Tax Collected at Source on Sale of Goods

-

Updated 30.09.2020

M. S. Chhajed & Co. Chartered Accountants

PROVISION

Vide Finance Act, 2020, new clause (1H) has been inserted in section 206C of the Income Tax Act, 1961 ("the Act") to expand the scope of Tax Collection at Source ("TCS") provisions. A seller of goods is now required to collect tax at source at the rate of 0.1% from a buyer of goods on receipt of consideration for sale of goods. Prior to the above insertion, TCS provisions were applicable on sale of selected goods namely, alocholic liquor for human consumption, scrap, tendu leaves, timber obtained from forest, lease contract of parking lots and toll plaza.

How does TCS provision work?

Mr. A sales goods to Mr. B for Rs. 10,00,000. Mr. A will collect Rs. 1000 in addition to the sales consideration from Mr. B. Mr. A will then deposit sum of Rs. 1000 with tax authority in the name of Mr. B and issue certificate thereof to Mr. B. Based upon the certificate, Mr. B will claim credit of TCS against tax liability while filing his income tax return.

TCS provisions does not increases the cost of goods but may result in blockage of the working capital. Considering the applicability of TCS on transaction being sale of goods, it has vast implications on day to day business transactions and will increase the tax compliance and accounting burden.

BASIC

Who is required to collect tax at source (TCS)	Every seller of goods, is required to collect tax at source (TCS) from the buyer of goods in a financial year if the total turnover carried on by such seller in the immediately preceding financial year is more than Rs. 10 Crore.
From whom to be Collected	Tax is required to be collected from a "buyer" of goods in a financial year when the total consideration (excluding the consideration for goods exported outside India) received during such financial year from such buyer exceeds Rs. 50 lakh. It is important to note that the limit of Rs. 50 lakhs is per buyer.
Rate of TCS	Tax is required to be collected at source @ 0.1%. However, if the buyer of goods does not provide Permanent Account Number (PAN) / Aadhar Number, tax is required to be collected @ 1%.
	In view of various relief measures given under the COVID-19 relief package vide CBDT press release dated May 13, 2020, TCS shall be collected at 0.075% till 31.03.2021 from buyers who provide PAN/Aadhar.
Point of Collection	TCS is required to be collected at the time of receipt of consideration of goods. It is important to note that the mode of payment must not be restricted to cash/ cheque but can include journal voucher adjustment or barter.
Date of payment	TCS is required to be deposited within 7 days from the end of the month in which tax is collected at source

Transaction on which TCS is not attracted	 transaction: Exports Imports Sale of goods where to (TDS) under any provideducted such tax at sets Sale of goods when 	not applicable on following the buyer is liable to deduct tax vision of the Act and has also source such goods are subjected to sion of section 206C other than
Due Date of Return	Quarter Ended June September December March	Due Date 15th July 15th October 15th January 15th May
Issuance of Certificate		uired to be issued by seller to a within 15 days from the due n.
Transaction to be reported even if no tax collected at source	 even if the same do not Non collection of tax buyer of goods has applicable provision If a buyer of goods Government, an E Legation, Commis representation of for defined as referred 	x at source by a seller where a deducted tax under any other
When can the buyer claim the credit	2	e claim credit of tax collected at al year in which such tax is

ILLUSTRATION

SI. No.	5			mover of ller		ate value ales	TCS u/s.	Remarks
			FY 19-20	FY 20-21	Upto 30.9.20	After 30.9.20	206C (1H)	
1	A	В	13 crores	8 crores	25 lakh	65 lakh	4,000	0.1% on 40 lakh (being excess of Rs. 50 lakhs)
2	A	В	10 crores	13 crores	25 lakh	65 lakh	NA	Since turnover in FY 19-20 does not exceed Rs. 10 crores
3	A	В	13 crores	15 crores	60 lakh	55 lakh	5,500	On Rs.55 lakh being turnover and receipt after 30.9.20

FREQUENTLY ASKED QUESTIONS

Whether while computing the turnover for verifying applicability, GST/ Indirect Taxes component must be included? Turnover has not been defined under the Income Tax. Hence reference can drawn to Para 5.9 to Guidance Note on Tax Audit under section 44AB of the Incometax Act, 1961, Revised 2014 edition published by Institute of Chartered Accountants of India reads as under:

"The term 'turnover' for the purposes of this clause may be interpreted to mean the aggregate amount for which sales are effected or services rendered by an enterprise. If sales tax and excise duty are included in the sale price, no adjustment in respect thereof should be made for considering the quantum of turnover. Trade discounts can be deducted from sales but not the commission allowed to third parties. If, however, the Excise duty and / or sales tax recovered are credited separately to Excise duty or Sales tax Account (being separate accounts) and payments to the authority are debited in the same account, they would not be included in the turnover. However, sales of scrap shown separately under the heading 'miscellaneous income' will have to be included in turnover."

Hence unless the CBDT clarifies on this issue, it would be appropriate to ignore the amount of GST while calculating the total sales, gross receipts or turnover subject to such GST is credited in separate account and payments to the authority are debited in the same account.

Whether TCS is applicable on Gross Value i.e. Value including GST?	CBDT in its FAQ's in reference to provision of section 206C(1) has clarified that TCS is required to be collected on consideration in inclusive of GST. Though the same could be challenged with respect to new TCS provisions, it is advisable to levy TCS on the gross consideration. Further the said contention has been upheld by the Madhya Pradesh High Court in the case of Vinod Rathore vs. Union of India & Ors. However there is contrary ruling on the identical issue by Punjab and Haryana High Court in the case of Fairdeal Trading Co. vs. Union of India & Ors. Thus CBDT must issue clarification in the said aspect.
Whether TCS is required to be shown in sales invoice	There is no statutory requirement to disclose TCS amount in invoice. Since the seller is required to collect such tax from buyer, it is good practice to disclose the same to buyer either through invoice or through a debit note.
Whether Sale done during April-2020 to September 2020 be considered in determining the limit of 50 lakhs	As per clarification issued by CBDT on 29.09.2020, the threshold of 50 lakhs shall be computed by considering receipts from April 1 st 2020. Thus if seller has already received Rs. 50 lakhs from a buyer up to September 30 th 2020, seller would require to collect TCS on all sales made /receipt from such buyer on or after October 1 st 2020.
Whether tax is to be collected in respect of consideration received on or after October 01, 2020 in respect of sale of goods made during April September 2020?	As per CBDT clarification dated 29.09.2020, TCS provision u/s 206C(1H) would apply to all sales consideration (including advance received for sale) received on or after October 1 st 2020 even if sale was carried out before October 1 st , 2020.

The seller has received an advance prior to October 01, 2020 and sales against the said advance will be recognized on or after October 01, 2020. Whether TCS is applicable on such sale?	As per CBDT clarification dated 29.09.2020, the provision of TCS on sale of goods u/s 206C(1H) would not be applicable on any sales consideration received before October 1 st 2020 even if sales invoice is booked after the October 1 st 2020.
In case of new unit set-up in F.Y. 2020-21, will TCS provisions apply in current year as and when turnover exceeds 10 crores.	No. TCS is applicable to a seller only if turnover or receipts from business in immediately preceding year has exceeded Rs. 10 Cr. In case of newly set up business in April 2020, the turnover or receipts in immediately preceding year is not available and hence should be considered as Nil.
Whether TCS applicable on advances received on or after 01.10.2020 even if no sales invoice is booked during the year.	Yes subject to advances received are in excess of the threshold limit
Whether tax is required to be collected on GST component included in sales consideration?	CBDT has clarified that no adjustment on account of indirect taxes including GST is required to be made for collection of TCS on sale of good u/s 206C(1H) since the collection is made with reference to receipt. Thus it is clear that GST portion included in sale value would attract TCS u/s 206C(1H) of the Act.
Whether TCS shall be applicable on transactions in securities and commodities?	Transactions in securities and commodities which are traded through recognised stock exchanges or cleared & settled through recognised clearing corporation are no subject to TCS provision u/s 206C(1H) of the Act.

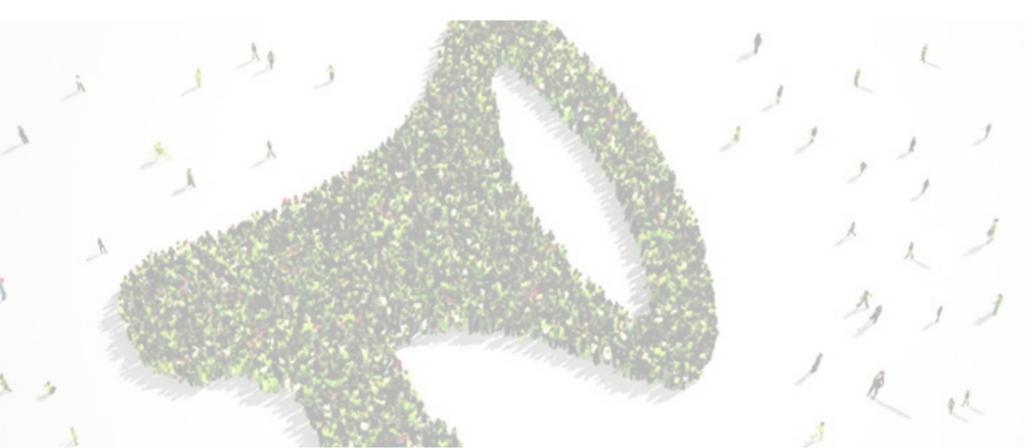
Whether TCS shall be applicable on transactions in securities and commodities?	No. CBDT has clarified that the transactions in securities and commodities which are traded through recognized stock exchanges or cleared and settled through recognized clearing corporation are not subject to TCS provision.
How to determine the impact of sales return, debit note, and credit note while collecting tax at source?	CBDT Clarified that no adjustment on account of sale return or discount is required to be made for collection of TCS on sale of good u/s 206C(1H) since the collection is made with reference to receipt.
Whether TCS is applicable on sale of motor car having value up to Rs. 10,00,000?	CBDT clarified that TCS on sale of goods u/s 206C(1H) would be applicable in respect of receipt of sale consideration from a dealer if sales of motor vehicle is not subject to TCS u/s 206(1F). Further it must be noted that TCS under 206(1F) was not applicable on dealers and distributors, however the new provisions intents to cover them as well.
Wether TCS is applicable on High Sea Sales?	In case of high sea-sales transaction, the buyers and sale are in India, however the buyer is required to get the goods cleared from the Customs. As per bare reading of the provisions of section 206C(1H), there is no exemption on such transactions.
Wether TCS is applicable on sales made to SEZ and EOU?	In case of sale of goods to a SEZ unit or an EOU are there is no physical movement of goods outside India. Thus TCS provisions should be applicable. However the clarification must be issued by the Government in this regards.
Whether TCS is applicable even in cases whether the buyers gives the declaration that the said goods shall be used in manufacture?	Yes. TCS provision under 206(1H) differs from the existing provision of 206(1F). TCS u/s. 206(1H) shall be applicable subject to exemption limit irrespective of further use of goods purchased by the buyers.

CHALLENGES

New provisions certainly seems to be in line of the Government's aim to increase the tax base, the threshold limit of 50 lakhs might fail to achieve that. The trade was hopeful that the deadline might be deferred by another six months but during the turbulent times post pandemic, the TCS provisions shall seem to hurt the working capital of the already ailing businesses. The TCS move is sure to increase the compliance burden, hence the trade may need to change or alter the accounting software to incorporate necessary changes for complying with such provision and its proper monitoring for tax and reporting purposes. SEZ and EOU's are faced with disadvantage with implementation of TCS on purchases made by it which couldn't have been the intention of the legislatures. Certain ambiguities also remain with respect to TCS position on the eve of its implementation which may hurt the trade.

Disclaimer:

The document is intended for private circulation and for knowledge sharing purpose only. This material and the information contained herein is intended to provide general information on a particular subject or subjects and is not an exhaustive treatment of such subject(s). The information is not intended to be relied upon as the sole basis for any decision which may affect you or your business. The firm expressly disclaim all and any liability and responsibility to any person whether a purchaser or reader of this publication or not, in respect of anything, and of the consequences of anything, done or omitted to be done by any such person in reliance, whether wholly or partially, upon the whole or any part of the contents of this publication.



M. S. Chhajed & Co. Chartered Accountants

"Kamal Shanti" Sardar Patel Colony, Navjivan, Ahmedabad 380014. (O)+91-79-48902330/26400989 www.mschhajedandco.com