs	20 Lakhs
TDS Applicable	No	Yes	No
Amount on which applicable	NA	50 - 40 = 10.00 25 - 10 = 15.00	NA
Amount of TDS	NA		NA
		0.1% of 15 Lakhs = 1500	
		0.1% of 18 Lakhs = 1800	

Vendor's Ledger / Statement

Date	Particulars	Amount in Lakhs	Cumulative Purchases in lakhs	Amount liable for TDS in lakhs	TDS
01.04.2021	Opening Balance	10.00			
15.05.2021	Purchases	23.00	23.00		
02.06.2021	Purchases	18.00	41.00		
05.07.2021	Purchases	11.00	52.00	2.00	200
07.07.2021	Payment	62.00	-	0	0
07.07.2021	Payment	15.00	-	15.00	1,500
05.08.2021	Purchases	27.00	-	12.00	1,200
17.08.2021	Purchases	9.00	-	9.00	900

Date	Amount in Lakhs	Particulars
15.05.2021	70	Advance
07.07.2021	80	Purchases

Date	Amount in Lakhs	Particulars
15.05.2021	70	Advance
25.06.2021	50	Purchases
07.07.2021	20	Purchases

Date	Amount in Lakhs	Particulars
25.06.2021	70	Advance
25.06.2021	30	Purchases
07.07.2021	30	Purchases
15.07.2021	15	Purchases

Action Points

As a Seller of Goods –

- If TCS was applicable on such sales between 01.10.2020, one to need to confirm with the Buyer, whether he will be deducting TDS ?
- If he would be deducting TDS, no need to collect TCS on receipt of consideration
- If he is not deducting TDS, collect TCS on receipt of consideration
- Even if the TO of the buyer is more than 10 Cr but he is not deducting TDS, the onus shifts to Seller to collect TCS

As a Buyer of Goods –

- If the seller used to collect TCS between 01.10.2020 to 30.06.2021, one to need to inform the seller that you will be deducting TDS w.e.f. 01.07.2021
- Do not collect TCS on consideration

Sr No.	Question	Answer
1	What is the meaning of "Goods"	Goods are not defined in IT Act. In absence thereof, one need to refer the Sale of Goods Act 1930 and Central Goods and Service Tax Act 2017 for the definition and meaning of goods for the purpose of this section.
2	Buyer's turnover is Rs.9 Crores and he purchases goods worth Rs.55 Lakhs from seller. The seller's turnover is Rs.25 Crores, what would be applicable , TDS or TCS ?	In this case, TCS u/s.206C(1H) will be applicable .
3	If 10 invoices are raised for purchase of goods worth Rs.7 Lakhs each, whether TDS @ 0.1% is applicable on each invoice ?	TDS shall be deducted on the portion exceeding Rs.50 Lakhs

Sr. No	Question	Answer
4	On what amount TDS is required to be deducted ? In case of other expenses, tax is deducted on Net Amount but the provision of Section 194Q talks about deduction of tax on a sum credited in seller's account which is a gross figure. Whether to deduct tax on Net of GST amount or Total Invoice Value?	In respect of Section 206C(1H), the CBDT vide Circular No. 17, Dt.29.09.2020, has clarified that since the tax collection is made with reference to receipt of the amount of sale consideration, TCS is to be collected on amount including GST. CBDT vide Circular No. 23/2017, Dt 19.07.2017, has clarified that wherever, the component of 'GST on services' is indicated separately, tax shall be deducted at source on the amount paid or payable without including such 'GST on services' component. The circular also refers applicability to Chapter XVII B.
		Applying the same principle, one may conclude that GST shall not form part of the purchase value for TDS. This has also been clarified now vide Circular No 13 of 2021 dated 30 th June, 2021.

Sr No.	Question	Answer
5	If both the provisions i.e., section 194Q and section 206C(1H) gets applicable on same transaction, then what will prevail ?	As provided in the section, TDS u/s.194Q shall prevail.
6	If invoice includes some other charges also like freight / transport / loading & Unloading, whether TDS is to be deducted on entire sum or only on goods value	If the invoice is a consolidated invoice, then the TDS shall be applicable on all items included in the invoice. If the charges are recovered under a separate debit note as pure reimbursement, then TDS will not be applicable.
7	For FY 2020-21, the buyer's turnover was Rs.12 Crores but in FY 2021-22, the turnover reduces to Rs.9 Crores, kindly explain the applicability of provisions of section 194Q	The buyer is required to deduct tax on purchases of goods made during the FY 2021-22. The buyer is not required to deduct tax on purchase of goods during FY 2022-23 as the TO of previous financial year is less than Rs.10 Crores

Sr No.	Question	Answer
8	During the FY 2020-21, the buyer's TO was Rs.15 Crores and he had purchased goods worth Rs.67 Lakhs from a seller in the same year. In FY 2021-22, till 30.06.2021, he has purchased goods worth Rs.28 Lakhs, is the buyer liable to deduct tax ?	Tax needs to be deducted once the purchase of goods crosses the threshold limit of Rs.50 Lakhs in FY 2021-22.
9	Whether tax is to be deducted on a single invoice exceeding Rs.50 Lakhs ?	The tax is required to be deducted on value of an invoice or aggregate of invoices, exceeding Rs.50 Lakhs. So, even if a single invoice exceeds Rs.50 Lakhs or total of invoices exceeds Rs.50 lakhs, tax is required to be deducted on amount exceeding Rs.50 Lakhs
10	Whether the limit of Rs.50 Lakhs is for a financial year or cumulative?	The Limit is qua financial year and qua seller .

Sr No.	Question	Answer
11	If the buyer is purchasing goods from Central or State Government, whether TDS is applicable	, , ,
12	Whether the section is also applicable for purchase of agricultural produce?	
13	Whether tax is required to be deducted for imported goods	The provisions are applicable for resident seller . As the seller in case of imported goods would be Non Resident, the provisions of this section would not be applicable.

Sr No.	Question	Answer
14	Whether the purchase of tanker water / Soil / Earth / Murum / Grass / Trees etc covered under TDS ?	Since water is also included in the definition of goods under CGST Act 2017, chargeable under NIL rate, it would be liable for TDS. Soil / Earth / Murum are covered as taxable goods in CGST Act and hence liable for TDS.
15	Whether transport charges are included under TDS	The hiring of truck is a service and hence not covered under this section but it is covered u/s.194C / 194 I.
16	What is the difference between 194Q and 206C(1H)	The provisions of section 194Q are applicable on <i>invoice value</i> whereas provisions of section 206C(1H) are applicable on <i>receipt of a sale consideration</i> . No PAN in 194Q is liable for TDS @5% whereas in case of 206C(1H) @1%.

Sr No.	Question	Answer
17	If advance of Rs.54 Lakhs was given in FY 2020-21 for purchase of goods and purchase invoice is raised on 05.07.2021 for Rs.54 Lakhs, whether tax is to be deducted on ?	credit, whichever is earlier, any payment made prior to 01.07.2021 shall not be liable for TDS, even if the invoice is raised
18	In a combined invoice like installation of lift, where the supply of lift and its installation is given in single invoice, whether TDS would be applicable on whole sum or only on supply ?	covered u/s.194C and will not be covered under 194Q. If two separate invoices are raised, 194Q would be applicable on
19	If the goods purchased are returned, whether the proportionate TDS needs to be reversed	

Sr No.	Question	Answer
20	If the Company is buying the goods as well as selling the goods from the same party and making the payment on net basis, what will be applicable, TDS or TCS?	If both parties are covered u/s.194Q, then each one will apply provisions of TDS on each one's purchases on invoice value.
21	If payment for purchase of goods is done by a third party or adjusted against previous loan, whether TDS will be applicable?	important u/s.194Q. The transaction would be liable for TDS, if other
22	Whether section is applicable for purchase of capital goods ?	Yes. There is no distinction made between capital or trading goods. Even if machinery is purchased, TDS would be applicable.

Sr No.	Question	Answer
23	In case of purchase of Passenger or commercial vehicle, having value more than Rs.50 Lakhs, whether TDS u/s.194Q would be applicable ?	In case of Vehicle, TCS u/s.206C is applicable and hence TDS u/s.194Q won't be applicable.
24	Whether buying of securities through stock exchange which is a business activity shall be covered under TDS?	securities are not covered under the

Sr No.	Question	Answer
25	Whether TDS should be deducted on Purchase of Software	 If the software is imported, Section 195 will apply and hence it will not be covered under section 194Q If the purchase of software is treated as purchase of service, billed under SAC code of CGST Act, it will be covered under section 194J If the purchase of software is treated as purchase of goods, billed under HSN code of CGST Act, it will be covered under section 194Q
26	Whether TDS should be deducted on Purchase of Jewellery for business or personal use	Jewellery, being a movable property, is covered within the term goods. There is no specific exclusion under Section 194Q for TDS on purchase of jewellery. Thus, the tax shall be deductible on purchase of jewellery, if other conditions are also fulfilled. CBDT may clarify for exclusion of jewellery from 194Q, if purchased for personal use.

Sr No.	Question	Answer
27	Under GST Law, GST Invoice Is raised and GST is charged on purchase of goods from one branch to another. Under such circumstances, whether TDS will also be applicable for inter branch transfers ?	TDS will not be applicable on inter branch invoices raised as the Buyer and seller will be the same party.
28	If the Buyer has multiple branches, whether the limit of Rs.50 Lakhs is applicable for each branch ?	The limit of Rs.50 Lakh is qua seller, qua year, based on the PAN or Aadhar. Hence, aggregate purchase value needs to be considered.
29	If a buyer located in SEZ, purchases goods, whether he is required to deduct TDS ?	If the purchases are from the local resident supplier, Tax is required to be deducted.
30	A builder sells the scrap after the building is complete, whether TDS shall be deducted by buyer ?	Sale of scrap from manufacture is covered u/s.206C. Sale of other scrap shall be covered u/s.194Q, if other conditions are fulfilled.

Sr No.	Question	Answer
31	Whether purchase of land by a Builder will be covered under 194Q ?	Being an immovable property, land is not included in the list of goods as per the CGST Act. Further, TDS on immovable property is covered under 194IA.
32	Is Purchase of TDR liable for TDS ?	 TDR is an intangible asset or an actionable claim. If we refer definition of Sale of Goods Act, it has excluded actionable claims. However, GST Act has included the same and is liable for GST @ 18% but as services. Considering that the GST is a latest law and TDR is a service, purchase of TDR is

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3	3	Is a Public Charitable Trust required to deduct tax at source u/s.194Q	Every Trust is liable for deduction of tax at source for payments made like Salary, Professional Fees, Contractual Payments etc. Section 194Q says "Any Person", so technically the trusts are also liable for TDS u/s.194Q on purchases made by it, provided its Gross Receipts exceeds Rs.10 Crores.
34	1	Purchase of goods from Subsidiary covered ?	For income tax purpose, the subsidiary is an independent entity and hence TDS would be applicable if other conditions are satisfied.
3	5	The HO and branches have separate TAN. Who will deduct and pay TDS?	Generally procurements are done at HO and hence HO should deduct tax on purchases. Where branch procures goods, it needs to deduct tax at source. But as said earlier, the limit of Rs.50 Lakhs is qua seller based on PAN / AADHAR.

Sr No.	Question	Answer
36	Can a seller apply for Lower or NIL deduction certificate with Income Tax Department ?	As of now , no corresponding amendment has been done in section 197 and hence getting lower or NIL deduction certificate for 194Q is not possible.
37	What are the due dates for payment and fling of returns? How to pay the TDS ?	Due dates of payment and return filing shall be as normal TDS returns. Tax is to be paid under Challan 281.
38	Consequences of non deduction	The Assessee will be treated as "the Assessee in Default" and shall be liable for interest of 1.5% per month for non-deduction and other penal consequences. Disallowance of the expenditure @30% u/s.40(a)(ia) will happen.

Special Provisions of deduction of tax in case of Non Filers of Income Tax Return (Specified Persons) as per new Section 206AB w.e.f. 01.07.2021

1	What is the provision of 206AB	If any person is responsible for deduction of tax at source on sum of income or amount, paid or payable to a <i>specified person</i> , the tax shall be deducted at <i>specified rate</i> .
2	Who is a " <i>Specified Person</i> "?	 "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 Rs.50,000/- or more in each of these two previous years.

TDS i	TDS in case of Non Filers of Income Tax Return (Specified Persons) as per new Section 206AB w.e.f. 01.07.2021		
3	Verification of ITR	 For Financial Year 2021-22, one need to check ITR of FY 2018-19 & FY 2019-20, till the due date If the due date of filing of return for FY 2020-21 is over, one needs to check, whether the returns for FY 2019-20 and FY 2020-21 are filed or not. 	
4			

Special Provisions of deduction of tax in case of Non Filers of Income Tax Return (Specified Persons) as per new Section 206AB w.e.f. 01.07.2021		
5	What are the due dates	 Due date for filing of return for Section 139(1) are below In case of a Company – 31st October Person liable for audit – 31st October Partner of a firm, whose accounts are liable for audit – 31st October Any other Assessee- 31st July For financial year 2020-21, the CBDT has extended the dues dates as below Company and audit cases – 30th November 2021 Other Assesses – 30th September 2021

	TDS in case of Non Filers of Income Tax Return (Specified Persons) as per new Section 206AB w.e.f. 01.07.2021		
6	What is the "Specified Rate" for deducted of tax at source for such "Specified Person"	 If both these conditions are satisfied, then the rate of deduction of tax would be as below: ➤ Twice the rate specified in the relevant provisions of the act or ➤ Twice the rate in force ➤ At the rate of 5% Whichever is higher 	
7	Action point for the Deductor / Payer	 Get a declaration from the person whom the payment is to be made, confirming that he / she / it has filed its Return of Income for last 2 financials years and confirming that his / her / its TDS + TCS is more than Rs.50,000 	
		The declaration should contain an assurance clause that if required under any proceedings, the person will produce necessary evidences in support of the declaration.	

Section	Nature of payment	Normal Rate	Rate u/s 206AB **
194	TDS on Dividend	10.00%	20.00%
194A	TDS on Interest	10.00%	20.00%
194C	TDS on Contractors		
	- HUF / Individual	1.00%	5.00%
	-Others	2.00%	5.00%
194J	TDS on Professional Fees	10.00%	20.00%
194J	TDS on Fees for Technical Services	2.00%	5.00%
194H	TDS on Commission / Brokerage	5.00%	10.00%
194I(a)	TDS on Rent - Plant & Machinery	2.00%	5.00%
194I(b)	TDS on Rent - Land / Building	10.00%	20.00%
194Q	TDS on Purchases	0.1%	5.00%
1940	TDS on payments by E-commerce operator to Participants	1.00%	5.00%

Section	Nature of payment	Normal Rate	Rate u/s 206AB **
192	Salary	As per slab	NA
192A	PF accumulated balance	10%	NA
194B	Winning from Lottery or Crossword	Rates in force	NA
194BB	Winning from horse race	Rates in force	NA
194N	Cash withdrawal from Bank	2%*	NA

Special Provisions of collection of tax in case of Non Filers of Income Tax Return (Specified Persons) as per new Section 206CCA

1	What is the provision of 206CCA	If any person is responsible for collection of tax at source on any sum or amount received by a person from a <i>specified person,</i> the tax shall be collected at <i>specified rate</i> .
2	Who is a "Specified Person "?	 "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 collected, 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 Rs.50,000/- or more in each of these two previous years.

Special Provisions of collection of tax in case of Non Filers of Income Tax Return (Specified Persons) as per new Section 206CCA		
3	Verification of ITR	 For Financial Year 2021-22, one need to check to check ITR of FY 2018-19 & FY 2019-20, till the due date If the due date of filing of return for FY 2020-21 is over, one needs to check, whether the returns for FY 2019-20 and FY 2020-21 are filed or not.
4	What is the due date	 Due date for filing of return for Section 139(1) are below In case of a Company – 31st October Person liable for audit – 31st October Partner of a firm, whose accounts are liable for audit – 31st October Any other Assessee- 31st July For financial year 2020-21, the CBDT has extended the dues dates as below Company and audit cases – 30th November 2021 Other Assesses – 30th September 2021

Special Provisions of collection of tax in case of Non Filers of Income Tax Return (Specified Persons) as per new Section 206CCA

5	What is the "Specified Rate" for collection of tax at source for such "Specified Person"	 If both these conditions are satisfied, then the rate of collection of tax would be as below: ➤ Twice the rate specified in the relevant provisions of the act or ➤ At the rate of 5% Whichever is higher
6	Action point for the Tax Collector	 Get a declaration from the person whom the payment is to be received, confirming that he / she / it has filed its Return of Income for the said last 2 financials years and confirming that his / her / its TDS + TCS is more than Rs.50,000 The declaration should contain an assurance clause that if required under any proceedings, the person will produce necessary evidences in support of the declaration.

Special Provisions of collection of tax in case of Non Filers of Income Tax Return (Specified Persons) as per new Section 206CCA

7	Section 206CCA is subject to	In addition to provision of Section 206CCA
	Section 206CC	Tax shall be collected at higher of two rates
		provided in Section 206CCA & Section 206CC.
		As of current situation both sections are at
		parlance :
		Twice the rate specified in the relevant
		provisions of the act or
		At the rate of 5%
		Whichever is higher

THANK YOU !

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E. A. Patil and Associates LLP 316, Nirmaan Vyaar Kendra, Sector-17, Vashi, Navi Mumbai, 400706.

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Our Offices

Head Office – Navi Mumbai 316, Nirmaan Vyaar Kendra, Sector-17, Vashi, Navi Mumbai, 400703.

Branch Office – Panvel 102, Sushil House Plot No. 61/1, HOC Colony, Panvel, 410206

Reach us on 022 - 49742721 / 22 / 23 / 24 /25 info@eapllp.in www.eapllp.in

