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TDS ON PURCHASE OF GOODS-SECTION 194Q (APPLICABLE W.E.F. 1st JULY, 2021)

Section 194Q has been introduced via Finance Act, 2021, which requires tax deduction at source @ 0.1% on purchase of goods of more than ₹ 50 lakhs from a resident seller.

- **Person liable to deduct TDS u/s. 194Q**

Any person (individual/ HUF/ AOP/ BOI/ local authority / artificial juridical person/partnership /LLP /Company, etc.) whose **turnover of the immediately preceding financial year exceeds ₹10 Crores** shall be liable to deduct TDS u/s. 194Q.

- For calculating turnover of ₹ 10 Crores, GST should **not** be separately added to the turnover.
- When purchase value from a seller **exceeds ₹ 50 Lakhs in a Financial Year**, TDS u/s. 194Q will have to be deducted @ **0.1% on the amount exceeding ₹ 50 Lakhs** at the time of payment or credit, whichever is earlier. To determine the limit of ₹ 50 Lakhs, GST component should be excluded.
- For F.Y. 2021-22, provision of Section 194Q is applicable w.e.f. 1st July, 2021. To determine limit of 50 Lakhs, value of goods purchased prior to 1st July, 2021 is also to be **included**.

Example: -

Goods purchased from April to June – 45 Lakhs, in the month of July – 30 Lakhs. TDS u/s. 194Q is required to be deducted on amount exceeding ₹ 50 Lakhs. To calculate threshold limit of ₹50 Lakhs, purchase made during the entire financial year is to be considered. In this example, since the purchase value has exceeded ₹ 50 Lakhs, TDS @ 0.1% is required to be deducted on purchase of 25 Lakhs (i.e., 45 Lakhs + 30 Lakhs – 50 Lakhs) made in the month of July.

- TDS is to be deducted at the time of
 - payment or
 - credit, whichever is earlier.

- **Section 206C(1H) was introduced earlier vide Finance Act, 2020 which provided for collection of tax at source (TCS) @0.1% on receipt of sale consideration for sale of goods. Will TCS u/s. 206C(1H) still be required to be collected if the buyer has already deducted tax u/s. 194Q?**

A buyer whose turnover exceeds Rs. 10 Crores in the preceding financial year is required to deduct tax u/s. 194Q. Further, if the buyer has already deducted tax u/s. 194Q on purchase of goods, then in such cases, the seller of goods is not required to collect TCS u/s. 206C(1H) on receipt of sale consideration.

However, if either buyer is not covered u/s. 194Q or if buyer fails to deduct TDS u/s. 194Q, then in such cases, the seller will have to collect TCS u/s. 206C(1H) at the time of receipt of sale consideration.

- **After 1st July, 2021, both Section 194Q which provides for TDS on purchase of goods by buyer and Section 206C(1H) which provides for collection of tax at the time of receipt of sale consideration would be applicable simultaneously. How would a seller of goods will come to know whether buyer will deduct TDS u/s. 194Q or not?**

It is very important to understand that a seller of goods would be liable to TCS u/s. 206C(1H) if the buyer does not deduct tax at source u/s. 194Q. It may happen in two cases where the turnover of buyer of goods is less than Rs. 10 Crores in the preceding financial year and hence, the provision of Section 194Q are not applicable on buyer or cases where the buyer fails to deduct TDS u/s. 194Q.

Seller may obtain Self Declaration from Buyer

Where a seller whose turnover exceeds Rs. 10 Crores in the preceding financial year, then it is advisable that he may obtain a self declaration, from all its customers / buyer (from whom receipt against sale of goods exceeds Rs. 50 Lakhs in a financial year) that whether such buyer will deduct TDS u/s. 194Q or not.

- **When and how to deposit TDS deducted u/s. 194Q?**

TDS deducted u/s. 194Q for a month is required to be deposited on or before 7th day of next month.

Further, TDS deducted in the month of March can be deposited upto 30th April.

TDS is to be paid through Challan No. 281 and details of TDS deducted will be included in Quarterly TDS Statement Form No. 26Q.

- **What if the buyer fails to deduct TDS u/s. 194Q?**

It is very important to note that if the buyer fails to deduct TDS u/s. 194Q of the Act, then 30% of such sum will be disallowable u/s. 40(a)(ia). In such cases, buyer of goods may have to furnish Form No. 26A from the recipient to prevent disallowance u/s. 40(a)(ia). However, Interest @1% per month will still be payable from the date of purchase / payment upto the date of furnishing of return of income by the seller in accordance with the provisions of Section 201 of the Act.

- **Whether a SEZ unit is liable to deduct TDS u/s. 194Q?**

Yes. Any person, being a buyer, responsible for paying to a resident seller for purchase of goods is liable to deduct tax u/s. 194Q. Thus, even if the buyer is a SEZ Unit, it will be required to deduct TDS u/s. 194Q in respect of purchase made from resident sellers.

- **Is there any other compliance required to be done by the seller?**

Yes. All the transactions where seller has not collected tax because the buyer has already deducted tax are required to be reported by the seller in his TCS Statement in 27EQ.

- **Whether TDS u/s. 194Q is required at the time of advance payment also?**

Yes. at the time of payment or credit, whichever is earlier.

- **Is TDS applicable on agricultural products / GST exempted items?**

Yes. Section 194Q is applicable on purchase of agricultural products/GST exempted items.

- **Is TDS required to be deducted on purchase of Plant and Machinery?**

Yes. TDS u/s. 194Q is also required to be deducted on purchase of capital assets such as Plant and Machinery.

- **Whether TDS to be deducted on purchase of land and building?**

No. Since the same is an immovable property and not goods, thus TDS u/s. 194Q is not applicable on purchase of land and building even by a builder or colonizer.

- **In FY 2021-22, Certain goods are purchased prior to 1st July, 2021. However, its payment is to be made after 1st July, 2021. What will be the implication under section 194Q to the buyer and under section 206C(1H) to the seller of such goods?**

Since the purchase is made prior to 1st July, 2021, the provisions of Section 194Q will not be applicable on this transaction. However, the seller will have to collect TCS on receipt of such sale consideration.

- **Higher TDS/TCS for non-filers Section 206AB, 206CCA w.e.f. 1st July, 2021**

If any sum or income is liable to TCS or TDS (other than 192, 192A, 194B, 194BB, 194LBC, 194N) and the deductee (recipient from whose income TDS is done) or collectee (buyer from whom TCS is collected) has not filed his return for both of the immediately preceding two assessment year for which the time limit of filing return of income U/s 139(1) has expired, and TDS/TCS in each year exceeds Rs. 50,000/- then TDS/TCS at

- twice the rate specified in the relevant provision of the Act; or
- at twice the rate or rates in force; or
- at the rate of five per cent, whichever is higher.

Non-resident who does not have permanent establishment in India are excluded under this provision.

If payment is being received by a person responsible for TCS then higher of the following will be the rate applicable: -

- (i) at twice the rate specified in the relevant provision of the Act; or
- (ii) at the rate of **5 per cent**.

If the provision of section 206AA/206CC (doesn't have PAN or Aadhaar), is applicable to a specified person, in addition to the provision of this section, the tax shall be deducted at higher of the two rates provided in this section and in section 206AA/206CC.