

EAP GURUKUL

TCS ON SALE OF GOODS

Section 206C(1H) of The Income Tax Act 1961



BACKGROUND

Tax Deducted at Sources (TDS) and Tax Collected at Sources (TCS) are the sources of the collection of the taxes in advance by the government. Such Methods helps to government to increase the tax collection.

TDS means deduction of tax from the payment made to the person for whom such payment is in the nature of income. Hence tax is collected on such income by government through person making such payment.

TCS refers to the collection of tax from the person making the payment for certain expenses. Though such payment is in the nature of expenditure for the payer, tax is collected on the assumption that such payment is linked to certain income.

Honorable Finance Minister Nirmala Sitaraman in her Budget 2020 has come up with certain new provisions pertaining to TCS on sale of goods which are effective from 01.10.2020. This EAP publication is summary of such provisions stated in Section 206C(1H) of the Income Tax Act, 1961.

LEGAL PROVISIONS

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.

EAP ANALYSIS OF THE PROVISIONS**Applicable to whom?**

- ✚ Every person being "sellers" selling goods. (Service providers are not covered)
- ✚ The term 'seller' has been defined in the Act. Seller means a person whose total sales, turnover or gross receipts from the business carried on by him exceeds Rs. 10 crores during the financial year immediately preceding financial year.
- ✚ Accordingly, all the sellers having sales / turnover / gross receipts from business exceeding Rs. 10 Crore in the year 2019-20 will be required to collect TCS in the year 2020-21.
- ✚ If any person has turnover below Rs. 10 Crore during the immediately preceding year then these provisions are not applicable. The applicability of provision will have to be checked year on year basis every year.

TCS ON SALE OF GOODS**Salient Features**

- ✦ Applicable on sale of all goods except the export of goods and goods already covered under other provisions of TCS.
- ✦ TCS provisions are applicable if the value or aggregate value of sales consideration received exceeds Rs. 50 Lakhs during the year, irrespective of invoice amount and date of invoice.
- ✦ TCS is applicable to the amount received in excess of Rs. 50 Lakhs. (inclusive of GST)
- ✦ TCS provisions are applicable at the time of receipt of consideration.

Rate of TCS

- ✦ TCS Rate will be 0.1 % if the buyer furnishes the PAN/Adhaar (Reduced to 0.075% up to 31.3.2021).
- ✦ TCS Rate will be 1% if the buyer does not furnish PAN/Adhaar (Reduced to 0.75% up to 31.3.2021).

Will it be applicable to all the buyers?

If the buyer is of any of the following category then TCS provisions u/s 206C(1H) are not applicable.

- ✦ Central Government, State Government, an Embassy, a High Commission, Consulate, and the trade representation of foreign states.
- ✦ Local Authority
- ✦ Person importing goods
- ✦ Any other person as notified by the Government.

SELLER COMPLIANCE

- ✦ Seller needs to have Tax Deduction and Collection Number (TAN). There is no need to obtain new number if seller is already having number for Tax Deduction at Sources
- ✦ Collection of Tax at the time of receipt of consideration for the sale of goods.
- ✦ Depositing the tax collected from buyer to the government treasury.
- ✦ Filing of quarterly statement (Form 27EQ)
- ✦ Issuance of Tax Collected at Sources Certificate to the buyer.
- ✦ Due Dates for Sellers :

Particulars	Due Date
Payment of Tax Collected (TCS) to Government	07 th of Next Month / Quarter
Filing of Return of TCS (Form 27EQ)	15 th July / October / January / May
Issuance of TCS Certificates	Within 15 days from the date of filing TCS quarterly returns.

BUYER COMPLIANCE

- ✦ Furnish PAN Number to the Sellers
- ✦ Payment of TCS amount along with consideration to seller within credit period.

TCS ON SALE OF GOODS

FEW PRACTICAL SITUATIONS FOR APPLICABILITY OF SECTION - NORMAL

SITUATION 1	FY 2019-20	FY 2020-21	FY 2021-22
Turnover of Seller	17,00,00,000	20,00,00,000	-
Buyer A		65,00,000	-
Collection in FY 2020-21	-	10,00,000	-
Collection in FY 2021-22	-	-	52,00,000
Is TCS Collectible?	No	No	Yes

SITUATION 4	FY 2019-20	FY 2020-21	FY 2021-22
Turnover of Seller	17,00,00,000	8,00,00,000	-
Buyer A	-	65,00,000	-
Collection in FY 2020-21	-	10,00,000	-
Collection in FY 2021-22	-	-	52,00,000
Is TCS Collectible?	No	No	No

SITUATION 2	FY 2019-20	FY 2020-21	FY 2021-22
Turnover of Seller	170,00,000	200,00,000	-
Buyer A		6,50,000	-
Collection in FY 2020-21	-	5,20,000	-
Collection in FY 2021-22	-	-	10,00,000
Is TCS Collectible?	No	Yes	No

SITUATION 5	FY 2019-20	FY 2020-21	FY 2021-22
Turnover of Seller	17,00,00,000	8,00,00,000	-
Buyer A		65,00,000	-
Collection in FY 2020-21	-	52,00,000	-
Collection in FY 2021-22	-	-	10,00,000
Is TCS Collectible?	No	Yes	No

SITUATION 3	FY 2019-20	FY 2020-21	FY 2021-22
Turnover of Seller	17,00,00,000	20,00,00,000	-
Buyer A	-	65,00,000	-
Collection in FY 2020-21	-	10,00,000	-
Collection in FY 2021-22	-	-	4,50,000
Is TCS Collectible?	No	No	No

SITUATION 6	FY 2019-20	FY 2020-21	FY 2021-22
Turnover of Seller	17,00,00,000	8,00,00,000	-
Buyer A		65,00,000	-
Collection in FY 2020-21	-	10,00,000	-
Collection in FY 2021-22	-	-	45,00,000
Is TCS Collectible?	No	No	No

TCS ON SALE OF GOODS

FEW PRACTICAL SITUATIONS FOR APPLICABILITY OF SECTION - ADVANCES RECEIVED

SITUATION 7	FY 2019-20	FY 2020-21	FY 2021-22
Turnover of Seller	170,000,000	200,000,000	-
Buyer A			6,500,000
Collection in FY 2020-21	-	10,00,000	-
Collection in FY 2021-22	-	-	52,00,000
Is TCS Collectible?	No	No	Yes

SITUATION 7	FY 2019-20	FY 2020-21	FY 2021-22
Turnover of Seller	170,000,000	200,000,000	-
Buyer A			6,500,000
Collection in FY 2020-21	-	52,00,000	-
Collection in FY 2021-22	-	-	10,00,000
Is TCS Collectible?	No	Yes	No

SITUATION 7	FY 2019-20	FY 2020-21	FY 2021-22
Turnover of Seller	170,000,000	200,000,000	-
Buyer A			6,500,000
Collection in FY 2020-21	-	10,00,000	-
Collection in FY 2021-22	-	-	45,00,000
Is TCS Collectible?	No	No	No

SITUATION 7	FY 2019-20	FY 2020-21	FY 2021-22
Turnover of Seller	170,000,000	80,000,000	-
Buyer A			6,500,000
Collection in FY 2020-21	-	10,00,000	-
Collection in FY 2021-22	-	-	52,00,000
Is TCS Collectible?	No	No	No

SITUATION 7	FY 2019-20	FY 2020-21	FY 2021-22
Turnover of Seller	170,000,000	80,000,000	-
Buyer A			6,500,000
Collection in FY 2020-21	-	52,00,000	-
Collection in FY 2021-22	-	-	10,00,000
Is TCS Collectible?	No	Yes	No

SITUATION 7	FY 2019-20	FY 2020-21	FY 2021-22
Turnover of Seller	170,000,000	80,000,000	-
Buyer A			6,500,000
Collection in FY 2020-21	-	10,00,000	-
Collection in FY 2021-22	-	-	45,00,000
Is TCS Collectible?	No	No	No

FREQUENTLY ASKED QUESTIONS

Sr. No.	Question	EAP Reply
01.	What constitutes Turnover for Section 206C(1H)?	The word Turnover is not defined in this section. Based on the Guidance Note issued by the ICAI on Tax Audit, Turnover includes sale of goods and sale of services.
02.	What is Sale Consideration?	The word Consideration is not defined anywhere in this section however based on definition given in the Direct Tax Manual for Section 206C, the consideration will include the tax portion i.e. GST. As per Circular No 17 of 2020 dated 29.09.2020, guideline no. 4.7, the consideration includes GST.
03.	What is meant by turnover during financial year immediately preceding the financial year in which sale is carried out?	The Seller needs to check the turnover of previous financial year. Eg. For applicability in FY 2020-21, turnover of FY 2019-20 shall be checked.
04.	If in any year Turnover is less than 10Cr, will the section be still applicable on continuous basis for all subsequent years?	For applicability of this section, every previous financial year's turnover to be checked. It is year on year basis.
05.	Whether to Collect Surcharge and Education Cess over and above TCS Rate?	Cess and Surcharge will not be applicable.
06.	For Calculating 50 Lakhs limit for buyer for FY 2020-21, receipts from 01.04.2020 to be considered or receipts from 01.10.2020 to be considered?	The limit of 50 Lakhs is qua buyer qua year. For calculating consideration limit, each year's receipts needs to be checked. For FY 2020-21 receipts from 01.04.2020 to be considered, as section specifically states that consideration received exceeding 50 lakhs during the Previous Year .
07.	Is TCS to be collected over and above Invoice amount?	The TCS is on receipt basis, technically it should be over and above the amount received.
08.	Whether we need to mention TCS amount in the Invoice for collection purpose?	No. The Point of collection is at the time of receipt from the buyer. Seller will not be certain whether the TCS is to be collected on specified invoice at the time of issuing invoice. It is purely based on consideration received from the buyer over and above Rs. 50 Lakhs. Seller can issue a debit note to collect the TCS amount or footnote may be added in the invoice.

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Sr. No.	Question	EAP Reply
09.	On what amount TCS to be collected, Inclusive of GST or Exclusive Of GST?	As per intent of the Section 206C tax is liable to be recovered on the actual amount paid by the buyer. As per Circular No 17 of 2020 dated 29.09.2020, guideline no. 4.7, the consideration includes GST.
10.	Is TCS applicable on Advance Received before 01.10.2020 and sales made after 01.10.2020?	For TCS Collection purpose, advance received prior to 01.10.2020 shall not be considered. However for deciding the threshold limit of Rs. 50 Lakhs the advances received prior to 01.10.2020 shall be considered.
11.	Is advances received against sales liable for TCS?	Yes.
12.	If Sale is made Prior to 1.10.2020 and amount is received after 1.10.2020, Is TCS applicable?	Yes. TCS is on the basis of sale consideration received irrespective of date of invoice.
13.	If Provision for Bad Debt is made prior to 1.10.2020 and Bad debt is recovered subsequently then is TCS applicable?	It will decided based on the actual consideration received from that buyer during the year.
14.	If a Company is into buying and selling of Goods, do we need to make a reconciliation of TCS on procurement of Goods and its reflection in 26AS and also to be considered in Computation like TDS?	Yes. It is better to have a reconciliation of TCS with payments made to suppliers. TCS reflecting in the 26AS will be claimed while discharging income tax liability.
15.	If the aggregate consideration received during the year is Rs. 52 Lakhs then whether the TCS is to be collected on the entire amount?	There is no requirement of collecting TCS on initial consideration of Rs. 50 Lakhs. TCS is to be collected on the consideration exceeding Rs. 50 Lakhs. In this question TCS will be collected on Rs. 2 Lakhs.
16.	The seller is already covered under some other section of TCS then is he also required to check the applicability in this section and collect TCS ?	No.
17.	If the sales is cancelled or a credit note is issued, then whether the seller is obligated to return TCS collected?	No. Since the tax collected will be deposited with the government, the buyer should not insist for refund as it would be appearing in the 26AS of the buyer and can be claimed by the buyer while discharging the income tax liability.

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Sr. No.	Question	EAP Reply
18.	If the transaction is of such a nature that it is under the purview of TDS i.e while making the payment the buyer deducts TDS, in such case, is seller still liable to collect TCS?	No. If the buyer is deducting the TDS, TCS provisions will not be applicable.
19.	In which form TCS Returns needs to be filed?	Rule 31AA of the Income Tax Rules, 1962 has prescribed Form No 27EQ for filing of TCS Returns.
20.	If the seller fails to furnish the return in form 27EQ what would be consequences?	The seller is liable for interest, penalty and prosecution under Section 206C(7)
21.	Whether the Auditor need to report the TCS in Clause 34(a) of the Tax Audit Report in Form 3CD?	Yes.
22.	If the Company is selling the goods as well as buying the goods from the same party and making the payment on net basis, how to work out TCS?	The TCS is to be collected on gross basis. Even if the amount receivable is adjusted against the amount payable by passing the journal entry, the same shall be considered for calculating the consideration and TCS.
23.	If seller receives consideration from third party, whether TCS will be applicable?	Yes.

Please refer Circular No 17 of 2020 dated 29.09.2020, issued by CBDT for guidelines on Section 1940 and 206C.

OUR TEAM

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