

TDS on Purchase of Goods - u/s 194Q

In the Budget 2021-22, a new Section 194Q was introduced under Income-tax Act, 1961 (“the Act”) to deduct TDS on payment of certain sum for purchase of goods. As per this section, any person, being a buyer who is responsible for paying any sum to any **resident seller** for purchase of any goods shall deduct tax:

- At the rate of 0.1% of sale consideration
- of the value or aggregate of such value exceeding Rs. 50 lakhs in any previous year.

In case seller’s PAN number is not available, then the rate of TDS shall be 5%.

“Buyer” means a person whose total sales, gross receipts or turnover from the business carried on by him exceed **Rs 10 crs** during the financial year immediately preceding the financial year in which the purchase of goods is carried out. (For example: Fy 2021-22/Ay 2022-23, relevant previous year is Fy 2020-21/Ay 2021-22).

Applicability of Section 194Q:

- This section is applicable from July 01, 2021
- Obligation to deduct TDS is on Buyer if the payment is made to a resident seller for amount exceeding Rs 50 lacs.
- TDS is to be deducted at the time of credit to the account of seller or at the time of payment whichever is earlier.
- No tax is required to be deducted if the transaction is subject to TDS under any other provisions of the Act or TCS is collectible under section 206C [excluding 206C(1H)]
- On a particular transaction, either TDS as per section 194Q of the Act, is to be deducted by the Buyer or TCS as per section 206C(1H) of the Act, is to be collected by the Seller.
- Both TDS u/s 194Q and TCS u/s 206C(1H) will not apply on the same transaction.
- In case the transaction which is subject to TDS u/s 194Q and TCS u/s 206C(1H):
 - TDS u/s 194Q is to be deducted; and
 - TCS u/s 206C(1H) is not applicable

Since the provisions of section 194Q and section 206C(1H) of the Act, are similar in nature, it is imperative to under the difference between these two sections.

Particulars	TDS u/s 194Q	TCS u/s 206C(1H)
Introduction:	Deduction of tax by a Buyer on purchase of goods from a resident seller exceeding Rs 50 lacs in a year.	Tax Collected at Source by the Seller on sale of goods from a Buyer exceeding an amount Rs 50 lacs in a year.

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Particulars	TDS u/s 194Q	TCS u/s 206C(1H)
Conditions:	Gross turnover from the business carried on by the BUYER should have exceeded Rs 10 crores during the preceding financial year, & Purchase of goods of aggregate value exceeding INR 50 lakhs in current financial year from a particular seller, who is a resident.	Gross turnover from the business carried on by SELLER should have exceeded Rs 10 crores during the preceding financial year, & Consideration received from sale of goods, exceeds INR 50 Lakhs in current financial year from a particular buyer.
Applicable w.e.f:	01.07.2021	01.10.2020
Exempted:	Transactions on which TDS is applicable under other provisions of the Act; Transactions on which TCS is applicable under section 206C other than 206C(1H)	Goods already included in other TCS provisions, such as timber, tendu leaves, liquor, scrap, minerals, etc Goods exported Where the buyer is liable to deduct TDS before payment, for such purchase of goods, the seller is not liable to collect TCS.
Rate:	0.1 % of the sum in excess of Rs. 50 Lakhs	0.1 % of the sales consideration in excess of Rs. 50 Lakhs
Rate when PAN is N/A:	If the seller has not furnished his PAN/ Aadhaar, TDS is deducted @ 5%	If the buyer has not furnished his PAN/ Aadhaar, TCS is collected @ 1%
Point of Taxation:	At the time of payment or credit, whichever is earlier	At the time of receipt of amount from the buyer
Preference:	Buyer will be liable to deduct tax, if the transaction could be subject to both the provisions	Seller will be liable to collect the tax, only if the buyer is not liable to deduct tax or when buyer has failed to deduct tax
Due date of Payment	Within 7 days from the end of the month in which tax is deducted except for the month of Mar wherein the due date of April 30 th .	Within 7 days from the end of the month in which tax is collected.
Quarterly return in Form:	Form 26Q	Form 27EQ
Certificate to be issued	Form 16A	Form 27D

For better clarity and understanding, we herewith provide some illustrations below:

Particulars	Applicability	Taxability
Example No 1: Seller's Turnover: Rs. 8 Crores Buyer's Turnover: Rs. 15 Crores	Buyer's Turnover is more than Rs. 10 Crores, hence Taxable amount:	TDS u/s194Q: 0.1% on Rs. 15 lakhs

Address: No 18/36, 2nd Floor, Karpagambal Nagar, Mylapore, Chennai – 600 004,
www.srinishankar.in

Srinivasan & Shankar, Chartered Accountants

Particulars	Applicability	Taxability
Receipt or Payment for sale or purchase of Goods in previous year: Rs. 65 lakhs	Rs. 15 lakhs (Rs. 65 lakhs-Rs.50 lakhs)	TCS u/s 206C(1H): not applicable.
Example No 2: Seller's Turnover: Rs. 15 Crores Buyer's Turnover: Rs. 8 Crores Receipt or Payment for sale or purchase of Goods in previous year: Rs. 65 lakhs	Buyer's Turnover is less than Rs. 10 Crores but Seller's Turnover is more than Rs. 10 Crores. Hence, Taxable amount: Rs. 15 lakhs (Rs. 65 lakhs-Rs.50 lakhs)	TDS u/s194Q: Not applicable TCS u/s 206C(1H): 0.1% on Rs. 15 lakhs.
Example No 3: Seller's Turnover: Rs. 15 Crores Buyer's Turnover: Rs. 15 Crores Receipt or Payment for sale or purchase of Goods in previous year: Rs. 65 lakhs	Both Buyer's & Seller's Turnover is more than Rs. 10 Crores Taxable amount: Rs. 15 lakhs (Rs. 65 lakhs-Rs.50 lakhs)	TDS u/s194Q: 0.1% on Rs. 15 lakhs TCS u/s 206C(1H): Not applicable since TDS is applicable.

Some other Important Points to remember:

- The term 'Goods' is not defined under 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 Sections 194Q & 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''

- In the context of section 206(1H) of the Act, the CBDT has clarified that the provisions of S. 206C(1H) shall not be applicable in relation to transactions in securities and commodities which are traded through recognised stock exchanges or clearing corporations. Applying the rationale behind such clarification, it is apprehended that the CBDT may allow a similar exemption from TDS under Section 194Q as well.
- TCS/ TDS shall not be collected or deducted for the sale of immovable property by a developer, as it is not treated as goods.
- Applicability of Section 194Q of the Act, also applies to purchase of capital goods.
- Whether the TDS on purchase of goods to be deducted inclusive of GST or exclusive of GST is a debatable issue. The CBDT vide its Circular No. 23/2017, dated 19-7-2017, has clarified that wherever in terms of the agreement or contract between parties, the component of '**GST on services**' is indicated separately in the invoice, tax shall be deducted at source on the amount paid or payable without including such '**GST on services**' component. However, such clarification was issued in respect of GST on services only. No such clarification has been issued for GST on goods.

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- For the purpose of turnover calculation of the buyer or seller, receipts from sale of services are also included.
- The limit of Rs 50 lakhs of purchases/ sales consideration receipt, is on an aggregate basis during the financial year, for every seller/ buyer individually at the PAN level.
- Hence, purchases/ sales made from/ to a single seller/ buyer from different branches or units has to be aggregated to determine the applicability of the TDS/ TCS provisions.
- Also, TDS/ TCS is not deductible/ collectible on inter-branch transfers, as there is no existence of two distinct parties as 'seller' and 'buyer'.
- In case of debit note/ credit note, TDS/ TCS value is not adjusted, once the purchase is made or sale consideration is received.
- Advance payment made to the seller will also attract TDS, as the subject of TDS liability is "sum for purchase of goods" and not "sum for goods purchased"
- TCS is also applicable for advance receipts of sales. And, 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 as credit in the tax return.
- Additional, allied or out-of-pocket charges recovered from the customers may or may not form part of the purchase value/ sale consideration. Where these expenses have been reflected in the original sales invoice itself, it should form part of the purchase value/ sale consideration threshold of Rs 50 lakhs.
- In the case of S. 206C(1H), TCS is not collectible, when the buyer is the central/ state government, local authority, embassy, commission, consulate or an importer of goods.
- No consequential amendments to section 197/section 197A has been made by the government, to extend the benefit to apply for a certificate for deduction of tax at lower rates or to file declaration for nil deduction in respect of transactions covered under Section 194Q/ Section 206C(1H). Hence, the seller/ buyer does not have the option to approach the Assessing Officer to issue a certificate for a lower tax deduction/ collection.