

SKA

TAX FLASH NEWS

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CBDT CLARIFICATION ON TCS ON SALE OF GOODS AND TDS ON E-COMMERCE OPERATOR:-

Finance Act, 2020 inserted a new section 194-0 in the Income-tax Act 1961 which mandates that with effect from 1st day of October 2020, an e-commerce operator shall deduct income-tax at the rate of one per cent and also inserted sub-section (1H) in section 206C of the Act which mandates that with effect from 1st day of October, 2020 a seller receiving an amount as consideration for sale of any goods of the value or aggregate of such value exceeding fifty lakh rupees in any previous year to collect tax from the buyer a sum equal to 0.1 per cent of the sale consideration exceeding fifty lakh rupees as income-tax. Detailed FAQs on these provisions has already been circulated by us and the same can be accessed vide this link - <http://www.skagrawal.co.in/archives/245>

There is ambiguity on certain practical aspects of these provisions. CBDT by exercising the power vested in section 206C(1-I) and 194-O(4) of the Income Tax Act issued guidelines vide a circular No. 17 dated 29th September 2020. Insights of the same are numbered below –

1) Clarification on calculation of threshold limit for the financial year 2020-21:

It has been clarified that the threshold limit of Rs. 5 Lacs in case of TDS on E-Commerce and Rs. 50 Lacs in case of TCS on sale of goods shall be computed from 01-04-2020. However, the provision of TDS/TCS shall apply only on transaction done on or after 01-10-2020.

2) Clarification on applicability of TCS provision on sales of goods made prior to 01-10-2020:

It has been clarified that section 206C(1H) applies on receipt of sale consideration and consequently it would apply on all sale consideration (including advance received for sale) received on or after 1st October 2020 even if the sale was carried out before 1st October 2020.

3) Clarification on adjustment for sale return, discount or indirect taxes while collecting TCS:

It has been clarified that no adjustment on account of sale return or discount or indirect taxes including GST is required to be made for collection of tax under section 206C(1H) since the collection is made with reference to receipt of amount of sale consideration. Hence, TCS has to be collected on entire sale consideration including all Taxes.

4) Applicability of TCS provision on sale of motor vehicle:

It has been clarified that scope of section 206C(1F) is based on single sale of motor vehicle whereas 206C(1H) is for receipt above 50 lakh rupees during the financial year against aggregate sale of good. Further, while section 206C(1F) is for sale to consumer only and not to dealers, sub-section (1H) is for all sale above the threshold. Hence, Receipt of sale consideration from a dealer would be subjected to TCS under section 206C(1H) of the Act, if such sales are not subjected to TCS under section 206C(1F) of the Act. It has also been clarified that in case of sale to consumer, receipt of sale consideration for sale of motor vehicle of the value of 10 Lacs rupees or less to a buyer would be subjected to TCS under section 206C(1H), if the receipt of sale consideration for such vehicles during the financial year exceeds fifty lakh rupees.

5) Applicability of TDS provision on insurance agent or insurance aggregator:

It has been clarified that in years subsequent to the first year, if the insurance agent or insurance aggregator has no involvement in transactions between insurance company and the buyer of insurance policy, he would not be liable to deduct tax under section 194-O of the Act for those subsequent years. However, the insurance company shall be required to deduct tax on commission payment, if any, made to the insurance agent or insurance aggregator for those subsequent years under the relevant provision of the Act.

6) Applicability of TDS and TCS provision on transactions carried through various Exchanges and clearing corporations :

It has been clarified that the provisions of section 194-O, and section 206C(1H) of the Act shall not be applicable in relation to

- transactions in securities and commodities which are traded through recognized stock exchanges or cleared and settled by the recognized clearing corporation, including recognized stock exchanges or recognized clearing corporation located in International Financial Service Centre;
- transactions in electricity, renewable energy certificates and energy saving certificates traded through power exchanges registered in accordance with Regulation 21 of the CERC;

7) Applicability of TDS provision on payment gateway –

It has been clarified that payment gateway who also happens to be qualified as E-Commerce Operator will not be required to deduct TDS under section 194-O of the Act on a transaction, if the tax has been deducted by the e-commerce operator under section 194-O of the Act, on the same transaction.

8) Clarification on TCS liability on Fuel supplied to non-resident airlines –

It has been clarified that the provisions of section 206C(1H) of the Act shall not apply on the sale consideration received for fuel supplied to non-resident airlines at airports in India.

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