

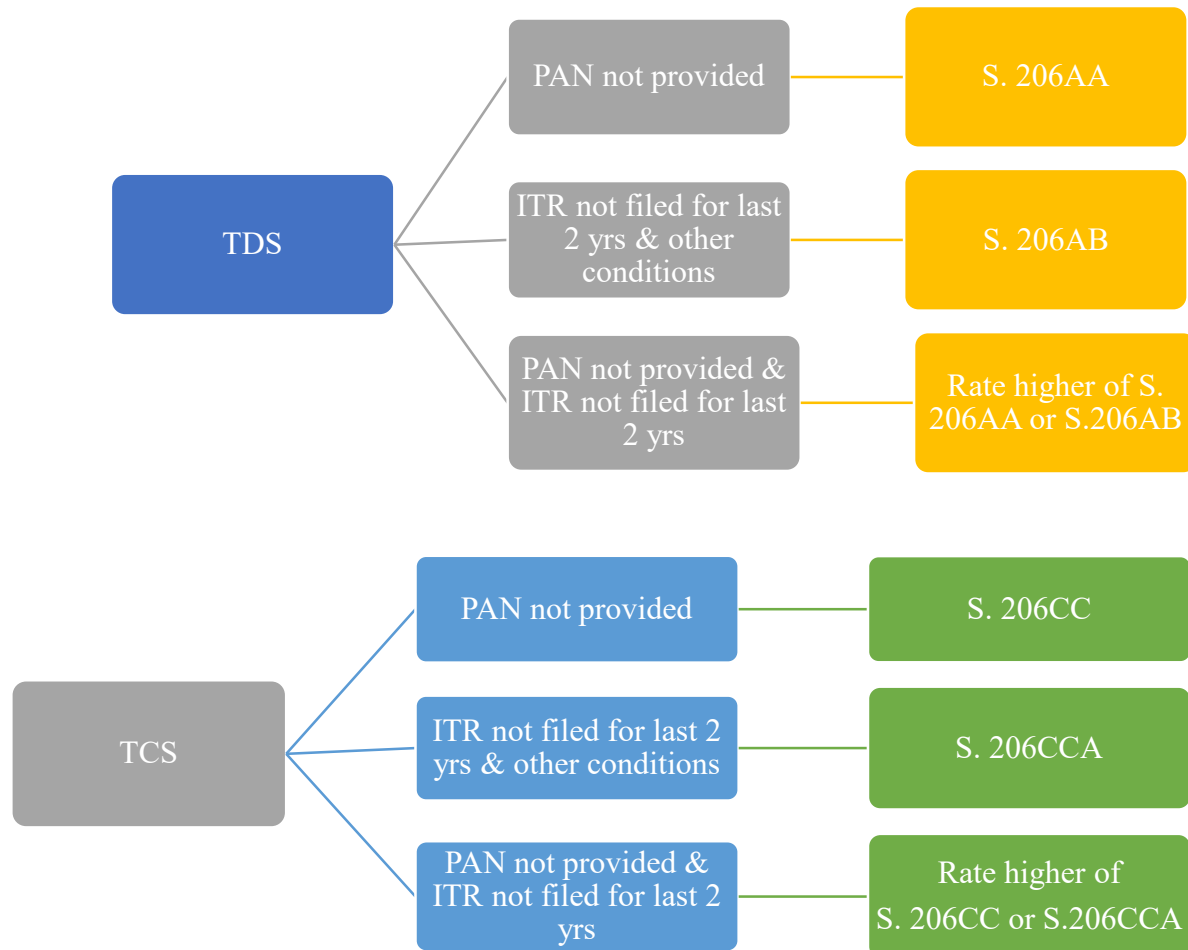
Higher TDS & TCS rates for Non-filers of ITR

Background:

Under the Income-tax Act, 1961 (“the Act”) there are necessary provision for higher rate of TDS and TCS for non-furnishing of PAN. It is seen that while these provisions have served their purpose in ensuring obtaining and furnishing of PAN by various person, there is a need to have similar provisions to ensure filing of return of income by those persons who have suffered a reasonable amount of TDS/TCS.

Hence, the newly inserted section 206AB of the Act shall act as a special provision, providing for higher rate for TDS for the non-filers of income-tax return. Similarly, the new section 206CCA shall act as a special provision, providing for higher rate of TCS for non-filers of income-tax return. **The provisions of section 206AB & 206CCA will be applicable w.e.f. 01-07-2021**

Let us understand this with the following charts, after we shall focus on specific conditions under S. 206AB/ CCA:



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	In case of Non-Furnishing of PAN	In case of Non-Furnishing of IT return
↑TDS	S. 206AA Rate is higher of: * Specified Rate in relevant provision in Act * Rates in force * 20 % (<i>Refer Note 1</i>)	S. 206AB Rate is higher of: * Double the specified rate * Double the rates in force * 5%
↑TCS	S. 206CC Rate is higher of: * Double the specified rate * 5% (<i>Refer Note 2</i>)	S. 206CCA Rate is higher of: * Double the specified rate * 5%

Note 1: Maximum rate for TDS u/s 194Q, would be 5%

Note 2: Maximum rate for TCS u/s 206C(1H), would be 1%

Conditions to be satisfied for S. 206 AB/ CCA provisions:

Now, that we have understood the distinction between various provisions specifying higher rates of TDS/ TCS, let us now focus on the conditions to be satisfied by a person under S. 206 AB/ CCA to be called a specified person, who is eligible for higher rates of TDS or TCS respectively,

- A person who has not filed the Income Tax Return for two previous years immediately prior to the previous year in which tax is required to be deducted; (For Ay 2022-23, relevant two previous years Ay 2019-20 and Ay 2020-21)
- The time limit of filing return of income under Section 139(1) is expired; and (For Ay 2020-21, due date is 31st May 2021)
- The aggregate tax deducted at source or tax collected at source, as the case maybe, is Rs. 50,000 or more in each of the two previous years. (For Ay 2022-23, relevant two previous years Ay 2019-20 and Ay 2020-21)

The non-resident who does not have the permanent establishment is excluded from the scope of specified person. (*the expression "permanent establishment" includes a fixed place of business through which the business of the enterprise is wholly or partly carried on*)

Also, this new S. 206 AB provision would not be applicable, where the tax is required to be deducted under the following sections of the Act:

- S. 192 : TDS on Salary
- S. 192A : TDS on Salary to Government employees
- S. 194B : TDS on Lottery
- S. 194BB : TDS on Horse Riding
- S. 194LBC: TDS on Income in respect of Investment in Securitization Trust
- S. 194N : TDS on Cash Withdrawal in excess of 1 crore.

The Government is expected to provide a utility on its new Income Tax website to be launched on June 7th 2021, wherein a deductor/ collector, on entering the PAN of the buyer/seller, would get the details of his ITR Filing. Also, it would be prudent to request all the parties for whom TDS/ TCS is deductible to provide a declaration on returns filed.

When is S. 206AB/ CCA applicable?

