

## N D A update – TDS under Section 194Q vis-à-vis TCS under Section 206C(1-H)

The Finance Act, 2021 has introduced a new Section (Section 194Q) relating to **“Deduction of tax at source on payment of certain sum for purchase of goods”** with effect from 1<sup>st</sup> July 2021. The provisions of this new section are more or less similar to the provisions of Section 206C(1H) which was introduced by Finance Act 2020 and was relating to **“Collection of tax at source by a seller in certain cases”**.

In the table given below, we have made comparison of both these sections based on certain parameters:

PARAMETERS	TDS ON PURCHASE OF GOODS	TCS ON SALE OF GOODS
Section of the Income Tax Act	194Q	206C(1H)
Applicable from	1 <sup>st</sup> July 2021	1 <sup>st</sup> October 2020
Who is liable?	Buyer is liable to deduct tax at source	Seller is liable to collect tax at source
Not applicable on	<ul style="list-style-type: none"><li>• Purchase from non-resident seller</li><li>• Cases where tax is deductible under other section</li><li>• Cases where tax is collectible other than Section 206C(1H)</li></ul>	<ul style="list-style-type: none"><li>• Export of goods</li><li>• Supplies to Central / State Government, Embassy, High Commission, Local Authority etc</li><li>• Persons importing goods in India</li></ul>
Turnover limit of the buyer (deductor) or the seller (Collector)	The total sales, gross receipts or turnover of the buyer from the business should exceed Rs. 10 crores during the financial year immediately preceding financial year in which such goods are purchased. Turnover of seller is irrelevant	The total sales, gross receipts or turnover of the seller from the business should exceed Rs. 10 crores during the financial year immediately preceding financial year in which such goods are sold. Turnover of the buyer should be = or > Rs 10 crores

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<b>Threshold limit for purchase / sale</b>	Purchase of goods from seller exceeding Rs 50 lakh in the FY	Receipt against sale of goods to a buyer exceeding Rs 50 lakhs in the FY
<b>Time of Deduction / Collection</b>	At the time of payment / credit whichever is earlier	At the time of receipt
<b>Rate of Tax (If PAN or Aadhar is furnished)</b>	0.1% TDS on the amount in excess of Rs 50 lakhs	0.1% TCS on the amount in excess of Rs 50 lakhs
<b>Rate of Tax (No PAN case)</b>	5%	5%
<b>Rate of Tax in case the deductee or the collectee has not filed ITR for 2 immediate preceding years and the amount of TDS / TCS was more than Rs 50,000 in both the years</b>	5% under Section 206AB	5% under Section 206CCA
<b>Case where TDS and TCS both are applicable on a transaction</b>	The buyer shall have obligation to deduct the tax and no tax shall be collected on such transaction under Section 206C(1H).	Seller is not required to collect tax at source if the buyer has already deducted tax under Section 194Q on that transaction.
<b>Applicability on advance amount</b>	Yes	Yes
<b>Scope of Goods</b>	Any goods i.e. any movable goods.	Goods other than those covered under Sub section of Section 206C like Alcoholic liquor, Tendu leaves, Timber, any other forest produce, scrap, coal or lignite or iron ore, motor vehicles of value more than Rs 10 lakhs.

**Other issues relating to Section 194 have been discussed below:**

- The term “**goods**” is not defined under Income Tax Act. Thus the definition of “goods” provided under the Sale of Goods Act, 1930 or Central Goods and Services Tax Act, 2017 may be referred.
- **Applicability of Section 194Q on transactions in securities through stock exchanges**

CBDT vide Circular No. 17 of 2020 has earlier clarified that provisions of Section 206C(1H) shall not be applicable in relation to transactions in securities through recognised stock exchanges. Applying the same rational, similar clarification is expected from CBDT allowing a similar exemption under Section 194Q as well.

- **Applicability of Section 194Q on transactions in electricity**

Electricity has been considered as “goods” in various judicial pronouncements. However, CBDT has earlier clarified that provisions of Section 206C(1H) shall not be applicable in relation to transactions in electricity. Applying the same rational, similar clarification is expected from CBDT allowing a similar exemption under Section 194Q as well.

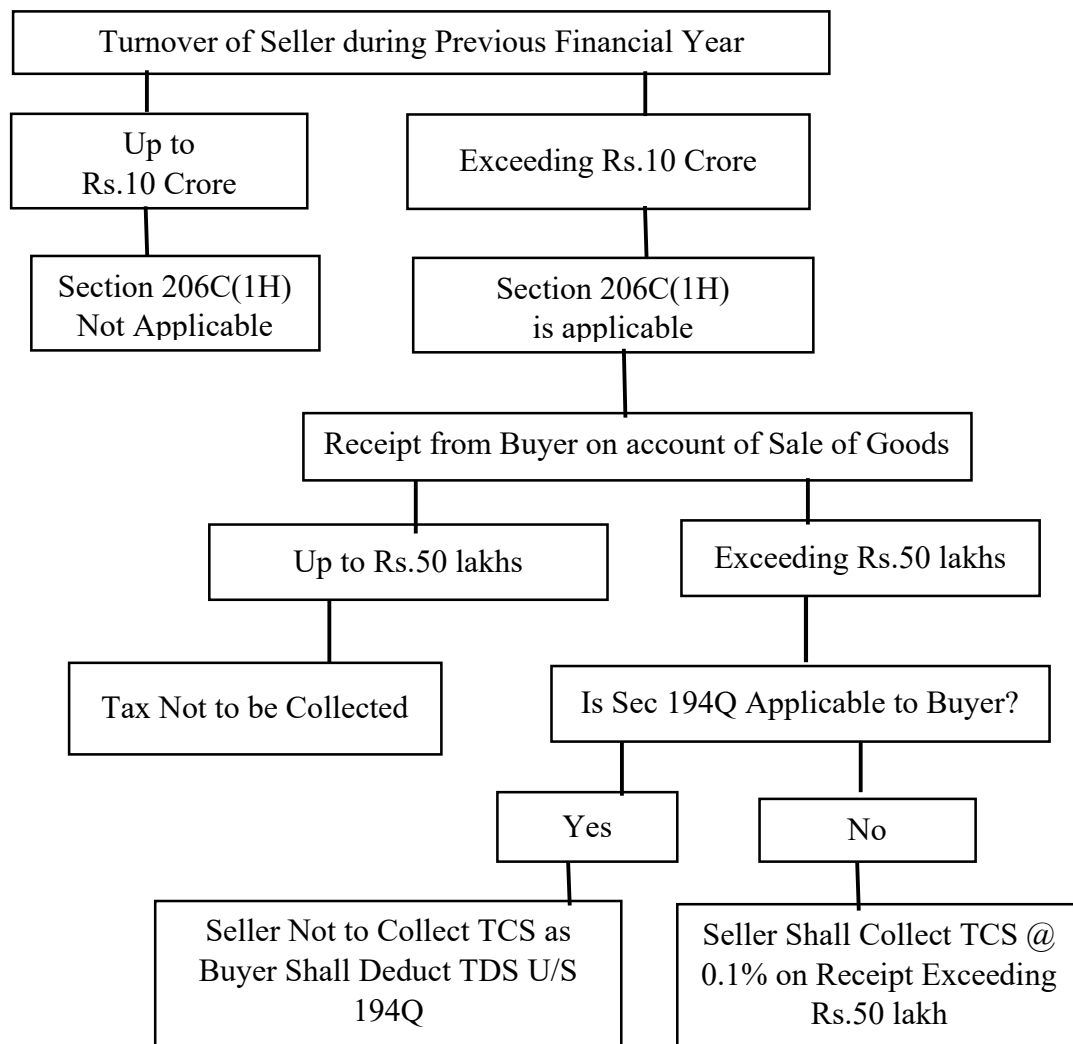
- **Applicability of Section 194Q on GST element in invoice value**

CBDT, vide Circular No. 23/2017, dated 19-7-2017, has earlier clarified that in case of fees for professional services liable to deduction of tax at source under Section 194J tax shall be not be deducted on 'GST on services' component'. However, in respect of Section 206C(1H), the CBDT vide Circular No. 17, dated 29-09- 2020, has clarified that tax shall be collected at source on the total value including GST. Applying the same principle, it may be prudent to include GST element for the purpose of deduction of tax under Section 194Q. Clarification is expected in this regard.

- The provision of Section 194Q will apply from 1<sup>st</sup> July 2021. However, the threshold limit of Rs 50 lakhs shall be computed from 1<sup>st</sup> April 2021 and not from 1<sup>st</sup> July 2021.

In respect of Section 206C(1H) which was introduced by the Finance Act, 2020, with effect from 1<sup>st</sup> October 2020, CBDT vide Circular No. 17, dated 29-09-2020, has clarified that since the threshold of Rs. 50 lakhs is with respect to the previous year, calculation of sale consideration for triggering TCS under this provision shall be computed from 1<sup>st</sup> April 2020.

## APPLICABILITY OF TCS U/S 206C(1H)



## APPLICABILITY OF TDS U/S 194Q

