DEMYSTIFYING SECTION 206C(1H) OF IT ACT 1961

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Tax Collected at Source is implemented as a measure to curb tax evasion measures and also to improve the tax base along with increasing the tax revenue. TCS under Income Tax Act 1961 is initially implemented on certain products, and over a period of time, the coverage has increased. Now the latest provision of Section 2066c(1H) has been introduced in Finance Bill 2020 and effective from 1st Oct 2020.

As per the provisions introduced in the Finance Bill 2020

Every person, being a seller, who receives any amount as consideration for sale of any goods of the value or aggregate of such value exceeding fifty lakh rupees in any previous year, other than the goods being exported out of India or goods covered in sub-section (1) or sub-section (1F) or sub-section (1G) shall, at the time of receipt of such amount, collect from the buyer, a sum equal to 0.1 per cent of the sale consideration exceeding fifty lakh rupees as income-tax:

Provided *that if the buyer has not provided the Permanent Account Number or the Aadhaar number to the seller, then the provisions of clause* (ii) *of sub-section (1) of section 206CC shall be read as if for the words "five per cent", the words "one per cent" had been substituted:*

Provided further *that the provisions of this sub-section shall not apply, if the buyer is liable to deduct tax at source under any other provision of this Act on the goods purchased by him from the seller and has deducted such amount.*

Explanation.—*For the purposes of this sub-section,—*

- (a) *"buyer" means a person who purchases any goods, but does not include,—*
  - (A) *the Central Government, a State Government, an embassy, a High Commission, legation, commission, consulate and the trade representation of a foreign State; or*
  - (B) *a local authority as defined in the* Explanation *to clause* (20) *of section 10; or*
  - (C) *a person importing goods into India or any other person as the Central Government may, by notification in the Official Gazette, specify for this purpose, subject to such conditions as may be specified therein;*
- (b) *"seller" means a person whose total sales, gross receipts or turnover from the business carried on by him exceed ten crore rupees during the financial year immediately preceding the financial year in which the sale of goods is carried out, not being a person as the Central Government may, by notification in the Official Gazette, specify for this purpose, subject to such conditions as may be specified therein.*

To understand the above provisions, we need to understand the following

- Seller
- Buyer
- Goods
- Rate
- Consideration
- Tax Point

Seller – a person who sells goods and his turnover on account of sales of goods is above Rs 10 crores in the previous financial year. The seller of goods does not include the following

a) The Central Government, State Government, Local Authority or any other person as notified by the Government
b) Whose turnover is less than Rs 10 Crores in any of the previous financial years

Buyer – a person who buys the goods and does not include

a) The Central Government, State Government, High Commission or Consulate and local trad representative of other countries
b) Local Authority or
c) Importer of goods or as notified by the Official Gazette

Goods – Definition of Goods is not defined in the Income Tax Act, and the same is defined in various acts and reproduced here for ready reference

Particulars	CGST Act 2017	Customs Act 1962	Sales of Goods Act 1930
Definition	Every kind of movable property	Inclusive definition to cover all goods	Every kind of movable property
Inclusions	Actionable claims, crops, grass, and things attached to the land	Vessels, stores, baggage, currency, negotiable instrument & other kind of movable property	Stocks & shares, Crops, Grass, and things attached to Land
Exclusions	Money & Securities		Actionable claims & money

Rate – the rate at which TCS has to be recovered is 0.1% if PAN or Aadhar number is provided, and if they are not provided, then the tax has to be recovered at a higher rate of 5%.

Consideration – TCS is applicable on value if the previous years turnover has crossed Rs 50 lacs and while determining the threshold of Rs 50 lacs, the following turnover should not be considered

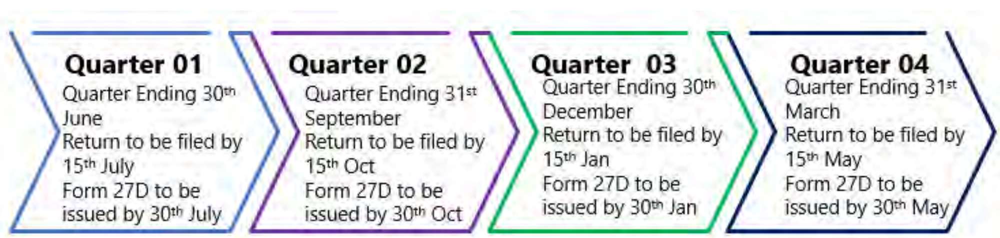
a) Value of goods exported out of India
b) Goods sold and on which TCS is collected as per Sub Section (1)
c) Sale of motor vehicles above Rs 10 Lacs falling under Sub Section (1F)
d) Transaction falling under Sub-Section (1G)

Tax Point – as per the provisions of the law, the tax has to be collected at the time of the receipt of money. If the amount is to be recovered at the time of money, the same should be charged to the customer or shown on the tax invoice, which means the TCS amount should be part of the tax invoice.

Taxable Basis – as it is on sale of goods, in most of the case, GST will also be applicable and in such a case should TCS be included in the computation of GST or it should be excluded? As per the Circular No 23/2017 dated 19th July 2017, the TCS amount is to be computed on the basic value and should not include the GST taxes. The same is clarified by the CBIC wide Corrigendum to Circular No. 76/50/2018-GST, has stated that TCS under Income Tax is an interim levy and not a tax and as a result of the same, TCS amount should not be included while computing GST.

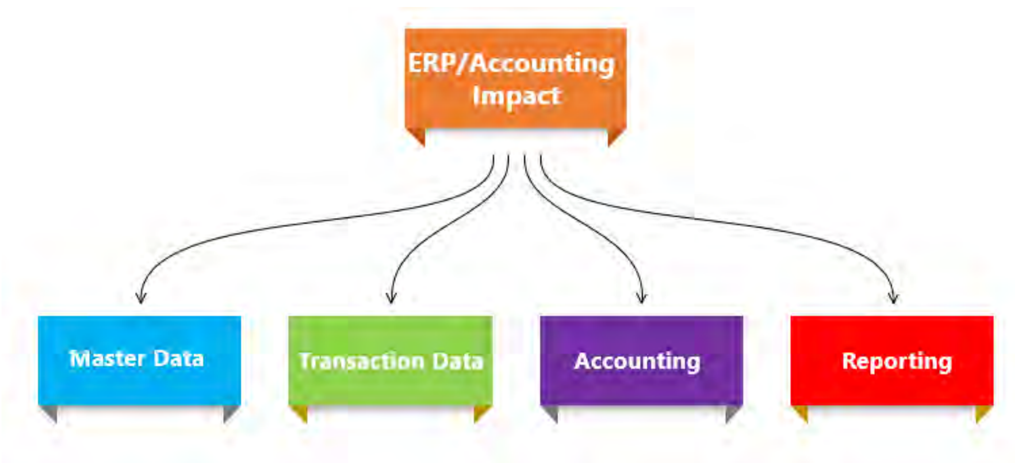
Form the above, it is clear that TCS will be shown as a last line on the tax invoice.

Return Filing – the amount of tax collected by the seller has to be deposited with the 7th of next month, and the returns have the filed quarterly online only.



Tax Collected at Source has to be implanted by large taxpayers only, and to meet the compliances under Income Tax Act 1961, the accounting or the ERP package has to be modified accordingly. The tax has to be computed based on the turnover during the last financial year. While computing this, certain goods and transactions have to be excluded, and all the debit notes, credit notes issued, and advance receipt received have to be considered.

The above changes have to be made by the Accounting or ERP provider, and if the same is not provided by them, then the same has to be customized. Either it is customized or implemented based on the patch provided by the service provider, there will be an impact on the following areas



Master Data – Item Master, Customer Master, and Tax Rate masters are impacted. All the items for which TCS is impacted have to be flagged as "Yes," or the other way of implementing is exception model, where the list of goods not impacted with this provision can be flagged. The second approach will save and effort. For the customer master, the PAN/Aadhar, if not captured earlier, has to be updated, and there should be a logic based on the availability of these values, tax rates should be defaulted. Tax rates have to have to be created in the system.

Transaction Data – at the transaction level, tax invoice, or for the advance receipt, changes should be made, and the print of the documents has to be modified accordingly if pre-printed stationery is being used.

Accounting – the accounting for TCS has to be incorporated if not implemented previously. It is advisable to create a separate ledger for tracking the TCS liability as it will be tracking and while preparing the ITR returns and Income Tax Audit.

Reporting – as reporting is mandatory and online, necessary changes have to be made in the system. If the same is not supported, at least the data required for the return filing has to be provided. The returns can be filed using third-party applications or directly on the portal.

As time is running short, the organizations have to implement the same at the earliest else. It will lead to compliance issues and penalties. While considering the threshold, the users have to keep in mind that sales orders should not be considered, and only invoices issued, and advance received should be considered after adjusting any debit or credit notes issued. Complete impact analysis has to be carried out before implementing the same else; there will be last-minute challenges and can impact the business also. At this hour of crisis, no organization will like to take an impact on the sales due to compliance issues.

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