

# AIFTP NORTH ZONE & UP TAX BAR

## **New TCS Provisions under Income Tax Act**

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INDORE

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## TCS ON SALE OF CERTAIN GOODS – SECTION 206C(I)

Seller of below goods shall collect tax from buyer.

Sr. No.	Nature of goods	Rate of TCS (upto 13.05.2020)	Rate of TCS (w.e.f 14.05.2020 to 31.03.2021)
(i)	Alcoholic Liquor for human consumption	1%	1% # (no change)
(ii)	Tendu leaves	5%	3.75%
(iii)	Timber obtained under a forest lease	2.5%	1.875%
(iv)	Timber obtained by any mode other than under a forest lease	2.5%	1.875%
(v)	Any other forest produce not being timber or tendu leaves	2.5%	1.875%
(vi)	Scrap	1%	0.75%
(vii)	Minerals, being coal or lignite or iron ore	1%	0.75%

# As per Section 206C (10A) introduced vide Taxation & Other Laws (Relaxation & Amendment of certain provisions) Act, 2020 – No reduction in rate of TCS on alcoholic liquor for human consumption.

## TCS ON SALE OF CERTAIN GOODS – SECTION 206C(1)

- **Every person, being a seller** of the goods of the nature specified in Column (2) of the Table **shall collect tax from buyer.**
- **Seller** means:
  - **CG, SG**, local authority, etc. or **Company** or **Firm** or **Co-operative society** or
  - **Individual/HUF** whose turnover in just preceding FY exceeds Rs. 1 Crore or Rs. 50 Lakhs, as the case may be.
- **Buyer** means:
  - A person, who obtains in any sale, by way of auction, tender or any other mode, goods of the nature specified in the Table :-
  - TCS not to be collected from PSU, CG, SG, consulate or the like.
  - TCS not to be collected from a buyer in the retail sale of such goods purchased by him for **personal consumption**

## TCS ON SALE OF CERTAIN GOODS – SECTION 206C(I)

- TCS u/s. 206C(1) shall not be required to be collected from a resident buyer, if the goods are to be utilised for the purpose of **manufacturing, processing or producing articles or things** or for the purposes of generation of power and **not for trading purposes**.
- Buyer to furnish declaration in Form No. 27C to the seller at the time of each sale.
- No time limit has been prescribed for furnishing Form No. 27C by the buyer to the seller - **Chandmal Sancheti vs. ITO (Jaipur ITAT)** (ITA No. 344&345/JP/2015)
- Seller to submit Form No. 27C, on or before 7<sup>th</sup> day of the next month in which Form No. 27C is received.

## TCS ON SCRAP- SECTION 206C(I)

- SCRAP has been defined u/s. 206C as under:
  - *“(b) "scrap" means **waste and scrap** from the **manufacture or mechanical working of materials** which is definitely **not usable as such** because of breakage, cutting up, wear and other reasons”*
- Thus, the two important conditions for an item to be considered as SCRAP are:
  1. The scrap should arise from manufacture or mechanical working of materials, and
  2. It should not be usable as such
- If any of the above 2 conditions is not satisfied, then the item will not be treated as Scrap, and thus No TCS u/s. 206C.

## TCS ON SCRAP- SECTION 206C(I)

- The definition of Scrap does not suggest that the scrap should be generated by the seller himself. Thus, the **provisions of section 206C of the Act are applicable to a trader dealing in the scrap – Chandmal Sancheti vs. ITO (Jaipur ITAT) (ITA No. 344&345/JP/2015)**
- The scrap sold should arise out of manufacturing or mechanical working of material. In absence of which, no requirement to collect tax at source - **Navine Fluorine International Ltd. vs. ACIT (Ahmedabad ITAT)[2012] 14 ITR(T) 481**
- Provisions of TCS not applicable to dealer of scrap – **Lala Bharat Lal & Sons vs. ITO (Lucknow ITAT) (ITA No. 14,15,16/LKW/2019 dtd.19.02.2020)**
- Where products obtained in course of **ship breaking activity** are **usable as such**, they do not fall within definition of scrap. Hence, not liable for TCS – **CIT vs. Priya Blue Industries Pvt. Ltd. (Gujarat HC) [2016] 381 ITR 210**
- Sale of railway scrap by dealer being certainly not usable due to its breakage or wear and tear, same would be subjected to TCS during **resale – Pramod Kumar Jain vs. ITO [2020] 117 taxmann.com 649 (Jaipur - Trib.) dated 3rd July, 2020.**

## TCS ON GRANT OF LEASE/LICENSE, ETC. – SECTION 206C(1C)

Sr. No.	Nature of contract or license or lease, etc.	Rate of TCS (upto 13.05.2020)	Rate of TCS (w.e.f 14.05.2020 to 31.03.2021)
(i)	Parking lot	2%	1.5%
(ii)	Toll plaza	2%	1.5%
(iii)	Mining and quarrying (does not includes mining and quarrying of mineral oil, including petroleum and natural gas)	2%	1.5%

- Every person, who grants a **lease** or a **license** or **transfers any right or interest** in respect of the above shall be liable to collect tax at source (TCS) at the time of debit/receipt.
- **Individual/HUF** even if his turnover does not exceed Rs. 1 Crore or Rs. 50 Lakhs, as the case may be are also **liable to collect tax u/s. 206C(1C)**.

## TCS ON GRANT OF LEASE/LICENSE, ETC. – SECTION 206C(1C)

- For the purpose of section 206C(1C) on parking lot, toll plaza or mining or quarrying, every **person** [person as defined u/s. 2(31) of the Income tax Act, 1961], should collect TCS.
- Thus, the Central Govt., State Govt., not included in the definition of person u/s. 2(31) cannot be made liable to collect tax at source.
- Shree Jagannath Temple Office is not a person u/s. 2(31). Thus, not liable to collect tax at source u/s. 206C(1C) - **Shree Jagannath Temple Managing Committee vs. ACIT (Cuttack ITAT)**(ITA No. 197 and 198/2013)



## TCS ON SALE OF MOTOR VEHICLE – SECTION 206C(1F)

- **Nature of transaction:** Retail Sale of **motor vehicle**
- **Threshold:** No TCS upto **Rs. 10 Lakhs**
- **Rate of TCS:** 1%
- TCS on motor vehicle to be collected at the time of (receipt of) **Retail Sale** and not on sale of motor vehicle by manufacturers to dealers/distributors – **CBDT Circular No. 22/2016 dtd. 08.06.2016 [Not relevant after introduction of Section 206C(1H) - discussed in subsequent slides]**
- TCS also applicable on **motor bikes** of amount exceeding Rs. 10 Lakhs.
- Also applicable on second hand cars or any motor vehicle – if amount exceeds Rs. 10 Lakhs.
- Eg. Value of Motor Vehicle - Rs. 12 Lakhs, then TCS applicable on entire Rs. 12 Lakhs.

## **TCS ON FOREIGN REMITTANCE UNDER LIBERALISED REMITTANCE SCHEME (LRS) – Section 206C(1G) w.e.f 1<sup>st</sup> October 2020**

- **Nature of transaction:** Remittance out of India under LRS
- **Threshold:** No TCS if aggregate amount in a FY is less than **Rs. 7 Lakhs** and remittance for purpose other than overseas tour program package
- **No Threshold** for payments for **overseas tour program package** to an operator and TCS is liable to be collected **without any threshold**.
- **Rate of TCS:** **5%** on amount in excess of Rs. 7 Lakh in a FY. (**0.5%** if the remittance is out of educational loan obtained from Bank or notified financial institution)
- Rate of TCS will be 10% / 5% respectively, if the buyer does not furnish PAN.
- Example: If remittance outside India for medical treatment of Rs. 10 Lakhs. Then TCS u/s. 206C(1G) @ 5% to be collected on Rs. 3 Lakhs – i.e. Rs. 15,000
- **As per Section 206C(10A) introduced vide Taxation & Other Laws (Relaxation & Amendment of certain provisions) Act, 2020 – No reduction in rate of TCS u/s. 206C(1G).**

## **TCS ON OVERSEAS TOUR PACKAGE – Section 206C(1G) w.e.f 1<sup>st</sup> October 2020**

- **Nature of transaction:** Purchase of **Tour Package** which includes expenses for travel or hotel stay/boarding/lodging, etc.
- **Threshold:** NIL
- **Rate of TCS:** 5%
- If TCS has already been collected by the Tour Operator, then no further TCS will be collected by the authorised dealer for remittance outside India.

## **TCS ON RECEIPT OF SALE CONSIDERATION**

### **– Section 206C(1H) w.e.f 1<sup>st</sup> October 2020**

- **Nature of transaction:** Receipt of Sale consideration for Sale of Goods in India. by a **Seller whose turnover exceeds Rs. 10 Crores** in the preceding FY is liable to collect tax at source.
- **Who is liable to collect – Seller whose Turnover of preceding year exceeds Rs. 10 Crores**
- **From whom to collect – Buyer from whom, receipt (and not sales) exceeds Rs. 50 Lakhs, in aggregate, in a financial year.**
- **Rate of Tax:** 0.1% of the amount exceeding Rs. 50 Lakhs. (**@0.075% upto 31.03.2021**)
- If the buyer does not furnishes PAN or Aadhaar, then TCS **@1% - First Proviso to 206C(1H)**
- TCS u/s. 206C(1H) is required to be collected at the **time of receipt of amount and not at the time of debit.**
- **Eg.** If Amount received in a FY is Rs. 60 Lakhs, then TCS is applicable only on Rs. 10 Lakhs.

## **POWER OF CBDT TO ISSUE GUIDELINES**

**– Section 206C(1-I) w.e.f 1<sup>st</sup> October 2020**

- “(1-I) If any difficulty arises in giving effect to the provisions of sub-section (1G) or sub-section (1H), the **Board** may, **with the approval of the Central Government**, **issue guidelines** for the purpose of removing the difficulty.”
- “(1J) **Every guideline** issued by the Board under sub-section (1-I) **shall be laid before each House of Parliament**, and **shall be binding on the income-tax authorities and on the person liable to collect the sum.**”
- CBDT has issued Guidelines u/s. 206C(1-I) vide **Circular No. 17/2020 dated 29.09.2020.**

## Section 206C(1H) – Who is liable to collect TCS ?

- As per Section 206C(1H) "**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."
- However, as per **Para 2** of the **CBDT Press Release** dated 30<sup>th</sup> September, 2020 - A seller would be required to collect tax only if his turnover exceeds Rs. 10 crore in the **last financial year**. **(not the year of sale)**
- **Practically, it can be concluded that any person whose turnover exceeds Rs. 10 Crores in the preceding year, shall be covered u/s. 206C(1H).**

## Section 206C(1H) – Tax not to be collected in certain cases

- **Explanation (a) to Section 206C(1H) - Buyer** means a person who purchases any goods, but does not include,
  - (A) the Central Government, a State Government, etc.
  - (B) a local authority as defined in the Explanation to Section 10(20)
  - (C) a person importing goods into India or any other notified person
- Although, no tax is to be collected from them, but the same is **required to be mentioned in the quarterly TCS Statement (Form No. 27EQ)** and non-disclosure of such items in quarterly TCS Statement is required to be reported by the Tax Auditor under **Clause 34(b) of the Tax Audit Report.**
- TCS not to be collected on Export Sales.
- TCS not to be collected or on Sale of immovable property as it is out of ambit of goods.

## Section 206C(1H) – Whether turnover of Rs. 10 Crores includes GST ?

- For the purpose of determining applicability of Turnover of Rs. 10 Crores as per Explanation to Section 206C(1H), **the turnover limit of Rs. 10 Crores shall be determined excluding the amount of GST collected on Sales.**
- **Example:**
  - Total Sales for the Financial Year 2019-20 (excluding GST) is **Rs. 9 Crores.**
  - GST Collected on Sales @18% is **Rs. 1.62 Crores.**
  - Total Amount (inclusive of GST) is **Rs. 10.62 (Rs. 9 Crores + Rs. 1.62 Crores).**
  - In the above example, the assessee would **not be covered** under the provisions of Section 206C(1H) since his turnover is Rs. 9 Crores only, which is below the threshold limit of Rs. 10 Crores.



## Section 206C(1H) – How to determine the limit of Rs. 50 Lakhs ?

- The seller is liable to collect TCS from the buyer if the receipt of sale consideration in the financial year **(including receipts before 1<sup>st</sup> October, 2020)** exceeds Rs. 50 Lakhs.
- **Section 206C(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) / (1F) / (1G) shall, at the time of receipt of such amount, collect from the buyer, a sum equal to 0.1 % of the sale consideration exceeding Rs. 50 Lakhs as income-tax”
- Further, as per CBDT Guidelines u/s. 206C(1-I) vide Circular No. 17/2020 dated 29.09.2020 provides that the seller is liable to collect TCS **if the receipt of sales consideration exceeds Rs. 50 Lakhs.**
- As per Para 4 of the CBDT Press Release dated 30.09.2020 - **the threshold is based on the yearly receipt.**
- Thus, it can be concluded that the **limit of Rs. 50 Lakhs is of RECEIPT and not SALE.**

## Section 206C(1H) – How to determine the limit of Rs. 50 Lakhs ?

- In respect of the Financial Year 2020-21, the payments received before 1<sup>st</sup> October, 2020 (**even if it exceeds Rs. 50 Lakhs**) shall not be liable to TCS u/s. 206C(1H). – Para No. 4.4.2(ii) of CBDT Guidelines vide Circular No. 17/2020 dated 29.09.2020.
- However, **to calculate the threshold of Rs. 50 Lakhs, receipts before 1<sup>st</sup> October, 2020 shall be included to determine the applicability of TCS u/s. 206C(1H)** – Para No. 4.4.2(iii) of CBDT Guidelines vide Circular No. 17/2020 dated 29.09.2020.
- TCS is also required to be collected at the time of receipt of **advance** – Para No. 4.4.2(ii) of CBDT Guidelines vide Circular No. 17/2020 dated 29.09.2020.
- **Threshold of Rs. 50 – EVERY YEAR FOR EVERY DEBTOR.**

## Section 206C(1H) – Whether limit of Rs. 50 Lakhs is exclusive of GST or inclusive of GST ?

- The applicability of the provisions of Section 206C(1H) of the Act shall be determined with reference to **receipt** during a financial year.
- Collection of tax is to be made with reference to receipt, and not with reference to Sales. Thus, **the total amount of receipt (including GST) is liable for TCS.**
- Example:
  - Date of Sale of Goods : 3<sup>rd</sup> October, 2020
  - Sale Value (excluding GST) : Rs. 45 Lakhs
  - GST Amount @ 18% : Rs 8.1 Lakhs
  - Total Invoice Value : 53.1 Lakhs
  - Date of receipt of sale consideration : 1<sup>st</sup> December, 2020
  - **TCS to be collected on Rs. 3.1 Lakhs on 1<sup>st</sup> December, 2020 @0.075% - i.e. Rs. 233 only.**

## **Section 206C(1H) – Whether to collect at the time of receipt or at the time of raising invoice / debiting the Party A/c. ?**

- **Section 206C(1H) provides that TCS is required to be collected at the time of receipt of the Sale consideration and not at the time of debiting the Party Ledger Account.**
- Charging TCS at the time of issuing invoice would result in **practical difficulties** such as:
  - Adjustments for Sales Return
  - Adjustments for subsequent discounts / Credit notes
  - It may result in earlier payment of TCS without even collecting from the buyer
  - It may result in excess collection of tax.
- **What about Sales made in FY 2020-21 where TCS @0.075% is levied on invoice ?** – If it's payment is received in FY 2021-22, then @0.1% will be levied. Separate accounting/collection for such shortfall would be required.

## Example:

## DEBTOR'S ACCOUNT

Date of Transaction	Particulars	Debit Amount	Credit Amount
01.04.2020	Opening Balance	Rs. 50 Lakhs	
September-20	By Payment Recd.		Rs. 50 Lakhs
Oct-20 to Mar-21	To Sales (incl. GST)	60 Lakhs	
Oct-20 to Mar-21	To TCS @0.075%	Rs.4,500	
31st March, 21	Closing Balance	<b>Rs. 60 Lakhs</b>	
April-21	By Payment Recd.		Rs. 20 Lakhs

### Why TCS may not be collected on invoice ?

- Issue-1 : At the time of receipt of Rs. 20 Lakhs in April-21, the assessee will have to collect tax on Rs. 20 Lakhs and will not be able to claim the benefit of threshold of Rs. 50 Lakhs since he has charged TCS on invoice.
- Issue-2 : TCS liability is @0.1% (i.e. Rs. 2,000) whereas TCS raised in invoice @0.075% (i.e. Rs. 1,500) only in respect of 20 Lakhs. Thus, shortfall.
- Issue-3 : Assessee collected TCS in FY 2020-21 since his turnover was more than Rs. 10 Crores in FY 2019-20. However, what if his Turnover does not exceeds Rs. 10 Crores in FY 2020-21 ? He will not be required to collect TCS on receipts in FY 2021-22, but since he has already charged TCS on invoice, he may not be eligible for such benefit of threshold.

## Section 206C(1H) – Whether to collect at the time of receipt or at the time of raising invoice / debiting the Party A/c. ?

- Thus, TCS should be collected only at the time of **receipt** of Sale consideration by way of issuing issue a debit note for TCS.

- Sample Journal Entries for Debit Note of TCS Amount:

1. Debtors Account Dr.	Rs. 1.18 Crores
To Sales Account	Rs. 1 Crores
To GST Payable Account	Rs. 18 Lakhs
2. Bank Account Dr.	Rs. 1,18,05,100
To Debtors Account	Rs. 1.18 Crores
To TCS Payable Account	Rs. 5,100 (@0.075% of Rs. 68 Lakhs)
3. TCS Payable Account Dr.	Rs. 5,100
To Bank Account	Rs. 5,100

## SAMPLE TAX INVOICE

**M/s. ABC TRADING CO.**

**GSTIN:**

Date: 3<sup>rd</sup> October, 2020

**Invoice No. 01/Oct-20**

Bill to : **M/s. PQR TRADING COMPANY**

PARTICULARS	AMOUNT
Value of Items Sold	Rs. 80,00,000
CGST @ 9% - Rs. 7,20,000 and SGST @9% - Rs. 7,20,000	Rs. 14,40,000
<b>TOTAL</b>	<b>Rs. 94,40,000</b>

**Sample Note:** We are liable to collect TCS on receipts above Rs. 50 Lakhs in a financial year u/s. 206C(1H) of the Income tax Act, 1961 at prevailing rates. If aggregate payments made by you to us exceed Rs. 50 Lakhs in FY 2020-21, kindly pay TCS @ 0.075% (**Rs. 7,080/-**) in addition to the invoice amount. In case you do not make the payment of TCS, your payments shall be deemed to be inclusive of TCS and will be recoverable subsequently.

Particulars	Sales	Amount Received	Tax Collected at Source (TCS)	Reason
Opening Bal. as on 1 <sup>st</sup> April, 2020	Rs. 30 Lakhs	NA	NA	NA
April - September	Rs. 40 Lakhs	Rs. 50 Lakhs	NIL	Since 206C(1H) introduced w.e.f 01.10.2020
October	Rs. 20 Lakhs <b>(Rs. 10 Lakhs in this Sale will be liable for TCS)</b>	Rs. 20 Lakhs	NIL	Since payment is related to Sales below the threshold of Rs. 50 Lakhs
November	NIL	Rs. 10 Lakhs	NIL	Since payment is related to Sales below the threshold of Rs. 50 Lakhs
December	NIL	<b>Rs. 10 Lakhs</b>	Rs. 1,000 (@0.1%)	Since this payment pertains to Sales above Rs. 50 Lakhs.

Earlier understanding before the CBDT Guidelines vide Circular No. 17/2020 dated 29.09.2020 and CBDT Press Release dated 30.09.2020.



Particulars	Sales	Amount Received	TCS	Reason
Opening Bal. as on 1 <sup>st</sup> April, 2020	Rs. 40 Lakhs	NA	NA	NA
April to September-2020	Rs. 30 Lakhs	Rs. 60 Lakhs	NIL	Since 206C(1H) not applicable on receipts before 01.10.2020
October-2020	Rs. 10 Lakhs	Rs. 20 Lakhs	Rs. 1,500 (@0.075%)	Liable for TCS as aggregate receipts has exceeded Rs. 50 Lakhs.
November-2020	Rs. 80 Lakhs	Rs. NIL	NIL	Since TCS is collectible at the time of receipt and not at the time of Sales.
December-2020	NIL	Rs. 10 Lakhs	Rs. 750 (@0.075%)	Liable for TCS as aggregate receipts has exceeded Rs. 50 Lakhs.
April -2021	NIL	Rs. 70 Lakhs	Rs. 1,500 (@0.075%)	Liable for TCS on amount exceeding Rs. 50 Lakhs, i.e. Rs. 20 Lakhs only.

## **Section 206C(1H) – Whether Sale of Motor Vehicles by manufacturers to distributors/dealers liable to TCS ?**

- As per Para 4.5 of CBDT Guidelines vide **Circular No. 17/2020** dated 29.09.2020 – **Receipt of sale consideration by a dealer is liable for TCS u/s. 206C(1H).**
- Thus, earlier exemption given on sale of motor vehicles by manufacturers to dealers/distributors vide **CBDT Circular No. 22/2016** dated **08.06.2016** is not relevant now since the same have been specifically included vide above Guidelines vide CBDT Circular No. 17/2020.
- **Thus, the manufacturer/distributors are liable to collect TCS @0.1% as per Section 206C(1H) on receipts after 1<sup>st</sup> October, 2020.**

## Section 206C(1H) – Whether Sale of Scrap where Form 27C has been submitted by buyer is liable to TCS u/s.206C(1H)

- **Bare Text - Section 206C(1H):**

“(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 ~~(and liable to tax collection and has collected)~~** 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...

**2<sup>nd</sup> Proviso** - 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.”

## **Section 206C(1H) – Whether Sale of Scrap where Form 27C has been submitted by buyer is liable to TCS u/s.206C(1H)**

- Thus, from a plain reading, it can be concluded that since sale of scrap is covered u/s. 206C(1), the provisions of Section 206C(1H) shall not apply.
- Thus, where the assessee has received declaration in **Form No. 27C** from the buyer that the goods shall be used in manufacturing, processing or producing articles or things or for the purposes of generation of power and not for trading purposes, TCS shall not be required to be collected. **[Neither u/s. 206C(1) nor u/s. 206C(1H)]**

## PAYMENT OF TAX, QUARTERLY STATEMENT AND FURNISHING TDS/TCS CERTIFICATE

Quarter ending on	Due Date for Quarterly TDS Statement in Form No. 24Q/26Q/27Q	Due Date to issue TDS Certificate in Form No. 16A	Due Date for Quarterly TCS Statement in Form No. 27EQ	Due Date to issue TCS Certificate in Form No. 27D
30 <sup>th</sup> June	31 <sup>st</sup> March, 2021	15 <sup>th</sup> August	<b>31<sup>st</sup> March, 2021</b>	15 <sup>th</sup> April, 2021
30 <sup>th</sup> September	31 <sup>st</sup> March, 2021	15 <sup>th</sup> November	<b>31<sup>st</sup> March, 2021</b>	15 <sup>th</sup> April, 2021
31 <sup>st</sup> December	31 <sup>st</sup> January, 2021	15 <sup>th</sup> February	<b>15<sup>th</sup> January, 2021</b>	30 <sup>th</sup> January, 2021
31 <sup>st</sup> March	<b>31<sup>st</sup> May, 2021</b>	15 <sup>th</sup> June (Due date for issuing <b>Form 16</b> FY 20-21 is also 15 <sup>th</sup> June)	<b>15<sup>th</sup> May, 2021</b>	<b>30<sup>th</sup> May, 2021</b>

### Due date to deposit:

**TDS : 7<sup>th</sup> day of next month (30<sup>th</sup> April for TDS deducted in the month of March)**

**TCS : 7<sup>th</sup> day of next month (for TCS collected in the month of March – 7<sup>th</sup> April)**

**Due dates for TDS/TCS returns for Q1 and Q2 of FY 2020-21 extended till 31<sup>st</sup> March, 21.**

## CERTIFICATE FOR COLLECTION OF TAX AT LOWER RATE – Section 206C(9)

- Who can make application of collection of tax at lower rate ?
- A buyer or licensee or lessee.
- **Lower Rate Certificate can be applied by :**
  - **A buyer** – for TCS u/s. 206C(1) on sale of scrap, timber, coal, tendu leaves, etc.
  - **A licensee or lessee** - for TCS u/s. 206C(1C) for lease or license, etc.
- **Lower Rate Certificate cannot be obtained for :**
  - TCS u/s. 206C(1F) – Sale of Motor Vehicle
  - TCS u/s. 206C(1G) – Payment under Liberalised Remittance Scheme or for Sale of overseas tour program package
  - TCS u/s. 206C(1H) – For sale consideration of goods

## CREDIT OF TAX COLLECTED AT SOURCE

- **Credit of tax collected at source u/s. 206C(1F), (1G) and (1H):** As per **Rule 37-I** as amended by Income-tax (17<sup>th</sup> Amendment) Rules, 2020
- “(2A) Notwithstanding anything contained in sub-rule (2), for the purposes of **sub-section (1F)** or, **sub-section (1G)** or, **sub-section (1H) of section 206C**, credit for tax collected at source shall be given to the person from whose account tax is collected and paid to the Central Government account **for the assessment year relevant to the previous year in which such tax collection is made**”

## CONSEQUENCES OF NOT COLLECTING TAX AT SOURCE

- **Short collection** - Disallowance u/s. 40(a)(ia) is not to be made for non-collection or for short collection of tax.
- **Penalty u/s. 271H** – If TDS or TCS statements not filed or incorrect information furnished in TDS or TCS statement – **Rs. 10,000 to Rs. 1 Lakh.**
- **Penalty u/s. 271CA** – Equal to whole or part amount of TCS not collected.
- **Prosecution u/s. 276BB** – If TCS collected but not paid – rigorous imprisonment : 3 months to 7 years and fine.



## CONSEQUENCES OF NON-COMPLIANCE OF TCS PROVISIONS

- If a person fails to collect TCS – Liable to pay Interest @1% p.m. or part thereof [**Section 206C(7)**]
- **Sec.206C(6A)** proviso: A person shall not be deemed to be an assessee in default u/s. 206C(1) & (1C) (**not for 206C(1F), (1G) and (1H)**), if:
  - The buyer has **filed his return of income** u/s. 139
  - has **taken into account such amount** for computing income in such return of income; and
  - **has paid the tax due** on the income declared by him in such return of income,
- The buyer will have to furnish CA Certificate in **Form No. 27BA** electronically.
- **For delay in furnishing TCS statements** – Late fee u/s. 234E @ Rs. 200/day.



## **New Form 27EQ notified vide Notification No. 54/2020**

### **Notes:**

1. Write "A" if "lower collection" is on account of a certificate under sub-section (9) of section 206C.
2. Write "B" if "non-collection" is on account of furnishing of declaration under sub-section (1A) of section 206C.
3. Write "C" if collection is at higher rate on account of non-furnishing of PAN/Aadhar by the collectee.
4. Write "D" if no collection is on account of the first proviso to sub-section (1G) of section 206C.
5. Write "E" if no collection is on account of the fourth proviso to sub-section (1G) of section 206C.
6. Write "F" if no collection is on account clause (i) or clause (ii) of the fifth proviso to sub-section (1G) or in view of notification issued under the clause (ii).
7. Write "G" if no collection is on account of the second proviso to sub-section (1H) of section 206C.
8. Write "H" if no collection is on account of sub-clause (A) or sub-clause (B) or sub-clause (C), or in view of notification issued under sub-clause (c), of clause (a) of the Explanation.
9. Write collection code as mentioned below:

## New Form 27EQ notified vide Notification No. 54/2020

9. Write collection code as mentioned below:

Section	Nature of collection	Collection Code	
206C	Collection at source from alcoholic liquor for human consumption	6C	A
206C	Collection at source from timber obtained under forest lease	6C	B
206C	Collection at source from timber obtained by any mode other than a forestlease	6C	C
206C	Collection at source from any other forest produce (not being tendu leaves)	6C	D
206C	Collection at source from scrap	6C	E
206C	Collection at source from contractors or licensee or lease relating to parkinglots	6C	F
206C	Collection at source from contractors or licensee or lease relating to toll plaza	6C	G
206C	Collection at source from contractors or licensee or lease relating to mine or quarry	6C	H
206C	Collection at source from tendu leaves	6C	I
206C	Collection at source on sale of minerals, being coal or lignite or iron ore	6C	J
206C	Collection at source on cash sale of bullion and jewellery	6C	K
206C	Collection at source on sale of motor vehicle	6C	L
206C	Collection at source on remittance under LRS for purchase of overseas tour program package	6C	O
206C	Collection at source on remittance under LRS for educational loan taken from financial institution mentioned in section 80E	6C	P
206C	Collection at source on remittance under LRS for purpose other than for purchase of overseas tour package or for educational loan taken from financial institution	6C	Q
206C	Collection at source on sale of goods	6C	R"



## New provisions of TCS u/s. 206C(1G) AND (1H) – SCOPE UNDER TAX AUDIT

### Clause 34(b) of the Tax Audit Report:

*(b) whether the assessee is required to furnish the statement of tax deducted or tax collected. If yes, please furnish the details :*

<i>Tax deduction and collection Account Number (TAN)</i>	<i>Type of Form</i>	<i>Due date for furnishing</i>	<i>Date of furnishing, if furnished</i>	<i>Whether the statement of tax deducted or collected contains information about all details/transactions which are required to be reported. If not, please furnish list of details/transactions which are not reported.</i>

Thus, if any person has **not reported any transactions** - where TCS is not collected because of buyer being Central/State Govt. or Local Authority or where liable for TDS as per **2<sup>nd</sup> Proviso** u/s. 206C(1H) – Tax auditor to report the same in **Clause 34(b)** of Tax Audit Report.

THANK YOU !

CA. RAJESH MEHTA, INDORE  
98270-36956