AMENDMENTS APPLICABLE ON TDS/TCS

Sec.194Q

(PROVISIONS AS PER THE FINANCE ACT, 2021)

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TOPICS TO BE COVERED

- SECTION 194Q: TAX DEDUCTED AT SOURCE ('TDS') ON PURCHASE OF GOODS. W.e.f. 01st of July, 2021.
- SECTION 206C(1H): TAX COLLECTED AT SOURCE ('TCS') ON SALE OF GOODS.

■ SECTION 206AB/206CCA: HIGHER TDS/TCS RATES FOR NOT FILER OF RETURNS.

Extract of Section 194Q

- [Deduction of tax at source on payment of certain sum for purchase of goods.
- □ 194Q. (1) Any person, being a buyer who is responsible for paying any sum to any resident (hereafter in this section referred to as the seller) for purchase of any goods of the value or aggregate of such value exceeding fifty lakh rupees in any previous year, shall, 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, deduct an amount equal to 0.1 per cent of such sum exceeding fifty lakh rupees as income-tax.
- Explanation. —For the purposes of this sub-section, "buyer" 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 purchase 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.

(2) Where any sum referred to in sub-section (1) is credited to any account, whether called "suspense account" or by any other name, in the books of account of the person liable to pay such income, such credit of income shall be deemed to be the credit of such income to the account of the payee and the provisions of this section shall apply accordingly. (3) If any difficulty arises in giving effect to the provisions of this section, the Board may, with the previous approval of the Central Government, issue quidelines for the purpose of removing the difficulty. (4) Every guideline issued by the Board under sub-section (3) shall, as soon as may be after it is issued, be laid before each House of Parliament, and shall be binding on the incometax authorities and the person liable to deduct tax. (5) The provisions of this section shall not apply to a transaction on which— (a) tax is deductible under any of the 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.

ANALYSIS OF THE SECTION

Who is responsible for the deduction?

A buyer:

- Who purchases goods of value > ₹ 50 lakhs in a FY from a single seller, and
- Whose total sales, gross receipts or turnover from the business carried on >
 ₹ 10 crores during the FY immediately preceding the FY in which the goods are purchased (non-business receipts shall not be included)

Who is the deductee?

• **Resident** seller, selling goods of value > ₹ 50 lakhs to the specified buyer, as identified above

At what rate and on what amount is tax to be deducted?

• TDS is to be deducted @ 0.1% on **such sum paid, exceeding ₹ 50 lakhs**, i.e., if goods worth ₹60,00,000 are bought, TDS is to be deducted @ 0.1% on ₹ 10,00,000 (₹60,00,000- ₹50,00,000)

When should tax be deducted?

• Tax to be deducted at the time of **credit** of such sum to the account of the seller in the books of accounts, or at the time of **payment**, whichever is **earlier**.

Applicability of Section 194Q

- □ Applicable on TDS on Purchase of Goods and goods can be Capital goods as section doesn't make any distinction between Capital Goods and Normal routine goods.
- □ Applicable from 01.07.2021.

Conditions for Deductor

- Provisions of Section 194Q imposes primary liability on buyer to deduct tax
- □ Applicable on a buyer only if his sales in Last year exceed Rs. 10 Crore
- Goods are purchased for a value or aggregate of value exceeding Rs. 50 lakhs in any previous year.
- □ The buyer purchases goods from a resident person.
- □ TDS shall also be deducted on advance payment made.

Threshold limit for Section 194Q

□ Not required to deduct TDS if value or aggregate of the value of the purchase of goods up to Rs. 50 Lac in a year and after crossing the limit of Rs. 50 Lac TDS required to be deducted exceeding Rs. 50 Lac.

Rate of TDS for Section 194Q

- □ Buyer of goods shall deduct TDS @ 0.1% on the payment or credit whichever is early. However, if no PAN is provided by the seller, then the rate will be 5%.
- □ TDS shall not be deducted for the payment or Credit made before 01.07.2021.

Section 194Q Not Applied in cases of

- □ (i) Where TDS need to be deducted under any other section then, TDS will not be deducted u/s 194Q and that other section will prevail.
- □ <u>Illustration</u>: Suppose in case of Job Work Purchase, TDS is required to be deducted u/s 194C and side by side conditions of section 194Q also fulfils, then, TDS shall be deducted u/s 194C and not under section 194Q.
- ☐ (ii) Where TCS charged by the Seller u/s 206C other than section 260C(1H)
- □ <u>Illustration:</u> Suppose we purchased a motor vehicle for Rs. 70 Lac and TCS charged by the Dealer u/s 206C(1F), then no TDS shall be deducted u/s 194Q.
- ☐ Except scrap.

CALCULATION OF THRESHOLD

- Calculation of threshold of ₹ 50,00,000 becomes an issue because the section becomes effective from 1st July 2021.
- TDS is to be deducted on such sum, exceeding ₹ 50 lakhs and which is entered into on or after 01.07.2021.
- Let us understand how threshold is to be calculated, with examples (assumed turnover in preceding FY>₹ 10 crores)

02.04.2021 (₹)	16.06.2021 (₹)	04.07.2021 (₹)	19.08.2021 (₹)	Calculation of TDS
25,00,000	10,00,000	6,00,000	-	No TDS u/s 194Q (Transaction value < ₹50 lakhs)
5,00,000	35,00,000	5,00,000	7,00,000	2,00,000 * 0.1% = ₹ 200 to be deducted on 19.08.2021
10,00,000	43,00,000	5,00,000	-	5,00,000 * 0.1% = ₹ 500 to be deducted on 04.07.2021 (Transaction value > ₹ 50L but ₹3,00,000 (part of ₹43,00,000) entered before 01.07.2021, hence no TDS on such sum)
7,00,000	13,00,000	35,00,000	4,00,000	5,00,000 * 0.1% = ₹ 500 to be deducted on 04.07.2021 4,00,000 * 0.1% = ₹ 400 to be deducted on 19.08.2021
 10,00,000	20,00,000	20,00,000	10,00,000	10,00,000 * 0.1% = ₹ 1000 to be deducted on 19.08.2021

ADJUSTMENT FOR GST

When tax is deducted at the time of credit of amount in the account of seller

 If the component of GST comprised in the amount payable to the seller is indicated separately, tax shall be deducted u/s 194Q of the Act on the amount credited without including such GST

When tax is deducted on payment basis

• Tax to be deducted on the whole amount

Example

Particulars of Invoice	₹
Taxable Value	5,00,000
Add: IGST @ 18%	90,000
Invoice Total	5,90,000

Tax to be deducted on ₹ 5,00,000 @ 0.1%, i.e., TDS= ₹ 500

REGULATORY COMPLIANCE

When should TDS be remitted to the Government?

• Tax, so deducted shall be deposited with the Government by the 7th of the following month.

When should TDS Returns be filed?

Quarterly returns in Form 26Q to be filed as follows:

- For Q1-31st July
- For Q2-21st October
- For Q3- 31st January
- For Q4- 31st May

Certificate of deduction to be furnished by the buyer in **Form 16A**

(iii) Where Seller also liable to charge TCS on Sale of Goods u/s 206C(1H):

- Illustration: If Seller is liable to Collect TCS u/s 206C(1H) and buyer is also required to deduct TDS u/s 194Q on the same goods, in such situation question arises that whether Seller will collect TCS or buyer will deduct TDS? So, it is provided that then TDS provision u/s 194Q shall prevail. i.e., in that case, TDS shall be deducted by the buyer and seller shall not charge any TCS u/s 206C(1H).
- □ Though it sounds simple that if buyer is liable to deduct TDS, then the seller will not be liable to collect TCS, but it is actually not so simple. Here, I would like to draw your kind attention towards the Second Proviso to section 206C(1H) which read as under:
- Provided further that the provisions of this subsection 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**.

Sec 194Q: TDS ON PURCHASE OF GOODS W.E.F. JULY 1, 2021.

- Deductor Buyer of goods having turnover exceeding Rs. 10 crore in preceding FY.
- Deductee –Resident (seller)
- \triangleright Rate of Tax -0.1%
- ➤ Threshold limit —On purchase consideration exceeding Rs. 50 Lakhs.
- ➤ Time of Deduction –TDS to be deducted at the time of credit or payment whichever is earlier.

Section 206C(1H): TCS ON SALES OF GOODS

- Who is liable to collect TCS –Seller of goods having turnover exceeding Rs.10 crore in preceding FY.
- Rate of Tax -0.1%
- Threshold limit –On sale consideration exceeding Rs.50 lakhs.
- Time of collection TCS to be collected at the time of receipt of such amount.
- Seller not to collect TCS under section 206C (1H) where the buyer is under an obligation to deduct TDS under section.

ILLUSTRATIONS

Cases	Buyer's turnover in FY 2020-21	Amount of Goods Purchased/ sold	Seller's Turnover in FY 2020-21	Who is liable to deduct/collect TDS/TCS (Buyer/Seller)
Case 1	15 Cr.	1 Cr.	5 Cr.	Buyer
Case 2	7Cr.	60 Lakhs	12 Cr.	Seller
Case 3	15 Cr.	70 Lakhs	14 Cr.	Buyer

HIGHER TDS/TCS RATES FOR NON-FILER OF RETURNS SECTION 206AB/206CCA W.E.F JULY 1, 2021

- ✓ Applicability On all the payment where TDS is required to deducted except (except for section 192,192A,194B,194BB,194LBC or 194N).
- ✓ Deductor –Any person
- ✓ Deductee –Specified person.
 - Specified person means a person who have not filed income tax returns for past 2 years & due date for filing the return has expired and;
 - TDS deducted / TCS collected in his case for each of those year is Rs.50,000 or more.

Rate of Tax – Higher of the following:

- Twice the rate specified in the relevant provision of the Act; or
- Twice the rate or rates in force
- At the rate of 5%

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Thank you