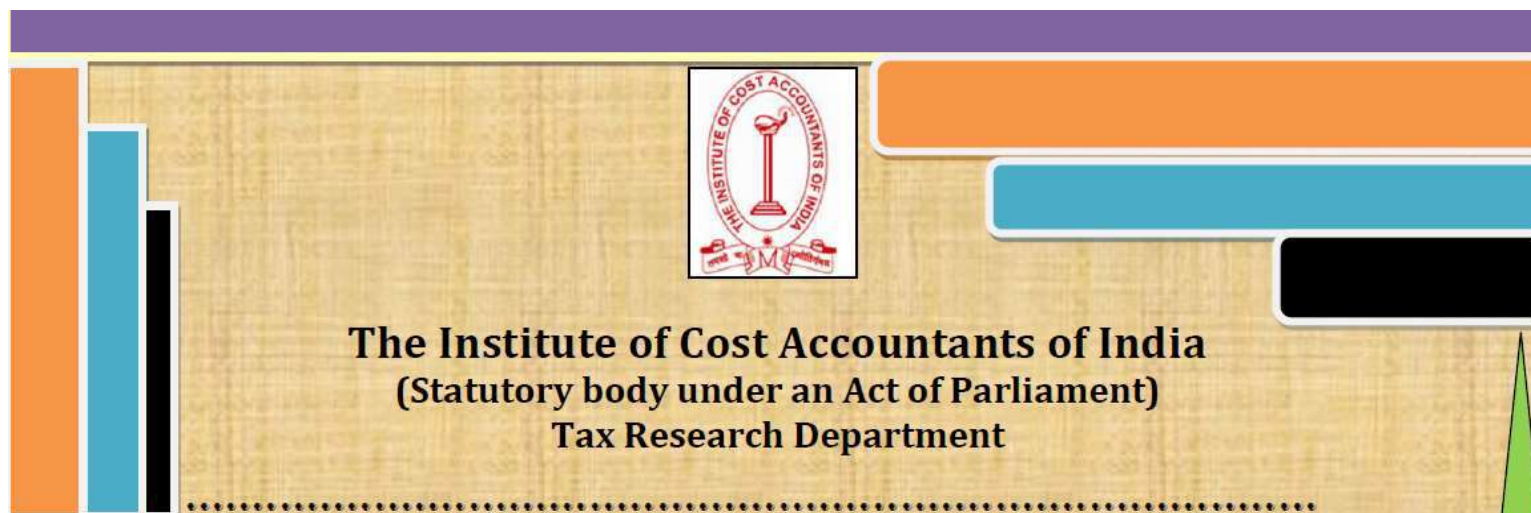


ONLINE CERTIFICATE COURSE ON TDS - CCTDS - 9th Batch



The Institute of Cost Accountants of India
(Statutory body under an Act of Parliament)
Tax Research Department

**A Session on Section 194, 194B, 194BB & 194Q and applicability of section 194Q
Vs 206C(1H) & Section 194O under TDS**

- by CMA Kedarnath

Tax deducted at Source



Introduction to TDS

- ❖ The concept of **TDS** was **introduced** with an aim to collect tax from the very source of income
- ❖ It means where the income is generated, tax shall be deducted at respective rates on the said income
- ❖ The objective of TDS is to catch and bring more number of tax payers in the society into taxation nest
- ❖ Tax is deducted only if amount is Taxable in the hands of the receiver
- ❖ Parties involved in TDS

I. Deductor / Payer

II. Deductee / Payee

- ❖ As per this concept, a person (Deductor) who is liable to make payment of specified nature to any other person (Deductee) shall deduct tax at source and remit the same into the account of the Central Government.
- ❖ The Deductee from whose income tax has been deducted at source would be entitled to get credit of the amount so deducted on the basis of Form 26AS or TDS certificate issued by the deductor.

Introduction to TDS

- ❖ Even as per the individual point of view also if Tax payment, needs to make at single time is also a burden
- ❖ Monthly deduction of tax would be a great relief to the salaried employees
- ❖ It does not pinch more on them
- ❖ TDS is covered under CHAPTER XVII of Income Tax Act, 1961
- ❖ In the name of COLLECTION AND RECOVERY OF TAX
- ❖ Note: The Income Tax Act of 1961 is a comprehensive statute that sets the rules and regulations that govern taxation in India.
- ❖ The Income Tax Act contains a total of **23 chapters** and
- ❖ 298 sections according to the official website of the Income Tax Department of India.
- ❖ **Conclusion:** To speed up and effectively collect taxes, tax deductions at the point of earning income have been integrated into the Income-Tax Law. This procedure is referred to as "Tax Deducted at Source," or TDS.

Introduction to TDS

INTRODUCTION

What is Tax Deducted at source ?

Income – Tax is Collected/recovered at two stages, namely pre-assessment stage and post assessment stage. The method by which pre-assessment tax are collected is in the following manner at different stages namely,

Advance Tax.

Tax Deducted at source.

Tax Collected at Source.

Introduction to TDS

Introduction

- It is not another type of Tax rather a way of collection of Income tax.
- A form of advance tax.
- This concept was first introduced in 2004 on the principle of "pay as you earn"
- Onus of compliance on Payer (who makes the expenditure) instead of actual taxpayer i.e assessee under Income Tax Act 1961.

<http://www.CAging.com/ppt/in>

When to Deduct TDS

- ❖ TDS requirement arise: *Earlier of*
- ✓ At the time of **Payment**
- (or)
- ✓ At the time **crediting** the a/c of payee (in the books of payer)

- ❖ But in the following cases TDS deducted only **at the time of payments**:
- ✓ Salary
- ✓ EPF Payment
- ✓ Winnings
- ✓ Maturity of Life Insurance Policy
- ✓ Compensation on compulsory acquisition of property

TDS Applicability

- ❖ TDS will be applicable on
 - ✓ Services
 - ✓ Expenses
- ❖ TDS will NOT be applicable on Goods*
- ❖ *After Introduction of S.194Q TDS applicable on goods subject to certain conditions w.e.f 01st July 2021

TDS Applicability

- ❑ TDS applicable for not only Commercial purpose but also for other payments (Personal transactions)

- Example: Buying a L&B for Rs 80 Lakhs (sale deed value)

Buyer has to deduct TDS u/s 194IA @ 1% on consideration i.e., Rs 80,000

- ❑ S.194IB: TDS on Rent of Immovable Property by Individual / HUF

✓ Individual / HUF paying rent > 50,000 per month has to deduct TDS @ 5%

- ❑ S.194M: TDS on Contract, Commission or Brokerage or Fees for Professional Services

✓ Individual / HUF other than covered u/s 194C, 194H & 194J

✓ TDS @ 5%

✓ If sum or aggregate of sum paid or credited > 50 Lakhs

TDS Rates

❖ TDS Rates are Fixed:

- ✓ 1%
- ✓ 2%
- ✓ 5%
- ✓ 10%

❖ If a person NOT furnishing PAN Copy

Higher of

- Rates prescribed in the respective section, (or)
- Rates prescribed in the Annual Finance Act, (or)
- 20%

Note-I: If payment made to NR/Foreign Co. or payment of Salary then Surcharge & HEC shall be considered

Payment / Deposit of TDS:

Tax deducted or collected at source shall be deposited to the credit of the Central Government by following modes:

❖ **Electronic mode:** E-Payment is mandatory for

- a) All Corporate Assesses
- b) All assesses (other than company) to whom provisions of section 44AB of the Income Tax Act, 1961 are applicable.

✓ Website: <https://onlineservices.tin.egov-nsdl.com>

❖ **Physical Mode:** By furnishing the Challan 281 in the authorized bank branch

Due Dates for deposit of TDS:

- ❑ The Deducted Tax (TDS) shall be deposited to the credit of the Central Government as follows:
- ❑ TDS deposit to central government shall be monthly

If deducted tax,

- ❖ During (For) the months of “April to February” : TDS deposited on or before the **7th** of the **next month**
- ❖ During “March” month : TDS deposited on or before the **30th April** of next FY.

Due Dates for Filing of TDS Returns:

- ❖ TRACES: TDS Reconciliation Analysis and Correction Enabling System
- ❖ www.tdscpc.gov.in : TDS Certificates downloaded and correction returns
- ❖ www.Incometax.gov.in: TDS Payments and CSI Files download

QUARTER ENDED	TDS RETURN DUE DATE	TCS RETURN DUE DATE
30 TH JUNE	31 ST JULY	15 TH JULY
30 TH SEPT	31 ST OCT	15 TH OCT
31 ST DEC	31 ST JAN	15 TH JAN
31 ST MAR	31 ST MAY	15 TH MAY

TDS u/s 194:

- ❖ Section 194 covers with the TDS on Dividend Income
- ❖ The terms of Section 194 of the Income Tax Act of 1961 have been modified by the Finance Act of 2020.
- ❖ Previously dividend is exempt from income tax under section 10(34), dividend income declared, distributed, and paid by a domestic corporation is now subject to TDS.
- ❖ This comes after the DDT (Dividend Distribution Tax) on the number of dividends declared by a domestic corporation was abolished.
- ❖ Section 194 TDS of the ITA mandates that the principal officer of an Indian company (or a company that has made the required arrangements for the declaration and payment of deemed dividend in India) deduct tax at source from the amount of the dividend at the required rate prior to making any payment of dividend to a resident.
- ❖ TDS under Section 194 is not necessary if a dividend tax is imposed under Section 115-O of the IT Act. Only when the dividend tax under Section 115-O does not apply, the TDS under Section 194 necessary.
- ❖ Rate: 10%

TDS u/s 194:

Deduction of Tax:

- ✓ The principal officer of an Indian company or a company which has made the prescribed arrangements for the declaration and payment of dividends (including dividends on preference shares) within India, shall, before making any payment in cash or before issuing any cheque or warrant in respect of any dividend or before making any distribution or payment to a shareholder
- Tax is as soon as feasible deducted in the following situations:
 - ✓ Prior to the cash payment of any dividend.
 - ✓ Before writing a dividend check or warrant.
 - ✓ Before giving a shareholder any payment or distribution of a dividend, as defined by Section 2 (22).

TDS u/s 194:

- ❖ Provided that **no such deduction** shall be made in the case of a shareholder, **being an individual**, if
- ✓ the dividend is paid by the company by an account payee cheque; **and**
- ✓ the amount of such dividend or, as the case may be, the aggregate of the amounts of such dividend distributed or paid or likely to be distributed or paid during the financial year by the company to the shareholder, **does not exceed Rs 5,000/-**

Sr. No.	Name of Deductor				TAN of Deductor	Total Amount Paid/ Credited	Total Tax Deducted #	Total TDS Deposited
2	ICICI PRUDENTIAL LIFE INSURANCE COMPANY LIMITED				MUMI03877G	120.00	0.00	0.00
Sr. No.	Section ¹	Transaction Date	Status of Booking*	Date of Booking	Remarks**	Amount Paid / Credited	Tax Deducted ##	TDS Deposited
1	194	20-Jul-2021	F	16-Oct-2021	-	120.00	0.00	0.00

- ❖ Provided further that the provisions of **this section shall not apply** to such income credited or paid to
 - LIC
 - General Insurance Corporation of India
 - any other insurer in respect of any shares owned by it or in which it has full beneficial interest

TDS u/s 194:

- ✓ Nature of Payment: Dividend
- ✓ Payer: Domestic Company
- ✓ Payee: Resident Person
- ✓ Rate: 10%
- ✓ TDS is required to be deducted at the time of payment only.
- ✓ Applicability: TDS amount > Rs 5,000 in a FY

2	MINDTREE LIMITED				BLRM02397D	33000.00	3300.00	3300.00
Sr. No.	Section ¹	Transaction Date	Status of Booking*	Date of Booking	Remarks**	Amount Paid / Credited	Tax Deducted ##	TDS Deposited
1	194	29-Oct-2021	F	08-Mar-2022	-	12000.00	1200.00	1200.00
2	194	29-Oct-2021	U	04-Feb-2022	B	-12000.00	-1200.00	-1200.00
3	194	29-Oct-2021	U	04-Feb-2022	-	12000.00	1200.00	1200.00
4	194	23-Jul-2021	F	08-Nov-2021	-	21000.00	2100.00	2100.00

TDS u/s 194B:

- ✓ S.194B covers “TDS on Winnings from lottery or crossword puzzle”
- ✓ Payer: Any Person
- ✓ Payee: Any Person
- ✓ TDS Rate: 30%
- ✓ TDS is required to be deducted only at the time of payment
- ✓ No TDS if winning is up to Rs 10,000

Note:

- ✓ In a case where the winnings are wholly in kind (or) partly in cash and partly in kind but the part in cash is not sufficient to meet the liability of deduction of tax in respect of whole of the winnings,
- ✓ the person responsible for paying shall, before releasing the winnings, ensure that tax has been paid in respect of the winnings.

TDS u/s 194BB:

- ✓ S.194BB covers “TDS on Winnings from horse race”
- ✓ Payer: Any Person
- ✓ Payee: Any Person
- ✓ TDS Rate: 30%
- ✓ TDS is required to be deducted only at the time of payment
- ✓ No TDS if winning is up to Rs 10,000

Note:

- ✓ In a case where the winnings are wholly in kind (or) partly in cash and partly in kind but the part in cash is not sufficient to meet the liability of deduction of tax in respect of whole of the winnings,
- ✓ the person responsible for paying shall, before releasing the winnings, ensure that tax has been paid in respect of the winnings.

TDS u/s 194-O

- ❖ Section 194-O covers with “TDS on Payment of certain sums by e-commerce operator to e-commerce participant”
- ❖ The section starts with “Notwithstanding” means it overrides all other provisions / sections of TDS
- ❖ The plain reading of the provision “Notwithstanding anything to the contrary contained in any of the provisions of Part B of this Chapter, where sale of goods or provision of services of an e-commerce participant is facilitated by an e-commerce operator through its digital or electronic facility or platform (by whatever name called), such e-commerce operator shall, at the time of credit of amount of sale or services or both to the account of an e-commerce participant or at the time of payment thereof to such e-commerce participant by any mode, whichever is earlier, deduct income-tax at the rate of one per cent of the gross amount of such sales or services or both”.

TDS u/s 194-O :

Section	Nature of Payment	Payer	Payee	Rate
194-O	E-Commerce (Sale of Goods/Service)	Any Person (E-com. operator who owns, operate or manage E-Facility or platform) Example - Amazon, Flipkart etc.	Resident Person (E- com. participant who selling goods or service through E-com. operator facility or platform)	1% (Gross amount of sale i.e., Price collected from Customer by E-com. operator)

TDS u/s 194-O :

Additional Points

1. No TDS if ALL the following conditions are satisfied:
 - » The e-com. Participant is an Ind or HUF.
 - » The gross amount of such sale or services or both during the PY upto ₹ 5 lakh.
 - » The e-com. participant has furnished his PAN or Aadhaar to the e-com. operator.
2. Any payment made by a purchaser of goods or services directly to an e-com. participant but sale facilitated by e-com. operator, shall deemed to be the amount paid/credited by e-com. operator to e-com. participant and shall be included in gross amount for the purpose of TDS.
3. If TDS deducted u/s 194-O (or not deductible due to 5 lakhs limit), TDS cannot be deductible under any other section. However this rule is not applicable if amount received by e-commerce operator for hosting advertisement or providing any other services which are not related to sale of goods/services.
4. This section include sale of goods as well as service and service includes fees for professional and technical service also. If any professional service or technical service provided through online mode then this section applicable.

TDS u/s 194-O :

CBDT Clarification:

1. Payment gateway will not be required to deduct tax u/s 194-O, if the tax has been deducted by the e- com. operator u/s 194-O of the Act, on the same transaction.

2. Applicability of on insurance agent or insurance aggregator: In years subsequent to the first year, if the insurance agent or insurance aggregator has no involvement in transactions between insurance company and the buyer of insurance policy, he would not be liable to deduct tax u/s 194-O 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 insurance aggregator for those subsequent years under the relevant provision of the Act.

Example: ICICI Lombard sales insurance policy through PolicyBazzar.com. Suppose in current year policybazzar.com collected insurance premium of ₹2 Crores for first year of insurance so in this case policybazzar.com required to deduct TDS of ICICI Lombard. In subsequent years policy holder directly making payment to ICICI Lombard then PolicyBazzar.com not required to deduct TDS however ICICI Lombard required to deduct TDS u/s 194D on commission paid to Policybazzar.com.

TDS u/s 194-O :

Examples: BB Virtuals Pvt. Ltd. (e-commerce participants) selling Books (COMPACT) through Amazon.in (e-commerce operator), wants to know about TDS implication in following cases:

Case : 1 During the PY 21-22 Amazon.in sold books of ₹32 Lakhs and transferred ₹25.60 lakhs to BB Virtuals on 31.03.22 (after deduction commission @20% on sale).

Sol.: In this case Amazon is required to deduct TDS @1% on gross sale amount of ₹32 Lakhs i.e. ₹32,000 on 31.03.22.

Case :2 Suppose in above example Amazon credit and paid amounts as follows

S.No.	Gross ₹	Net ₹	Credited in BOA	Paid on	TDS ₹	TDS deduct on
1.	12,00,000	9,60,000	31/12/21	07/01/22	12,000	31/12/21
2.	15,00,000	12,00,000	31/01/22	09/02/22	15,000	31/01/22
3.	5,00,000	4,00,000	31/03/22	15/05/22	5,000	31/03/22

TDS u/s 194-O :

Case : 3 Suppose in above example gross amount is only ₹4.5 Lakhs instead of ₹32 Lakhs and paid/credited on 31/03/22.

Sol.: Exception of TDS apply only in case of Ind/HUF e-commerce participant, here BB Virtuals Pvt Ltd is a company so TDS apply @ 1% of ₹4.5 lakhs.

Case : 4 Suppose in case-3 assessee is MR BB instead of BB Virtuals Pvt. Ltd. & BB furnishes his PAN/Aadhar to Amazon.

Sol.: In this case TDS not applicable.

Case :5 Suppose in case-1 Amazon sold books of 32 lakhs but amount of ₹15 lakhs directly received by BB Virtuals Pvt. Ltd from customers and remaining received from Amazon ₹ 10.60 lakhs (after commission of 20% on ₹32 lakhs).

Sol.: In this case Amazon is required to deduct TDS @1% on gross sale amount of ₹32 Lakhs i.e. ₹ 32,000.

TDS u/s 194Q:

Section	Nature of Payment	Payer	Payee	Rate
194-Q (Added by FA-21 w.e.f. 1/7/21)	Purchase of Goods more than 50 Lakhs in a PY	Any Person (Buyer) whose last year T/O more than 10 Crore	Resident Person (Seller)	0.1% of sum in excess of ₹ 50 Lakhs
Additional Points				
1.	In this section TDS required to deduct only on excess amount over ₹50 lakhs.			
2.	TDS is not required to be deducted under this section, if - » TDS is deductible under any other section; » TCS is collectible u/s 206C [other than section 206C(1H)].			
3.	In case of a transaction to which both section 206C(1H) and 194Q applies, TDS to be deducted u/s 194Q.			
4.	In case of a transaction to which both section 206C(1)/(1F)/(1G) and 194Q applies, TCS to be collected u/s 206C(1)/(1F)/(1G).			

TDS u/s 194Q:

5. In case of a transaction to which both section 194-O and 194Q applies, TDS to be deducted u/s 194-O.
6. If PAN of payee is not available, tax will be deducted under section 194-O & 194Q at the rate of 5%.

CBDT Clarification:

1. Applicability on transactions carried through various Exchanges: The provisions of section 194-O, 194Q & 206C(1H) shall not apply in relation to transactions in securities, and commodities which are traded through recog. stock exchanges or cleared and settled by the recog. clearing corp., including RSE or RCC located in IFSC or transactions in electricity, renewable energy certificates and energy saving certificates traded through power exchanges.

Example: Mr. BB purchased 10,000 shares of Bajaj Finance Ltd @ ₹3800 through ICICI Direct Broker at BSE. In this case section 194-O, 194Q or 206C(1H) not applicable.

2. Calculation of threshold for FY 21-22: Since 194Q effective from 01/07/21 so whatever purchased made or payment made upto 30/06/21, not subject to TDS. Since limit of 50 lakhs is for whole PY so for checking limit of 50 lakhs we will consider purchase made between 01/04/21 to 30/06/21. Let's understand with help of this

TDS u/s 194Q:

example: -

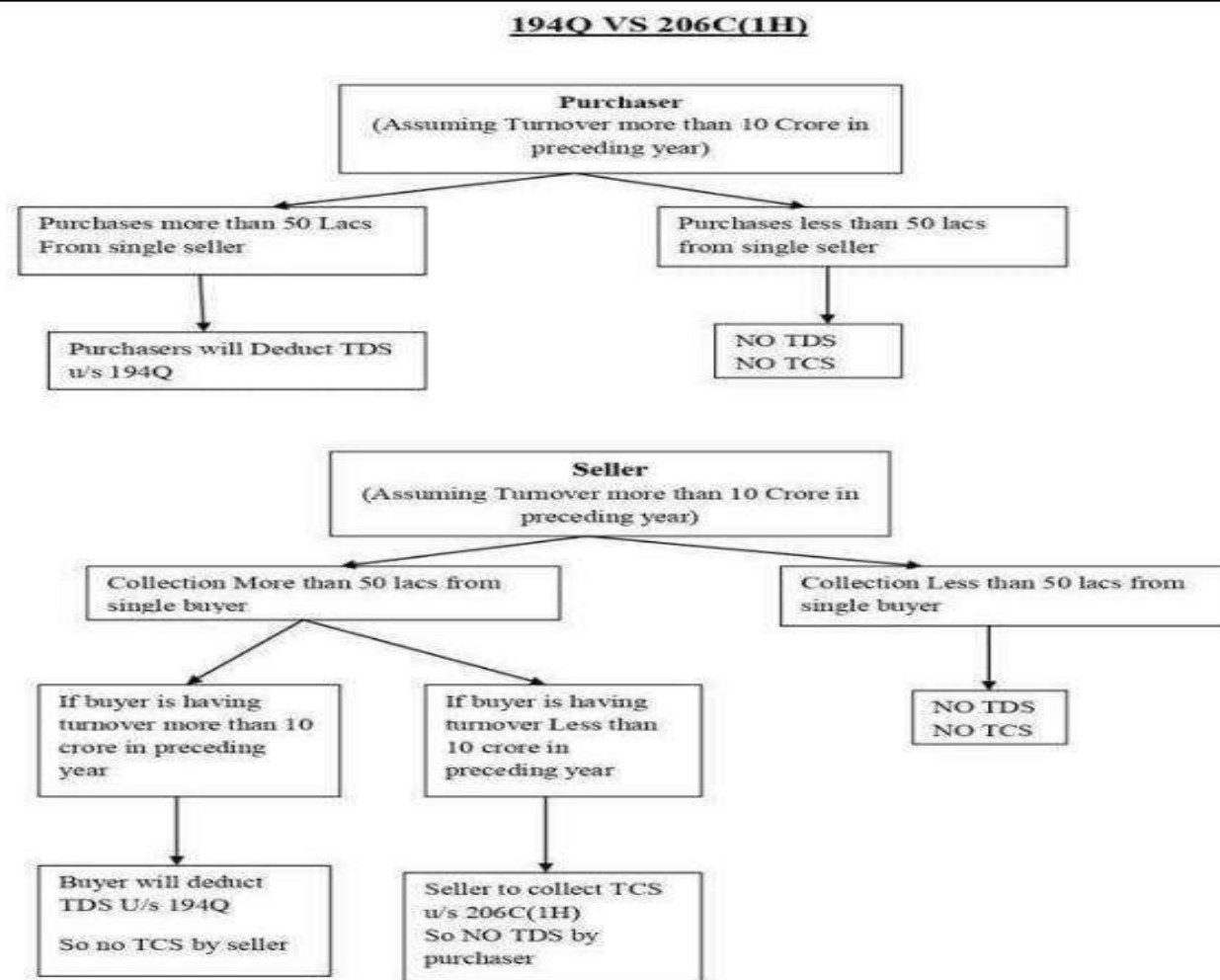
The following information is given pertaining to purchase of goods. TDS liability u/s 194Q for the financial year 2021-22 is given in the last column.

Buyer	T/O of buyer during PY 20-21	T/O of buyer in PY 21-22	Seller	Consideration for purchase of goods during -		Requirement of TDS u/s 194Q by buyer
				01/04/21 to 30/06/21	01/07/21 to 31/03/22	
Ramu	₹ 10 cr	₹ 14 cr	JJ Ltd.	₹ 40 lakh	₹ 90 lakh	No TDS
Shaymu	₹ 10.5 cr	₹ 8 cr	Kohli Ltd.	₹ 10 lakh	₹ 40.2 lakh	TDS: 0.1% of ₹ 20,000
Lalu	₹ 15 cr	₹ 9 cr	Bharat Ltd.	₹ 40 lakh	₹ 80 lakh	TDS: 0.1% of ₹ 70 lakh
KK Ltd.	₹ 17 cr	₹ 15 cr	LK Ltd.	₹ 1 cr	₹ 2 cr	TDS: 0.1% of ₹ 2 crore
BB Ltd.	₹ 17 cr	₹ 8 cr	DB Ltd.	₹ 1.7 cr	₹ 10 cr	TDS: 0.1% of ₹ 10 lakh

TDS u/s 194Q:

3. **GST : TDS u/s 194Q NOT applicable on GST amount if it is separately indicated in Invoice but if advance payment is made then TDS should be deducted on total advance payment as we are not aware that what will be GST amount in invoice.**
4. **Purchase Return : TDS deducted at the time of crediting the party or payment, whichever is earlier, so at the time of purchased TDS already deducted by Buyer. In case of purchase return there is no need to return TDS amount and it can be adjusted against future purchase from same seller. In case of replacement of Goods, No adjustment required.**
5. **Non Resident Buyer : Section 194Q NOT applicable in case of NR buyer except where NR having PE in India and purchased relates to that PE.**
6. **Exempt Income of Seller : If seller whole Income is exempt under IT Act [like 10(23A),10(44)], then TDS u/s 194Q NOT applicable. Similarly if Buyer whole income exempt then TCS u/s 206C(1H) NOT applicable.**
7. **First year of Incorporation : In section 194Q TDS required to be deducted only if buyer's last year T/O more than ₹ 10 Crores. Since in case of first year of incorporation last year T/O is nil so this section NOT applicable in first year of Incorporation.**
8. **Last Year T/O : While checking last year T/O of buyer it should include only Business T/O or G/R and it should be more than 10 Crores. Non-Business T/O not to be counted.**

TDS u/s 194Q vs 206C(1H):



FAQ's on TDS:

[https://incometaxindia.gov.in/Pages/faqs.aspx?k=FAQs+on+Tax+Deducted+at+Source+\(TDS\)](https://incometaxindia.gov.in/Pages/faqs.aspx?k=FAQs+on+Tax+Deducted+at+Source+(TDS))



*{Arise, awake and stop not until the goal is reached}
- Swami Vivekananda*



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