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**TCS ON GOODS W.E.F 01.10.2020**  
**SECTION 206C (1H) OF THE INCOME TAX**  
**ACT 1961**  
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## **Income Tax Act providing for tax collection at source (TCS) w.e.f. 01.04.2020**

Vide Finance Bill, 2020 sub-section (1H) was proposed to be inserted in section 206C of the Income Tax Act providing for tax collection at source (TCS) w.e.f. 01.04.2020 by a Seller having turnover exceeding Rs. 10 Crores from a buyer on receipt of sale consideration exceeding Rs.50 lacs in any previous year. Rate of TCS was proposed @ 0.1% of sale consideration exceeding Rs.50 lacs. Proposed amendment was further modified to provide that section will not apply to transactions of goods to be exported out of India and to person importing the goods into India. It was also provided that section will come in force w.e.f. 01.10.2020. Sub-section (1H) as has been inserted in section 206C reads as under:

*(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 this sub-section, —*

*(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.’;*

**Broad features / scope of the Section:**

- Section is applicable only in case of seller whose total sales, gross receipt or turnover from the business carried on by him exceeds Rs.10 crores during the financial year immediately preceding financial year in which sale is carried out. In other words to be liable to collect TCS in Current financial year (FY 2020-21) total turnover of the seller should be more than Rs.10 crores in F.Y.2019-20.
- TCS is required to be collected from the buyer whose aggregate purchases exceed Rs.50 lacs in any previous year.
- TCS is required to be collected only on sale consideration exceeding Rs. 50 lacs. In other words, TCS on first Rs.50 lacs is not required to be collected.
- Rate of TCS provided in the section is 0.1% of sale consideration. Vide Press Release dated 13.05.2020 rate of tax has been reduced for the current financial year to 0.075%. In case, buyer does not provide PAN or Aadhar number to the seller rate of TCS shall be 1%. It may be added that this rate has not been reduced for current financial year as per above Press Release.



- Provisions of sub-section (1H) are not applicable in case seller is liable to collect TCS under any other provision of section 206C of the Act.
- Section is also not applicable in the cases where buyer is liable to deduct tax at source under any other provisions of the Act if the buyer has deducted the tax.
- Section is also not applicable in respect of sales made to Central Government, State Government or to a local authority. The section is also not applicable in respect of sales made to Embassy, High Commission, Consulate or a trade representation of foreign state.
- Section is also not applicable in respect of goods being exported out of India or in case of a person importing goods into India.
- As per the section Central Government has also power to specify any other seller or buyer who shall not be subject to provisions of above sub-section.

### **Whether Section is warranted?**

The section is applicable only in case of big assesses having turnover of more than Rs.10 crores and in case of buyers making purchase during the year exceeding Rs.50 lacs. Rate of TCS as mentioned in the section is 0.1% which has been further reduced for current year to 0.075%. In other words, amount of TCS to be collected is a very small amount, say, in case of sale of Rs.1 crore to one single buyer amount of TCS at normal rate on amount of sale exceeding Rs.50 lacs would be only Rs. 50,000/-. Therefore, the intention in inserting the provisions of sub-section (1H) of section 206C of the Act is not to collect tax on the amount of income earned by the seller or by the buyer, but the intention appears to be to monitor the sales / purchases in such cases and / or to bring in tax net any such person, who might not be filing return of income. It is stated in this regard that it is very unlikely that a seller or a buyer of the level provided in the section will not be filing return of income or would not be having PAN number. It is also important to note that presently PAN is compulsory for many transactions, including for opening a bank account, making a deposit, purchase of a car, sale and purchase of





goods exceeding Rs. 2 lacs etc.. Purchase consideration cannot be paid by the buyer in cash as per provisions of section 40A(3) exceeding 10,000/-. Similarly, buyer cannot accept payment in excess of Rs.2 lacs otherwise than through banking system as per section 269ST of the Act. Further, transaction of sale in cash is also required to be reported by the seller as per provisions of section 286BA r.w.r 114E. Moreover, under Goods and Service Tax any dealer having turnover exceeding Rs.40 lacs is required to be registered and data of sales and purchases made by a registered dealer is duly available on the system. Therefore, it is emphatically stated that provisions of sub-section (1H) of section 206C are not going to effectively serve any purpose whereas, it is going to raise number of difficulties and issues in implementing the provision and establishing due compliance by the sellers.

### **Issues in complying with the provision**

Implementing the provision and complying with the requirement of TCS is going to raise many issues. Same are being stated hereunder alongwith with possible view to be taken: –

<b>Sl. No.</b>	<b>Issue</b>	<b>Remarks / Possible view</b>
1.	Whether TCS is to be collected in the invoice to be raised or at the time of receipt of sale consideration.	Though the section uses the wordings receipt of consideration for sale of any goods, it will be practically difficult to raise demand against the buyer subsequently, if not raised in the invoice and collect TCS from buyer and make payment to the government. Therefore, TCS should be charged in the invoice to be raised for sale of goods.



2.	Whether TCS is to be paid within the prescribed time with reference to invoice for sale or same is to be paid with reference to receipt of sale consideration against the invoice.	In case, practice of making payment on the basis of receipt of sale consideration is adopted, it will be difficult to match amount of receipt and TCS with invoice value in the cases where part payments are received against the invoice or in the cases of running account where lump sum payments are received from time to time. Hence, payment of TCS should be made with reference to invoice for sale consideration.
3.	Whether TCS is to be collected on total sale consideration or only on the amount in excess of Rs.50 lacs.	As per the language of the section TCS collected and deposited only on the amount of sale consideration exceeding Rs.50 lacs and TCS to be collected and deposited upto sale consideration of Rs.50 lacs.
4.	Whether sale for the full current financial year (2020-21) is to be considered or only the sales made after 01.10.2020 are to be considered.	Sale consideration for the full financial year is to be considered for deciding whether Buyer is covered for TCS or not. TCS, however, is to be collected and paid only on the sales made after 01.10.2020 to the extent same are in excess of Rs.50 lacs.
5.	In order to decide liability of the seller to collect TCS qualifying turnover of Rs.10 crores is to be considered for current year or of the previous	As per the wordings of the section seller is liable to collect and deposit TCS during a financial year only if, his gross receipt or turnover of preceding financial year was in excess of Rs.10 crores. In other words, in case, sales / turnover of seller in the



	year.	preceding year was less than Rs.10 crores he will not be liable to collect TCS in following year.
6.	Whether TCS under sub-section (1H) is to be collected and deposited in addition to TCS to be collected and deposited as per other provisions of section 206C of the Act.	In case TCS is to be collected and deposited under any other provision of section 206C, TCS is not to be collected and deposited in terms of sub-section (1H) of section 206C.
7.	Whether TCS is to be collected on value of goods where the seller is using the goods in executing a contract and buyer / contractee is liable to deduct TDS on total contract value, including cost of material.	Section provides that TCS is not to be collected where buyer is liable to deduct TDS and has deducted TDS on value of goods. Hence, in this case TCS is not to be collected.
8.	Whether TCS is to be collected on value of goods in a case where contract of sale of goods is independent of providing services by the Seller to Buyer and buyer is liable to deduct TDS on value of services only.	Since in this case TDS is not to be deducted on value of goods, Seller will be liable to collect TCS on value of goods.
9.	Whether sales made to public sector companies which are substantially or wholly owned by the central government or	As per the section exemption has been granted only in respect of sales made to central government or state government. Companies owned wholly or substantially

	state government, are subject to TCS.	by the government are not exempt. Therefore, TCS is to be collected in such cases.
10.	Whether TCS is to be collected on advance against sale received from the buyer.	Since, advance payment cannot be said to be consideration received against the sale, TCS need not be collected and deposited at the stage of receipt of advance payment. TCS will be charged in the invoice and is to deposited within the prescribed time with reference to date of invoice.
11.	In case of multi-units company sales are made from different units and there is no centralized system to determine total amount of sales by the company to a particular buyer, is it possible to apply limit of Rs.50 lacs provided in the section separately for each of the unit / division separately.	As per the section in case a seller is making sales to a buyer exceeding Rs.50 lacs, it is liable to collect and deposit TCS. Therefore, such companies have to develop their system to determine total sale to a particular buyer from all the units. In case for any reason it is not possible for the seller to develop any such system it may be advisable to obtain a certificate from major buyers that their total purchases from all the units / divisions of the company are within the limit of Rs.50 lacs and in the absence of such confirmation TCS may be collected and deposited.
12.	Whether in case of a individual person having multiple proprietorship concerns sales made to all the concerns have to	Since, the person is the same and having one single PAN, sales made to all his proprietorship concerns have to be clubbed together for the purpose of

	<p>be clubbed for the purpose of determining the limit of Rs.50 lacs or each proprietorship concern can be considered separately, though PAN will be same.</p>	<p>determining the liability for collection and deposit of TCS. It is understood that accounting systems, such as SAP, being used by the companies are having control with name of concerns and not on the basis of PAN and therefore, it will be difficult to aggregate sales against one PAN, if names of concerns are different. It is a practical problem to be solved by modifying control in the program.</p>
13.	<p>Whether TCS is also to be collected on the amount of GST included in the invoice.</p>	<p>GST will also be part of sale consideration and therefore, TCS is to be collected on total amount of invoice including GST.</p>
14.	<p>Whether transportation charges to be recovered from buyer through the invoice raised for sale of goods will be subject to TCS.</p>	<p>Since, transportation charge, as per the arrangement between the buyer and seller are payable by the buyer in addition to sale consideration, same cannot be part of sale consideration and, therefore, same can be excluded. However, since the element of TCS will be very small with reference to transportation charges, in order to avoid any accounting adjustment etc. TCS may be collected and deposited on total value of the invoice.</p>
15	<p>Whether export of goods is to be made by the seller himself or it can be through any other buyer being export house or a person actually exporting the</p>	<p>The section exempts from liability for collection of TCS “goods being exported out of India”. It does not specifically require that export should be by the seller himself. Therefore, TCS is not to be</p>



	<p>goods, for being out of the scope of TCS.</p>	<p>collected in case buyer provides a certificate with necessary evidence to the effect that goods are being exported out of India.</p>
<p>16.</p>	<p>Whether goods imported in India will be exempt from TCS even in a case where initial importer sell the goods to any other person on high sea sale basis.</p>	<p>As per the section buyer excludes “a person importing goods into India”. A person to whom sale has been made on high sea sale basis will, in fact be getting the goods cleared from custom and accordingly, he will attain the status of person importing the goods into India. Therefore, no TCS will be chargeable in respect of high sea sale made by the original importer.</p>

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