

TDS on Purchase of Goods U/S 194Q & TCS on Sale of Goods U/S 206C(1H)



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● Distinction between 194Q & 206C(1H)

Basis of Distinction	TDS on Purchase of Goods Section 194Q	TCS on Sale of Goods Section 206C(1H)
With effect from	July 1 , 2021	October 1, 2020
Who is liable for deductions / collections	Buyer	Seller
Turnover Limit	The total sales, gross receipts or turnover of the buyer from the business should exceed Rs.10 crores during the financial year immediately preceding the financial year in which such goods are purchased	The total sales, gross receipts or turnover of the collector from the business should exceed Rs.10 crores during the financial year immediately preceding the financial year in which such goods are sold
Threshold limit of Purchase / Sale	If the value of Purchases exceed Rs.50 Lakhs (inclusive of GST)	If the value of sales exceed Rs.50 Lakhs (inclusive of GST)

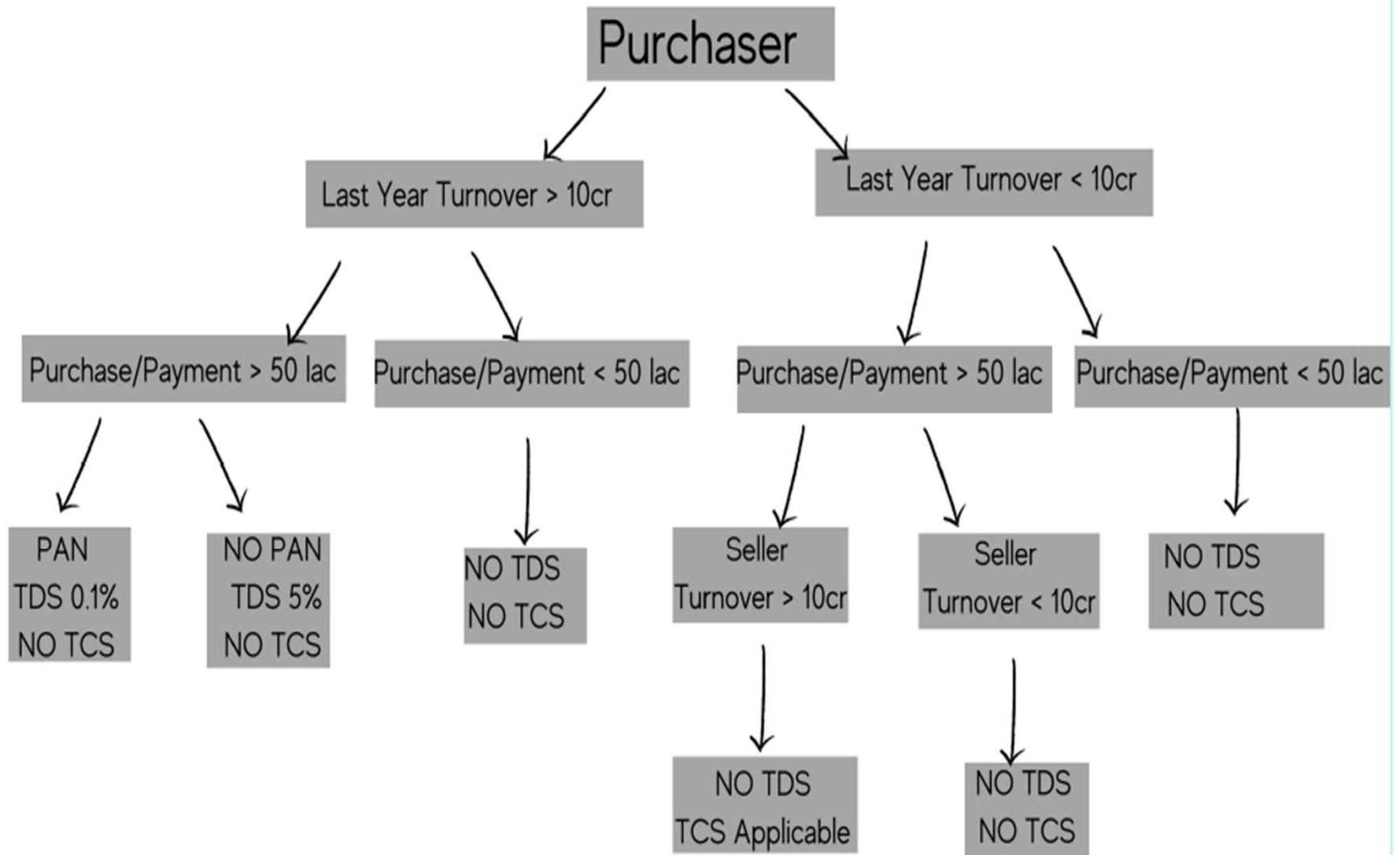
● Distinction between 194Q & 206C(1H)

Basis of Distinction	TDS on Purchase of Goods Section 194Q	TCS on Sale of Goods Section 206C(1H)
Rate	0.1%	0.1%
Amount on which tax to be deducted / collected	On the amount of purchase in excess of Rs.50 Lakhs	On the amount of sale consideration in excess of Rs.50 lakhs
Time of deductions/ Collections	At the time of credit or payment, whichever is earlier	At the time of receipt
Preference to be given	Purchaser is first liable to deduct the tax if the transactions could be subject to both provisions.	Seller shall be liable to collect the tax only if the purchaser is not liable to deduct the tax or purchaser failed to deduct the Tax.

● Distinction between 194Q & 206C(1H)

Basis of Distinction	TDS on Purchase of Goods Section 194Q	TCS on sale of Goods Section 206C(1H)
Non furnishing of PAN	206AA Higher rate @5%	206CC Higher rate @ 1%
Default in filing ITR for previous 2 years & aggregate of TDS/TCS is > 50,000 in the both the years	206AB Twice the rate specified or in force or 5%	206CCA Twice the rate specified or 5%
Both PAN is not available and ITR not filed for 2 years	Higher of rate of section 206AA & 206AB	Higher of rate of section 206CC & Section 206CCA

Important points to be kept in mind regarding section 194Q



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Scenarios



Scenario	Turnover of Buyer	Turnover of Seller	Turnover	TDS u/s 194Q	TCS u/s 206C(1H)
I	> 10Cr	> 10Cr	> 50Lakhs	0.1%	NA
II	> 10Cr	> 10Cr	< 50Lakhs	NA	NA
III	> 10Cr	< 10Cr	> 50Lakhs	0.1%	NA
IV	< 10Cr	> 10Cr	> 50Lakhs	NA	0.1%
V	< 10Cr	< 10Cr	> 50Lakhs	NA	NA
VI	< 10Cr	> 10Cr	< 50Lakhs	NA	NA

FAQ'S ?



FREQUENTLY ASKED QUESTIONS-

Q1. What if both the sections 194Q and 206C (1H) are applicable to a transaction?

- ✓ Both the sections are mutually exclusive i.e.; if one will apply other will not be applicable.
- ✓ Section 206C (1H) states that TCS will not be applicable if buyer is liable to deduct TDS under any other provisions of the Act. On the contrary, Section 194Q does not create any such exception for the transactions on which tax is collectible under Section 206C (1H).
- ✓ The provisions of Section 194Q supersedes Section 206C (1H) and imposes primary liability on buyer to deduct tax. In such a situation, Buyer will have to convey to Seller to refrain from collecting TCS as Buyer will deduct TDS u/s 194Q.

Q2. From when are the provisions of Section 194Q applicable?

- ✓ The provisions of Section 194 Q are made applicable with effect from July 1st, 2021.
- ✓ **Point of Taxation:** TDS shall be deducted (i) at the time of credit of such sum to the account of the seller or (ii) at the time of payment thereof by any mode; whichever is earlier.
- ✓ TDS is to be deducted even if such amount is credited to “Suspense Account”.

FREQUENTLY ASKED QUESTIONS-

Q3. What will be implication of payment of outstanding balance as on 30th June 2021 or an advance payment made before 30th June 2021?

- ✓ Point of Taxation is date of payment or date of credit whichever is earlier. In referred scenario, one of the triggering event occurred before the point of taxation and ideally Tax should not be deductible on such sum.
- ✓ However, department may want to take a contrary view. Therefore, as a prudence measure to avoid litigation, it is advisable to deduct TDS on such sum. A clarification from CBDT would be much appreciated in this regard.

Q4. What constitutes goods?

- ✓ Goods are not defined under Income Tax Act, 1961. Therefore, we have to refer to most appropriate definition as per other Act or as per General Clauses Act, 1897. Sale of Goods Act, 1932 defines goods as follows:
- ✓ Goods' means every kind of movable property other than actionable claims and money; and includes stock and shares, growing crops, grass, and things attached to or forming part of the land which are agreed to be severed before sale or under the contract of sale”

FREQUENTLY ASKED QUESTIONS-

Q5. What are the consequences of non-deduction of TDS under the provisions of Section 194Q?

- ✓ If buyer fails to deduct and deposit TDS at applicable rates, expenditure to the extent of 30% will be disallowed under Section 40a (ia) of the Act

Q6. Do we have to deduct TDS on payment to a seller residing abroad?

- ✓ If a person being a buyer has to make payment for the goods imported in India, then TDS is not required to be done as this Section is applicable on payments made to **resident seller**.

Q7. Is buyer liable to deduct TDS on advance payment made?

- ✓ Since the advance payment is made against purchase of goods, TDS on same shall be deductible subject to fulfilment of other conditions.

FREQUENTLY ASKED QUESTIONS-

Q8. Whether TDS u/s 194Q is required to be deducted on the total invoice amount inclusive of GST or only on the value of goods excluding GST?

- ✓ The provisions of Section 194Q are silent on applicability of TDS on amount of GST. However, on perusal of the Circular 17/2020 dated 29.09.2020, CBDT clarifies TCS under Section 206C (1H) is applicable on amount of sales consideration and no adjustments on account of indirect taxes (including GST) is required to be done.
- ✓ However, applying the principles of recently issued circular for TCS, since 194Q is to be deducted on purchase value, it is advisable to deduct TDS on GST inclusive amount till a clarification is issued by CBDT to avoid litigation.

Q9. Whether the threshold for TDS is to be reckoned for each seller separately?

- ✓ TDS is to be deducted on payment made to a resident seller for purchase of goods in excess of Rs. 50 lakhs in a year. The limit is to be calculated separately for each seller and for every financial year.

FREQUENTLY ASKED QUESTIONS-

Q10. Whether Loading & Unloading Charges, Packaging Charges, Freight Charges and other incidental charges form part of consideration for “goods”?

- ✓ As long as such incidental charges are mentioned in the same invoice, it forms part of intrinsically linked with goods and TDS shall be applicable on total invoice value including such incidental charges.
- ✓ However, if a separate invoice is issued for the same, no TDS would be applicable as Packing Charges alone would not constitute goods.

Q11. Goods includes Stocks and Shares. Whether TDS will be required in case of investment in Units of Mutual Funds?

- ✓ Goods includes every kind of movable property including stocks and shares. Hence, mutual fund units would also be covered under the definition of goods and would be liable for TDS. It is worthwhile to mention here that CBDT had issued a Circular No 17/2020 dated 29th September, 2020 to exclude transaction in securities and commodities carried out on recognized stock exchange from purview of TCS u/s 206C(1H). Similar exemption in case of TDS u/s 194Q can be expected.

FREQUENTLY ASKED QUESTIONS-

Q12. Whether effect of Credit Notes or Debit Notes is required to be given to identify deductible amount?

- ✓ As per the provisions of 206C(1H) and corresponding clarification issued by CBDT vide Circular No. 17/2020 in respect of 206C(1H). TCS is collectible on “any amount as consideration for sale of any goods of the value or aggregate of such value...” CBDT mentioned that “no adjustment on account of sale return or discount or indirect taxes including GST is required to be made for collection of tax u/s 206C(1H) since the collection is made with reference to receipt of amount of sale consideration.”
- ✓ TDS u/s 194Q is deductible on any sum payable “for purchase of any goods of the value or aggregate of such value...”
- ✓ Therefore, purchase value should not be adjusted to give effect to debit and credit notes issued for purchase return, discount, rate changes, etc.

● Due dates

Particulars	TDS	TCS
Due date of Payment		
Every Month (other than March)	7 th day of next month	7 th day of next month
For the month of March	30 th April of Next year	7 th day of next month
Due date of Return Filing		
April to June (Q1)	31 st July	15 th July
July to September (Q2)	31 st October	15 th October
October to December (Q3)	31 st January	15 th January
January to March (Q4)	31 st May	15 th May

● Interest on Late Payment & Late Fees on Late Filing of Returns

○ Non-Deduction of TDS

- **Rate of Interest:** 1% pm for a month or part of the month.

Late payment of TDS after deduction

- **Rate of Interest:** 1.5% pm for a month or part of the month.

Interest on late payment of TCS

- **Rate of Interest:** 1% pm for a month or part of the month.

Late filing fees under section 234E

- As per section 234E, where a person fails to file the TDS/TCS return on or before the due date prescribed in this regard, then he shall be liable to pay, by way of fee, a sum of Rs. 200 for every day during which the failure continues. The amount of late fees shall not exceed the amount of TDS.

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SKJ

SHAH KHANDELWAL JAIN & ASSOCIATES

Level 3, Riverside Business Bay,
Wellesley Road,
Near RTO,
Pune 411001

Tel: +91 20 26225500

E-Mail: enquiry@skj.ican.in

www.khandelwaljain.com

ARNK

ARNK AND ASSOCIATES LLP

Block No. B-6, Level One,
ABC Complex, Opp. District
Court, Adalat Road,
Aurangabad 431001

Office: 91 240 2970297

E-Mail: info@arnk.ican.in

www.arnindia.in