

NDA Update – Clarifications by CBDT under Section 194Q of the Income Tax Act

CBDT has issued a circular today (Circular 13 of 2021) providing guidelines under Section 194Q clarifying on certain important issues. Some of the important issues covered are as under:

- Tax shall be deducted under section 194Q on the amount **credited** without including GST element. However, if the tax is deducted on payment basis because the payment is earlier than the credit, the tax would be deducted on the whole amount as it is not possible to identify that payment with GST component of the amount to be invoiced in future.
- If a transaction is both within the purview of section 194-Q of the Act as well as section 206C(1-H), the tax is required to be deducted under section 194-Q. If, for any reason, tax has been collected by the seller under sub-section (1 H) of section 206C, before the buyer could deduct tax under section 194-Q on the same transaction, such transaction would not be subjected to tax deduction again by the buyer.
- If a transaction is both within the purview of section 194-0 as well as section 194Q of the Act, tax is required to be deducted under section 194-0 and not under section 194Q.
- Provision of Section 194Q shall not apply if the turnover etc from business is less than Rs 10 crore. The sales or gross receipts or turnover from business carried on by him must exceed Rs 10 crore. His turnover or receipts from non-business activity is not to be counted for this purpose.
- Provisions of section 194Q shall **not** apply to buyer in the year of incorporation.
- Provisions of section 194Q shall apply to advance payment made by the buyer to the seller.
- Provisions of Section 194Q shall not apply on purchase of goods from a person, being a seller, who as a person is exempt from income tax (like person exempt under section 10) or under any other Act passed by the Parliament (Like RBI Act, ADB Act etc.).
- Since section 194Q mandates buyer to deduct tax on credit of sum in the account of seller or on payment of such sum, whichever earlier, the provision of this sub-section shall not apply on any sum credited or paid before 1st July 2021. If either of the two events had happened before 1st July 2021, that transaction would not be subjected to the provisions of section 194Q.
- Since the threshold of Rs 50 lakh is with respect to the previous year, calculation of sum for triggering TDS under section 194Q shall be computed from 1st April, 2021.

https://www.incometaxindia.gov.in/communications/circular/circular_13_2021.pdf