



TDS/TCS PROVISIONS APPLICABLE FROM 01.07.2021

206 AB & 206 CCA

Special provision for deduction/collection of tax at source for non-filers of income-tax return.

Applicability

Person who is required to deduct/collect tax at source doing transactions with **specified persons**.

Specified persons means a person who have not filed his return of income of immediately **two** preceding previous years, for which due date u/s 139(1) has expired and aggregate of **tax deducted at source and tax collected at source** in his case is rupees **fifty thousand** or more in each of these two previous years.

(For example, if tax is required to be deducted for previous year 2021-22, immediately **2 preceding previous years** for which ITR filing required to be checked are **2018-19 and 2019-20 (AY 2019-20 and 2020-21 respectively)**. As the time limit for preceding previous year 2020-21 is not expired)

Tax rate

Higher of

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

Section 206AB, however, provides that provisions of this section are not applicable,

- If the specified person is a Non-Resident.
- When tax is deductible under the following sections:
 - 192 (Salaries)
 - 192A (Payment of accumulated balance from PF)



- 194B (Winning from lottery or cross word puzzle)
- 194BB (Winning from horse race)
- 194LBC (Income in respect of investment in Securitization Trust)
- 194N (tax on cash withdrawals from banks)

Section 194Q

Vide Finance Act, 2021 a new section 194Q has been inserted, which will come into force from 01.07.2021.

Applicable for,

- Buyer having turnover exceeding Rs.10 crores in the immediately preceding financial year.
- purchase consideration exceeding Rs.50 lakhs paid or credited to the seller during the year.
- TDS @ 0.1 % from purchase consideration exceeding Rs.50 lakhs.

Provisions of this section are not applicable in case:

- Tax is deductible under any other provisions of the Act;
- Tax is collectible under provisions of section 206C, other than a transaction to which subsection (1H) of section 206C applies; and
- A person as may be notified by the Central Government.

In case the seller does not provide PAN or Aadhar number, tax will be deducted @ 5 % instead of 0.1% as per Section 206AA of the Act.

Already TCS had been imposed on sale of goods u/s 206C(1H) vide **finance Act 2020** which was collected by seller. Now, responsibility has been cast upon buyer of goods to deduct TDS. Provisions of both, section 194Q and 206C(1H) are applicable on transaction of purchase/sale of goods. Section 194Q mandate for tax deduction at source by buyer. While Section 206C(1H) requires for tax collection at source by seller.

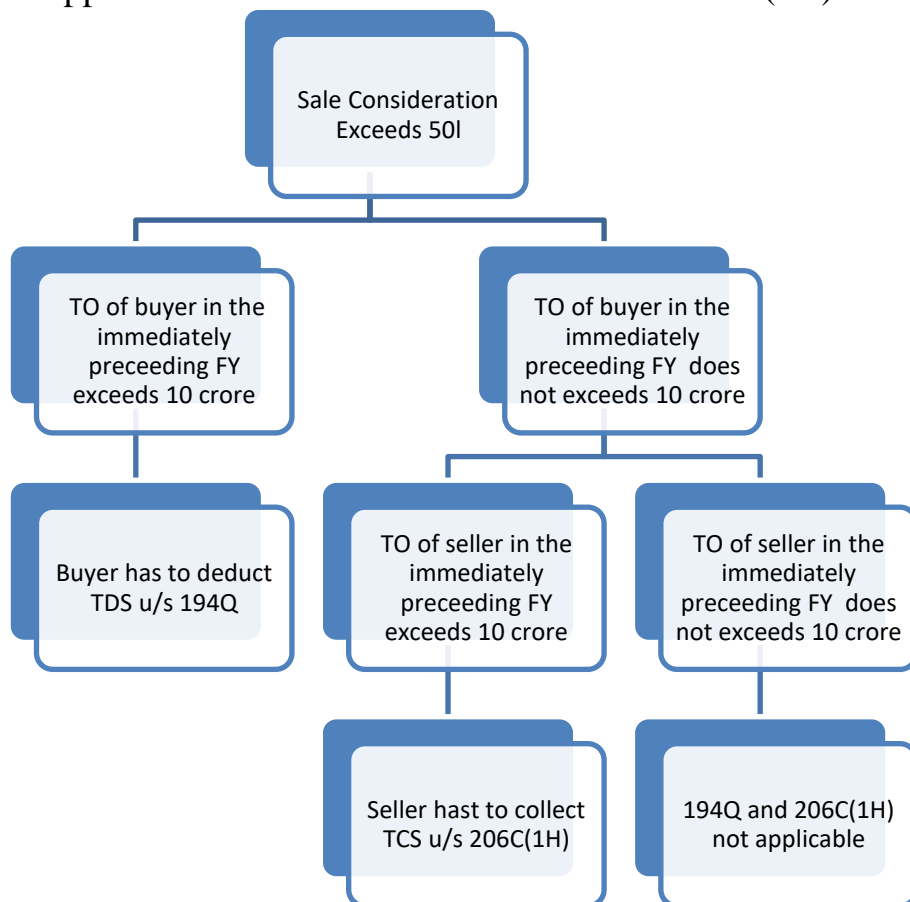
Second Proviso to Section 206C(1H) provides that if the buyer is liable to deduct tax under any other provision on the goods purchased by him from the seller and has deducted such amount, no tax shall be collected on the same transaction.



The buyer shall have the primary and foremost obligation to deduct the tax and no tax shall be collected on such transaction under Section 206C(1H).

The sellers /assessee, firstly have to gather the information from the buyers whether their turnover was more than Rs.10 crores or not during the immediately preceding previous year (F.Y.2020-21) and if their turnover was more than Rs.10 crores and they are liable to deduct tax u/s 194Q of the Act, the sellers not liable to collect tax from those buyers.

Similarly, all the assessee whose turnover from the business is exceeding Rs.10 crores have to inform all their vendors / suppliers / sellers from whom aggregate purchases are likely to exceeds Rs.50 lakhs that tax will be deducted while making payments of purchase consideration to such vendors / suppliers u/s 194Q of the Act and, therefore, such vendors / suppliers / sellers should not collect tax u/s 206C(1H) of the Act.





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For calculating limit of Rs.10 crore, sale of services shall also be included, as section refers to gross sale/ gross receipts / turnover.

If the turnover of preceding financial year exceeds Rs 10 crores, the provision is applicable even if the turnover of the current financial year is less than Rs.10 crores. Similarly, if the turnover of the preceding financial year is less than Rs.10 crores, even if the turnover exceeds Rs.10 crores in the current financial year, it is not applicable.

If seller is non-resident no TDS is required to be deducted.

TDS under section 194Q shall be deducted at the time of crediting the account of the seller or at the time of payment of consideration, whichever is earlier.

Section 206AB is applicable only when TDS of seller deducted by buyer is more than Rs. 50,000 in each of the last two preceding year for which due date of filing of ITR has expired.

TDS is not required to be deducted on amount of sale consideration of goods upto Rs. 50 lakhs. The limit of Rs. 50 Lakhs is for each buyer whether goods sold in one transaction or in multiple transactions during the whole financial year.

The provisions of this section shall not apply in the case of branch transfers.

STEPS TO BE FOLLOWED FOR THE COMPLIANCE OF ABOVE SECTIONS

Communication should be sent to all the buyers in whose case aggregate purchases are expected to be more than Rs.50 lakhs during the current financial year. The Communication should state and require information as under.

- Since aggregate purchases being made by you from us is expected to be more than Rs.50 lakhs during the year, we are liable to collect tax under section 206C(1H) of the Act @ 0.1% on the amount of sale consideration received exceeding Rs.50 lakhs. Tax, however is not required to be collected by us as per above section in case your total turnover during the previous year (FY 2020-21) has been more than Rs.10 crores and you are liable to deduct tax u/s 194Q of the Act.



- You are requested to intimate us if your turnover was more than Rs.10 crores and you will be deducting tax u/s 194Q of the Act while making payment of sale consideration to us.
- In case you are not liable to deduct tax u/s 194Q of the Act, we will be collecting tax at 0.1% on sale consideration as per section 206(1H) of the Act.
- You are also requested to provide your Permanent Account Number. In case, PAN is not provided tax will be deductible @ 1 %.
- Please also confirm that in your case aggregate amount of TDS / TCS was Rs.50,000/- or more during Financial Years 2018-19 and 2019-2020 and returns of income for these years have been duly filed by you. Please also provide copy of acknowledgments for filing the returns. In case, above information is not provided by you tax will be collected by us @ 5% as per section 206CCA of the Act.

Communication has also to be sent to all the vendors / suppliers / sellers from whom aggregate purchases are expected to be more than Rs.50 lakhs during the current financial year. The Communication should state and require information as under:

- Since aggregate purchases being made from you by us is expected to be more than Rs.50 lakhs during the year, we are liable to deduct tax under section 194Q of the Act.
- Tax is required to be deducted from payment or credit of purchase consideration made on or after 01.07.2021 u/s 194Q of the Act @ 0.1 % on purchase consideration exceeding Rs.50 lakhs.
- In case your total turnover during FY 2020-21 has been more than Rs.10 crores and you are liable to collect tax u/s 206(1H) of the Act kindly take note and ensure that no action is taken by you for collecting TCS in respect of supplies made to our companies as provisions of section 194Q are applicable in respect of the transactions.
- You are also requested to provide your Permanent Account Number. In case, PAN is not provided tax will be deductible @ 5 % as per section 206AA of the Act. Please also confirm that in your case aggregate amount of TDS / TCS was Rs.50,000/- or more during financial years 2018-19 and 2019-2020 and returns of income for these years have been duly filed by you. Please also provide copy of acknowledgments for filing the returns. In case, above information is not provided by you tax will be deducted by us @ 5% as per section 206AB of the Act.



Every person / assessee liable to deduct / collect tax at source has to send communication to every person from whose income / payment, tax is required to be deducted / collected under any of the sections of Income Tax Act to provide,

- Declaration to the effect that in his case amount of TDS / TCS in last two previous years had been Rs. 50,000/- or more and returns of income have been filed by him in respect of those previous years 2018-19 and 2019-2020
- Communication / declaration has to be sent by all the assesses / persons to every person who is liable to deduct / collect tax at source from his income / receipt giving his or its PAN and confirmation that returns of income have been filed for the previous years 2018-19 and 2019-2020.

By Sruthi Nambiar