



Clarification regarding TDS & TCS provisions

Section 194-O and 206C(1H) of the Act w.e.f. 01.10.2020

Following guidelines have been issued by CBDT vide its Circular no. 17 of 2020 dated 29.09.2020 for removing difficulties in application of new TDS / TCS provisions viz. section 194-O and 206C(1H) of the Act w.e.f. 01.10.2020

➤ **Transactions carried through various Exchanges**

Provisions of Section 194-O and 206C(1H) shall not be applicable to the following –

- a) Transactions in securities or commodities traded through recognized stock exchanges or cleared or settled by recognized clearing corporation.
- b) Transactions in electricity, renewable energy certificates and energy saving certificates traded through power exchanges.

➤ **Payment Gateway**

In e-commerce transactions payments are facilitated by payment gateway, this will result in double applicability of sec 194-O i.e., one by e-commerce operator facilitating the sale of goods and / or services or both and other by payment gateway who qualifies as e-commerce operator for facilitating service.

It is provided that the payment gateway will not be required to deduct tax u/s 194-O if tax has been deducted by e-commerce operator on same transaction. Payment Gateway may take undertaking from the e-commerce operator regarding such TDS.

➤ **Insurance Agent or Aggregator**

If the insurance agent or insurance aggregator has no involvement in transactions between insurance company and the buyer of insurance policy in years subsequent to the first year, then he would not be liable to deduct tax u/s. 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 aggregator for those subsequent years under the relevant provisions of the Act.

➤ **Threshold Limit of Rs. 5 Lakhs (194-O) and 50 Lakhs (206C(1H))**

1. **Threshold limit of Rs. 5 Lakhs for an individual/HUF being an e-commerce participant and Rs. 50 Lakhs being the receipt of sale consideration is with respect to Previous Year and accordingly, the calculation thereof begins from 01.04.2020.**
2. Provisions of 206C(1H) will not be applicable to sale consideration received before 01.10.2020. However, it will be applicable where the sales have been made before 01.10.2020 and consideration for the same has been received (incl. Advance) after 01.10.2020.

➤ **Sale of Motor Vehicle**

206C(1H) excludes from its scope goods covered u/s 206C(1F). In this regard it has been clarified that –

- a) Receipt of sale consideration from a dealer of motor vehicles will be subject to TCS u/s 206C(1H) if the same is not subjected to TCS u/s. 206C(1F)
- b) In case of sale to consumer, receipt of sale consideration, where the value of motor vehicle is Rs. 10 lakhs or less, will be subjected to TCS u/s 206C(1H) if the aggregate consideration exceeds Rs. 50 Lakhs during the previous year.
- c) In case of sale to consumer, receipt of sale consideration, where the value of motor vehicle is more than Rs. 10 Lakhs, will be subjected to TCS u/s 206C(1F) and not u/s 206C(1H)

➤ **Adjustment for Sale Return, discount, or Indirect taxes**

It has been clarified that no adjustment is required to be made for sale return, discount, or indirect taxes incl GST for TCS u/s. 206C(1H).

➤ **Fuel Supplied to Non-Resident airlines**

Provisions for sec 206C(1H) shall not apply on the sale consideration received for fuel supplied to non-resident airlines at airports in India.

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