

TCS on Sale of Goods u/s 206C (1H)

Tax Collected at Source is a type of Income Tax, which is collected by the seller **from the buyer**. However, TCS was only applicable for certain categories of goods. Now, with the introduction of sub-section 1H, sale of **all goods**, are liable to TCS deduction, when certain conditions are satisfied.

“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 covered in... shall, at the time of receipt of such amount, collect from the buyer, a sum equal to 0.1 percent. of the sale consideration exceeding fifty lakh rupees as income-tax.”

Let us now understand the various conditions, under different scenarios in-depth,

1) Sale of Goods:

The term ‘Goods’ is not defined under the Income-tax Act, 1961(“the Act”). However, the term ‘Goods’ has been defined under the Sale of Goods Act, 1930 and Central Goods and Services Tax Act, 2017. Thus, the definition of term ‘goods’ can be referred to from the Sale of Goods Act, 1930 for the purpose of Section 206C(1H) of the Act.

‘Goods’ means every kind of movable property other than money and securities but includes actionable claim, growing crops, grass and things attached to or forming part of the land which are agreed to be severed before supply or under a contract of supply”

2) Exempted Goods:

- Goods already included in **other TCS provisions**, such as timber, tendu leaves, liquor, scrap, minerals, etc are not included under this new 1H sub-section,
- Goods **exported**, are not included.
- Where the **buyer** is **liable to deduct TDS** before payment, for such purchase of goods, the seller is not liable to collect TCS.
- Sales made **upto 30th September 2020** are also not liable.
- The CBDT has clarified that provisions of this section shall **not be applicable** in relation to **transactions in securities and commodities** which are traded through recognised stock exchanges or clearing corporations.
- TCS shall **not be collected** from the **sale of immovable property** by a developer, as it is not treated as goods.

3) Seller:

- Only sellers whose total turnover **exceeded Rs 10 crores** in the financial year immediately preceding the financial year of sale, ie: sales more than Rs 10 crs in FY **2019-20**, are required to collect TCS during FY 20-21.
- Receipts from sale of services are also **included** in this threshold calculation.
- A **person re-selling** the goods will **also be liable** if he satisfies the above conditions.

4) Buyer:

All buyers except:

- Central/ State Government
- Local Authority
- Embassy, Commission or Consulate
- Importer of Goods

5) Consideration:

- An important point to note is that **receipt of consideration** for sales during a financial year is taken for consideration and not total sales value as it is.
- The limit of Rs 50 lakhs of consideration receipt, is on an aggregate basis during the Financial Year, for every buyer individually at the **PAN level**.
- So, the sales value **exceeding** Rs 50 lakh limit alone, is liable for collection of TCS.

6) Rate:

- TCS shall be collected @ **0.1%** of the amount in excess of Rs 50 lakhs.
- As per Press Release dated 13th May 2020, upto March 31st 2021, it shall be at a reduced rate of **0.075%**
- When the buyer does not furnish a valid PAN/ Aadhaar number the rate of TCS shall be 1% and reduced rate would be **0.75%**

7) Compliance:

- The seller entity needs to obtain Tax Deduction and Collection Account Number (**TAN**) for collecting TCS, if it does not have already.
- The TCS so collected from the buyer, shall be deposited in the account of the Government by the 7th of next month. (**Challan no. ITNS 281**)
- **Form 27EQ**, a quarterly statement to be filed within 15 days from the end of every quarter (45 days from the end of last quarter).
- **Form 27D**, a certificate for tax collection need to be issued to the buyer by the seller within 30 days from the end of every quarter.
- If any person, responsible for the collection of tax at source, fails to collect the whole or any part of the tax or after collection fails to deposit the same to the credit of the Central Government, then he shall be deemed to be **assessee-in-default**.
- If a collector fails to pay the collected TCS to the credit of Central Government, he shall be liable to pay **interest** at the rate of **1% for every month** or part thereof on the amount of tax he failed to collect or pay.

For FY 2020-21:

Since, this new sub-section is being made effective from 1st October, 2020, ie: in the middle of a financial year, it is important to understand some more aspects to get the whole picture clearer.

- All sale considerations received during the financial year, from a buyer beginning from 1st April 2020, is to be taken into account only for calculation of Rs 50 lakh limit and **no TCS** will be deducted on such **earlier received amounts**.
- However, any consideration received in excess of Rs 50 lakhs prior to 30th September 2020, will not be taken into calculation for deduction of TCS.

It is explained through the below examples:

Illustration 1:

Where sales realizations from a buyer is less than Rs 50 lakhs upto 30th September 2020:

Sales to ABC & Co. upto 30-09-2020	: Rs 35,00,000
Amount received against sales upto 30-09-2020:	Rs 25,00,000
Sales after 01-10-2020	: Rs 50,00,000
Amount received against sales after 01-10-2020:	Rs 45,00,000

The total sales to ABC & Co. during FY 2020-21 is Rs 85 lakhs. As TCS shall be applicable beyond receipts of Rs 50 Lakhs during the FY, the receipt of Rs 45 Lakhs after 01-10-2020 is chargeable to TCS collection of Rs **1500** $\{0.075\% * [(25,00,000 + 45,00,000) - 50,00,000]\}$

Illustration 2:

Where sales realizations from a buyer is greater than Rs 50 lakhs upto 30th September 2020:

Sales to ABC & Co. upto 30-09-2020	: Rs 65,00,000
Amount received against sales upto 30-09-2020:	Rs 55,00,000
Sales after 01-10-2020	: Rs 50,00,000
Amount received against sales after 01-10-2020:	Rs 45,00,000

The total sales to ABC & Co. during FY 2020-21 is Rs 1.15 crores. As more than Rs 50 lakhs has been realized before 30th September, TCS shall be applicable for all realizations post 1st October. So, TCS is Rs **3375** $(0.075\% * 45,00,000)$

Some other Important Points to remember:

- Where sales order gets cancelled at a later stage, after advances are received, seller may refund the primary sales consideration alone, as the **TCS already remitted would now reflect in buyer's 26 AS**, which he has to claim the credit in the tax return.
- Where any consideration is received partly from any third party, like Government instead of the original buyer, such receipts are also **considered as a receipt from the buyer** to calculate TCS applicability.
- Where any **debit note** is issued by seller later on, required enhancement of TCS liability is also a must.
- TCS is applicable even for **advance receipts** of sales.
- But, TCS is **not applicable** on **advance** amounts received **before 30th September 2020**.
- TCS is required to be collected on the sale consideration **inclusive of GST**.
- The assessee **does not have the option** to approach the assessing officer to issue **lower tax collection certificate** for transactions covered under section 206C(1H).
- Additional, allied or out-of-pocket charges recovered from the customers may or may not form part of the sale consideration. Where these **expenses** have been **reflected in the original sales invoice itself**, it should form **part of the sale consideration**.

Some Specific Cases:

Motor Vehicles:

Since sale of motor vehicles, of the value greater than Rs 10 lakhs to end consumer attracted TCS @ 1% u/s 206C (1F). Now CBDT has clarified that sale of motor vehicles by manufacturers to distributors(**B2B**) will attract TCS u/s **206C (1H)**, if applicable. And B2C sales that are greater than Rs 10 lakhs on an individual basis will continue to attract TCS u/s 206C (1F), while if aggregate value exceeds Rs 50 lakhs, then it shall be subject to TCS under this new provision.

Electricity:

Electricity is a movable property though it is not tangible. Hence it is considered as goods. A transaction in electricity can be undertaken either by way of direct purchase from the company engaged in generation of electricity or through power exchanges. The CBDT has clarified that the transaction in electricity, renewable energy certificates and energy-saving certificates traded through **power exchanges** shall be **out of the scope** of TCS under this provision. Thus, it can be concluded that tax is required to be collected where electricity is purchased directly from electricity generation companies.

Software:

The requirement to collect TCS shall be decided on the basis whether the sale of software has been treated as 'sale of goods' or 'sale of service'. If the same has been treated as a sale of service, it shall not be subject to TCS but the provisions of TDS under section 194J or 195, as the case may be, may apply. However, if the **sale of software** has been treated as a sale of **goods** then the seller shall be **liable** to collect TCS subject to the fulfillment of other conditions of this provision.

Jewellery:

Jewellery, being a movable property, is covered within the term goods. Up to the previous year 2016-17, Section 206C(1D) requires the collection of tax at source at the rate of 1% from the sale consideration received on cash sale of bullion, jewellery or any other goods or for providing any service. Though this provision was omitted later, There is no specific exclusion under Section 206C(1H) for collection of TCS on sale of jewellery. Thus, a **jeweller** shall be **liable** for the collection of tax if other conditions are also fulfilled.