

TCS on Sale of Goods - Applicable from 1st October'2020

Section 206C (1H) of Income Tax Act inserted by Finance Act, 2020 mandates that from 1st October'2020 a seller receiving an amount as consideration for sale of any goods of the value or aggregate of such value exceeding Rs. 50 lakhs in any previous year to collect tax from the buyer a sum equal to 0.1 % of the sale consideration exceeding Rs. 50 lakhs as income-tax. The collection is required to be made at the time of receipt of amount of sales consideration.

Detailed Provision Analysis:

Applicability of New Section: A seller of goods is liable to collect TCS from buyer on sale of any goods; new section is applicable on sale of goods only, not applicable on sale of services.

What is TCS: Tax Collected at Source (TCS) is the income tax payable by a seller which he needs to collect from the buyer. The rate of TCS is different for goods specified under different categories under provisions of Income Tax Act.

Who Is Seller: Seller means a person whose Total Sales, Turnover, Gross Receipts from the business being carried out by him in preceding Financial Year exceeds ₹ 10 Crores. For calculating the threshold limit of ₹ 10 crore, Total Sales/Turnover/Gross Receipts from the business shall be considered including receipts/turnover from sale of services.

Non-Applicability:

- TCS under this section shall not be collected on following buyer of Goods:
 - The Central Government, a State Government, an embassy, a High Commission, legation, commission, consulate and the trade representation of a foreign State,
 - A local authority, and
 - A person importing goods into India
- TCS shall not be collected on export sales being made outside India;
- TCS shall not be collected where the buyer has deducted TDS or seller to collect TCS under any other provision of Income Tax on such amount.

Effective Date: This new section is effective from 1st October'2020.

Amount for TCS: TCS to be collected on Total Sale Value received in excess of ₹ 50 Lakhs;

- TCS to be collected if the Value/Aggregate Value received for Goods from a buyer is more than ₹ 50 Lakhs in a financial year;
- No adjustment to be made for Indirect Taxes (GST), Discount or sale return from Sale Value received;

Note: The threshold of ₹ 50 Lakh is with respect to the financial year, calculation of receipt of sale consideration for triggering TCS shall be computed from 1st April 2020. Hence, if a person being seller has already received ₹ 50 Lakh or more up to 30th September 2020 from a buyer, the TCS shall apply on all receipt of sale consideration during the previous year, on or after 1st October 2020, from such buyer. TCS shall be applicable only on the amount received on or after 01-10-2020.

Rate of TCS: Rate of TCS is 0.1% on Sale of Goods. However,

- If PAN or Aadhar of buyer is not available then 1%.
- For FY2020-21 applicable rate is 0.075% (reduced by 25% in line with the Covid-19 relief measures announced by the government)

When TCS to be collected: Seller shall collect TCS from the buyer at the time of receipt of sales consideration.

- Liability to collect TCS will arise even in case of advance payment received though the goods will be physically delivered at a later date.
- No liability will arise at the time of physically delivered or sale of goods, till the time sale consideration is actually received.

TCS on Sales Return and Advance Refund: Where the seller receives an advance for selling the goods and he deposits the TCS thereon, however later on such deal stands cancelled, in such a case, post month-end, no refund of the TCS can be made to a buyer. Even if it is collected on higher amount, the same will be deposited with the government. The buyer can claim credit for the TCS amount while depositing Advance Tax and/or determining the final tax liability. No adjustment on account of sales return or discount or indirect taxes including GST is required to be made for TCS since the collection is made with reference to receipt of amount of sale consideration.

No GST shall be charged on amount of TCS: For the purpose of determination value of supply under GST, amount of TCS under the provisions of Income Tax Act would not be includible as it is an interim levy not having the character of tax.

Possible mechanism for charging TCS from buyer:

| Option 1: Invoice | Option 2: Debit Note |
|---|---|
| TCS can be collected by charging through invoice. An additional line needs to be inserted in Invoice. In this case, both buyer and seller need to do accounting as receivable and payable for TCS amounts. | TCS can be collected by charging through debit note on receipt of sales consideration from the buyer. TCS is accounted only when liability actually arises on receipt of payment from buyer. |
| Pros: Buyer need to pay total invoice amount. No need to communicate separately for TCS amount over and above sales consideration. | Pros: Debit note to be issued at the time of payment so that it can be charged only on the eligible cases and no hassles of write off etc. |
| Cons: Need to keep track and write off and reconcile it with the liability. It may be noted that if the payment is being made in next financial year, TCS obligation may not be applicable on seller (due to turnover threshold) or may not be applicable on buyer due to not making payments breaching 'collection' threshold in that financial year. | Cons: Customer needs to be communicated separately for TCS amount to be paid by him over and above sales consideration. A specific series of debit note number may need to be used to make sure that these debit notes do not create issues in GST compliance. |

Nil or Lower Rate Certificate: Nil or lower tax collection certificate can be applied by buyer with income tax office and it should be addressed to seller.

Compliance obligations cast upon due to sec 206C(1H): Some of the basic compliances that a business entity has to perform are as follows:

- TAN number – Seller needs to have Tax Deduction and Collection Account Number (“TAN”). No need to obtain a new number if the seller entity has already obtained TAN for TDS/TCS.
- Collecting the tax – Tax to be collected at the time of receipt of sale consideration.
- Deposit with Government- The tax collected during the month need to be deposited within 7 days of next month. (Challan no 281)
- Return & Certificate:
 - Filing of statement (Form no. 27EQ)- A quarterly statement of all the tax collected at source during the quarter needs to be submitted within 15 days from the close of quarter.
 - Issuance of certificate (Form no 27D)– Certificate for tax collection need to be issued to the buyer by seller. Due dates mentioned in below Table.

| Quarter Ending on | Due date of submission of return | Due date for issuance of certificate of tax collected |
|----------------------------|----------------------------------|---|
| 30 th June | 15 th July | 30 th July |
| 30 th September | 15 th October | 30 th Oct |
| 31 st December | 15 th January | 30 th Jan |
| 31 st March | 15 th May | 30 th May |

Important steps to be taken by business entities: Some of the general steps to be taken by business entities for new compliances are as follows:

- The seller shall check whether the provisions are applicable on it. For this, key is the sales /gross receipts/turnover of immediately preceding financial year (i.e. sales of FY 2019-20 to be checked for applicability in FY 2020-21).
- To identify the customers from whom receipts for consideration for sale of goods is more than ₹ 50 lacs during the year. For this, customers already breached the threshold or potential customer who may cross the threshold shall be identified.
- The entity may insert a specific line item in invoice to charge TCS or it may charge TCS through debit note. Further, it has to be made sure that invoice or debit note format remains GST compliant.
- The buyer shall be intimated in advance regarding levy of TCS provisions and obligation on him to pay for TCS.
- Open a separate ledger account in books of account, to account for the TCS receivable from customer and TCS payable to Govt. A separate ledger account will help in reporting and reconciliation.
- Setup the check list and procedure for compliance such as deposit of TCS, filing of statement and issuance of certificate to buyer.

Illustrations:

| Illustration | Sales Upto 30.09.2020 | Amount Received up to 30.09.2020 | Invoice Raised from 01.10.2020 | (Amount in Rs lakhs) | |
|--------------|-----------------------|----------------------------------|--------------------------------|--|---|
| | | | | No TCS on subsequent collection after 01.10.2020 | TCS Applicable on Amount collected after 01.10.2020 |
| 1 | Rs. 35 Lakhs | Rs. 25 Lakhs | Rs. 30 Lakhs | Rs. 25 Lakhs | Rs. 15 Lakhs |
| 2 | Rs. 65 Lakhs | Rs. 30 Lakhs | Rs. 20 Lakhs | Rs. 20 Lakhs | Rs. 35 Lakhs |
| 3 | Rs. 65 Lakhs | Rs. 55 Lakhs | Rs. 20 Lakhs | NIL | Rs. 30 Lakhs |

Reference: Finance Act, 2020, Circular 17/2020 dated 29th September 2020 and press release dated 30th September 2020.

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