

Use of functionality under Section 206AB and 206CCA of the Income-tax Act, 1961: CBDT (Circular No. 11 of 2021 dated 21st June, 2021)

Central Board of Direct Taxes [CBDT] has released compliance check facility for Section 206AB & Section 206CCA vide circular number 11/2021 dated 20th June 2021. Section 206AB introduced by Finance Act 2021 introduced higher Tax Deducted at Source [TDS] Rate for Non-Filers of Income Tax Returns [ITRs]. Similarly, Section 206 CCA which was also introduced by Finance Act 2021 proposed a higher Tax Collected at Source [TCS] Rate for Non-Filers of Income Tax Returns [ITRs]. These two Sections are applicable w.e.f. 1st July 2021.

The Higher rate of twice the prescribed rate or 5%, whichever is higher was applicable on ***Specified person*** coming within the ambit of these provisions.

The specified person is a person:

- ✓ who has not filed the returns of income for both of the two assessment years relevant to the two previous years which are immediately before the previous year in which tax is required to be deducted or collected, as the case may be.
- ✓ Further, the time limit for filing income tax return [ITR] under sub-section (1) of section 139 of the Act has expired for both these assessment years.
- ✓ The aggregate of tax deducted at source [TDS] and tax collected at source [TCS] in his case is Rs 50,000 or more in each of these two previous years.
- ✓ A specified person shall not include a non-resident who does not have a permanent establishment in India

In this case, the compliance burden to check the specified person is on TDS Deductor. To ease this compliance burden the Central Board of Direct Taxes is issuing a new functionality “Compliance Check for Sections 206AB & 206CCA”. This functionality is made available through reporting portal of the Income-tax Department. The tax deductor or the collector can feed the single PAN (PAN search) or multiple PANs (bulk search) of the deductee or collected and can get a response from the functionality if such deductee or collectee is a specified person. For PAN Search, the response will be visible on the screen which can be downloaded in PDF format. For Bulk Search, the response would be in the form of downloadable file which can be kept for record.

Logic of Functionality:

The logic of the functionality is as under:

1. A list of specified persons is prepared as of the start of the financial year 2021-22, taking previous years 2018-19 and 2019-20 as the two relevant previous years. List contains the name of taxpayers who did not file a return of income for both assessment years 2019-20 and 2020-21 and have an aggregate of TDS and TCS of fifty thousand rupees or more in each of these two previous years.
2. During the financial year 2021-22, no new names are added in the list of specific persons. This is a taxpayer-friendly measure to reduce the burden on tax deductor a collector of checking PANs of non-specified person more than once during the financial year.
3. If any specified person files a valid return of income (filed & verified) for the assessment year 2019-20 or 2020-21 during the financial year 2021-22, his name would be removed from the list of specified persons. This would be done on the date of filing of the valid return of income during the financial year 2021-22.
4. If any specified person files a valid return of income (filed & verified) for the assessment year 2021-22, his name would be removed from the list of specified persons. This will be done on the due date of filing of

return of income for A.Y. 2021-22 or the date of actual filing of valid return (filed & verified) whichever is later.

5. If the aggregate of TDS and TCS, in the case of a specified person, in the previous year 2020-21, is less than fifty thousand rupees, his name would be removed from the list of specified persons. This would be done on the first due date under sub-section (1) of section 139 of the Act falling in the financial year 2021-22. For the financial year 2021-22 this due date of 31st July 2021 has been extended to 30th Sept 2021.
6. Belated and revised TCS & TDS returns of the relevant financial years filed during the financial year 2021-22 would also be considered for removing persons from the list of specified persons on a regular basis.

Check the compliances by TDS Deductor or TCS Collector:

The deductor or the collector may check the PAN in the functionality at the beginning of the financial year and then he is not required to check the PAN of a non-specified person during that financial year.

Example: let us assume that a deductor has 10,000 vendors that he deals with. He can use the functionality in the bulk search mode and can get the result of all these 10,000 PANs in one go. Let us assume that the functionality has shown that out of these 10,000 PANs, 5 PANs are specified persons for the purposes of sections 206AB and 206CCA of the Act. Now with respect to the remaining 9,995 PAN, it is clear that they are not on the list of specified persons for that financial year. Since no new name would be added to the list of specified persons during the financial year, the deductor or collector can be assured that these 9,995 PANs would remain outside the list of specified persons during that financial year. Thus, deductor or collector need not check again with respect to these 9,995 PANs during that financial year. There are chances that the 5 PANs which are of specified persons may move out of the list during the financial year and for that there will be a need to recheck at the time of making tax deduction or tax collection.

The list would be drawn afresh at the start of each financial year and the above process would have to be repeated.

For Example: at the beginning of the financial year 2022-23 a fresh list would be prepared with previous years 2019-20 and 2020-21 as the two relevant previous years. Then, no name would be added to the list of specified persons during the financial year and the only Name would be removed based on the logic given in the 3rd to 6th bullets of paragraph 3 above.

It may be noted that as per the provisos of sections 206AB & 206CCA of the Act, the specified persons shall not include a non-resident who does not have a permanent establishment in India. Tax deductors & collectors are expected to carry out necessary due diligence in respect of a specified person established by the above referred functionality to consider him as non-specified, if he falls under these provisions.

Circular No. 11 of 2021

F. No. 370133/7/2021-TPL
Government of India
Ministry of Finance
Department of Revenue
(Central Board of Direct Taxes)

Dated: 21st June, 2021

Sub.: Circular regarding use of functionality under Section 206AB and 206CCA of the Income-tax Act, 1961- reg.

Finance Act, 2021 inserted two new sections 206AB and 206CCA in the Income-tax Act 1961 (hereinafter referred to as "the Act") which takes effect from 1st day of July, 2021. These sections mandate tax deduction (section 206AB) or tax collection (section 206CCA) at higher rate in case of certain non-filers (specified persons) with respect to tax deductions (other than under sections 192, 192A, 194B, 194BB, 194LBC and 194N) and tax collections. Higher rate is twice the prescribed rate or 5%, whichever is higher. Specified person means a person who satisfies both the following conditions: -

- (i) He has not filed the returns of income for both of the two assessment years relevant to the two previous years immediately before the previous year in which tax is required to be deducted /collected. Two previous years to be counted are required to be those whose return filing date under sub-section (1) of section 139 has expired.
- (ii) Aggregate of tax deducted at source and tax collected at source is rupees fifty thousand or more in each of these two previous years.

2. It can be seen that the tax deductor or the tax collector is required to do a due diligence of satisfying himself if the deductee or the collectee is a specified person. This can lead to extra compliance burden on such tax deductor or tax collector. To ease this compliance burden the Central Board of Direct Taxes is issuing a new functionality **"Compliance Check for Sections 206AB & 206CCA"**. This functionality is made available through reporting portal of the Income-tax Department. The tax deductor or the collector can feed the single PAN (PAN search) or multiple PANs (bulk search) of the deductee or collectee and can get a response from the functionality if such deductee or collectee is a specified person. For PAN Search, response will be visible on the screen which can be downloaded in the PDF formant. For Bulk Search, response would be in the form of downloadable file which can be kept for record.

3. The logic of the functionality is as under:

- A list of specified persons is prepared as on the start of the financial year 2021-22, taking previous years 2018-19 and 2019-20 as the two relevant previous years. List contains name of taxpayers who did not file return of income for both assessment

- years 2019-20 and 2020-21 and have aggregate of TDS and TCS of fifty thousand rupees or more in each of these two previous years.
- During the financial year 2021-22, no new names are added in the list of specified persons. This is a taxpayer friendly measure to reduce the burden on tax deductor and collector of checking PANs of non-specified person more than once during the financial year.
 - If any specified person files a valid return of income (filed & verified) for assessment year 2019-20 or 2020-21 during the financial year 2021-22, his name would be removed from the list of specified persons. This would be done on the date of filing of the valid return of income during the financial year 2021-22.
 - If any specified person files a valid return of income (filed & verified) for assessment year 2021-22, his name would be removed from the list of specified persons. This will be done on the due date of filing of return of income for A.Y. 2021-22 or the date of actual filing of valid return(filed & verified) whichever is later.
 - If the aggregate of TDS and TCS, in the case of a specified person, in the previous year 2020-21, is less than fifty thousand rupees, his name would be removed from the list of specified persons. This would be done on the first due date under sub-section (1) of section 139 of the Act falling in the financial year 2021-22. For the financial year 2021-22 this due date of 31st July 2021 has been extended to 30th Sept 2021.
 - Belated and revised TCS & TDS returns of the relevant financial years filed during the financial year 2021-22 would also be considered for removing persons from the list of specified persons on a regular basis.

4. The deductor or the collector may check the PAN in the functionality at the beginning of the financial year and then he is not required to check the PAN of non-specified person during that financial year. To illustrate, let us assume that a deductor has 10,000 vendors that he deals with. He can use the functionality in the bulk search mode and can get the result of all these 10,000 PANs at one go. Let us assume that the functionality has shown that out of these 10,000 PANs, 5 PANs are specified persons for the purposes of sections 206AB and 206CCA of the Act. Now with respect of the remaining 9,995 PAN, it is clear that they are not in the list of specified persons for that financial year. Since no new name would be added in the list of specified persons during the financial year, the deductor or collector can be assured that these 9,995PANs would remain outside the list of specified persons during that financial year. Thus, deductor or collector need not check again with respect to these 9,995 PANs during that financial year. There are chances that the 5 PANs which are of specified persons may move out of the list during the financial year and for that there will be need to recheck at the time of making tax deduction or tax collection.

5. The list would be drawn afresh at the start of each financial year and the above process would have to be repeated. For example, at the beginning of the financial year 2022-23 a fresh list would be prepared with previous years 2019-20 and 2020-21 as the two relevant previous years. Then, no name would be added to the list of specified persons during the financial year and only name would be removed based on the logic given in the 3rd to 6th bullets of paragraph 3 above.

6. It may be noted that as per the provisos of sections 206AB & 206CCA of the Act, the specified persons shall not include a non-resident who does not have a permanent establishment in India. Tax deductors & collectors are expected to carry out necessary due

diligence in respect of a specified person established by the above referred functionality to consider him as non-specified, if he fall under these provisos.

Shefali
21.06.2021

(Shefali Singh)

Under Secretary to the Govt. of India

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