

NEW TCS PROVISIONS - *SECTION 206C (1H)* -

W.E.F. 1ST OCTOBER, 2020.

By Rakesh Jain, FCA



Disclaimer

- On account of time-constraints, there will be limited coverage on the topic at hand.
- On account of the vast applicability, I will be presenting from the view-point of a seller.
- There still remains ambiguity on some aspects which the Board needs to relook.
- The statements made hereunder are as per the best understanding and interpretation of the presenter.

1. Introduction

Who, From Whom, Base Amount,
How Much, When, Exceptions

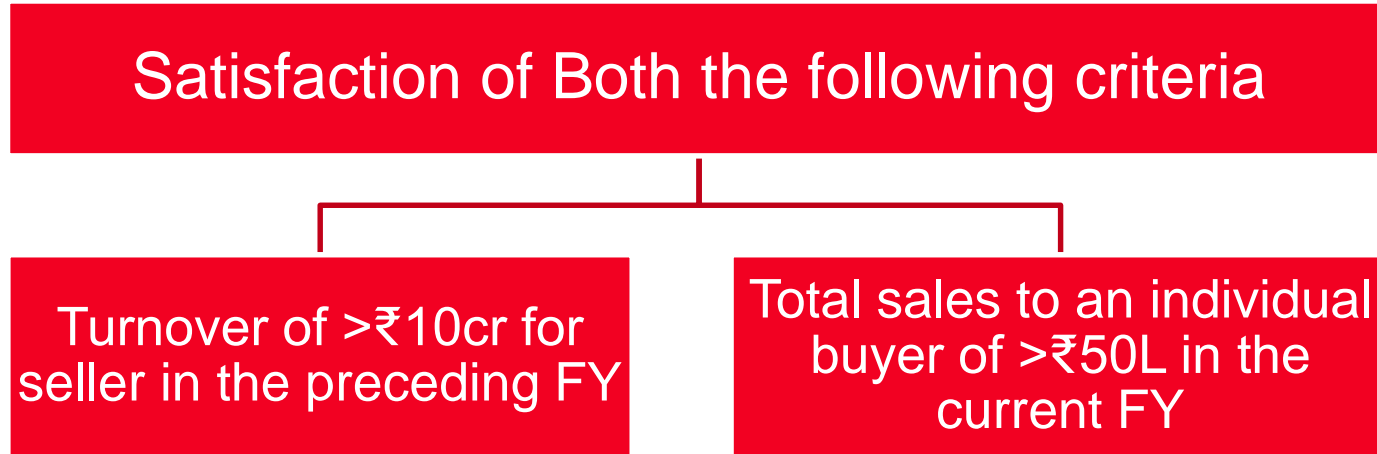
Who Needs to Collect Tax?

- Every person, being a seller of
 - goods,
 - within the territorial boundary of India,
 - whose sales/gross receipts/turnover from the business carried on by him exceeds **₹10cr** during the FY immediately preceding the current FY.

From Whom is Tax to be Collected?

- From such purchaser or buyer, who has **made actual payment** against purchase of goods, exceeding **₹50L** in aggregate, during the FY.
- The buyer can claim credit of TCS in his income tax return.

Base Amount



How Much to Collect?

- The seller needs to collect tax at source (TCS) @0.1% of actual sale consideration received during the FY in excess of ₹50L from the buyer.
- Only for FY 2020-21, starting from 1st October, 2020, TCS shall be @0.075%.
- In case of non-furnishing of PAN/Aadhaar Number, the seller has to collect TCS @1%.

When to Collect?

- This section is applicable for all the sale considerations actually received by the seller on or after 1st October, 2020, even if the sales are relating to the period 1st April, 2020 – 30th September, 2020.
- It is pertinent to note that as per Circular 17 dated 29th September, 2020, advance received for sale on or after 1st October, 2020 is covered.

Exceptions

- Sale of Services.
- Sale of Investments.
- Sale of goods exported out of India (but sales in SEZ are covered).
- Goods covered under other provisions of TCS, or if buyer has deducted tax at source under any other provisions of the Act.
- Sale to Government.

2. Compliance

TAN & Collecting Tax, Deposit with Government,
Filing Statement, Issuance of Certificate

TAN & Collecting Tax

- Seller needs to have a Tax Deduction and Collection Account Number (TAN).
- New TAN is not needed if the seller already has a TAN.
- Tax to be collected at the time of receipt of sale consideration in the bank account.

Deposit with Government, Filing of Statement & Issuance of Certificate

- TCS collected during the month has to be deposited within 7th of the following month (no exception even for March).
- A quarterly statement (Form No. 27EQ) of all the TCS during the quarter needs to be submitted within 15 days from the close of quarter.
- Certificate for tax collection (Form No. 27D) needs to be issues to buyer by seller within 30 days from end of quarter.

Summary of the Previous Slide

Quarter	Due Date of Filing Statement*	Due Date of Issuance of Certificate
30 th June	15 th July	30 th July
30 th September	15 th October	30 th October
31 st December	15 th January	30 th January
31 st January	15 th May	30 th May

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*Late fee of ₹200/day.

3. Some Debatable Issues

Sale of Shares/Securities/Commodities,
Immovable Property, Agricultural Goods

Sale of Shares or Securities or Commodities

- Transactions in securities and commodities which are traded/cleared and settled through recognized stock exchange or clearing corporations are not liable under TCS.
- But, off-market transactions which are reflected as business (not investment) are liable under TCS.

Immovable Property

- These are not goods, because goods which are physically transferable are covered under the law being discussed. The Sale of Goods Act, 1930 is referred for the purpose of defining 'goods' under Section 206C (1H) and not CGST Act, 2017.
- Also, the buyer deducts TDS where the value of property is more than ₹50L under section 194IA.

Agricultural Goods

- TCS is applicable on sale of agricultural goods and agricultural produce, even though agricultural income outside a particular jurisdiction is not chargeable under section 10(1).

4. Some Pertinent Points

Running Current Account,
Discount & Sales Return

Running Current Account

(Press Release by MoF on 30-09-2020)

- The seller in most cases maintains running account of the buyer in which payments are generally not linked with a particular sales invoice. Therefore, in order to simplify and ease the compliance of the collector, it may be noted that this TCS provision shall be applicable on the amount of all sale consideration received on or after 01-10-2020 without making any adjustment for the amount received in respect of the sales made before 01-10-2020.

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Discount & Sales Return

- Since these provisions are applicable on actual receipts and the buyer will make payment after reduction of such amounts, **TCS will be collected only on actual realizations made, net of discounts and sales returns.**

5. Examples

8 Simple Numericals

EXAMPLE	SALES		TOTAL SALES	COLLECTION		AMOUNT LIABLE FOR TCS @0.075%	REMARKS
	APR - SEPT	OCT - MARCH		APR - SEPT	OCT - MARCH		
1	35	30	65	25	40	15	TCS when 50L collection crossed
2	65	20	85	30	55	35	TCS when 50L collection crossed
3	65	20	85	55	30	30	TCS only on collection after 01-10-2020
4	20	65	85	10	75	35	TCS when 50L collection crossed
5	Nil	80	80	Nil	80	30	TCS when 50L collection crossed
6	80	Nil	80	80	Nil	Nil	No collection after 01-10-2020
7	80	Nil	80	40	40	30	TCS when 50L collection crossed
8	35	45	80	10	20	Nil	Collection not crossing 50L


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Food for Thought

- There are a number of intricacies which give rise to ambiguity.
- A company is generating electricity which is being sold 100% to state government and it is claiming deduction under Section 80IA(iv). So TCS will not be applicable on such sales as per provisions of Section 206C(1H), but it also generates residual output of fly ash. The turnover of electricity is ₹50cr, whereas, turnover of fly ash is ₹5cr. Two separate books of accounts are maintained by the company to deduce profit for claiming deduction under section 80IA(iv). Sales of fly ash to different parties exceed ₹50L. *Is TCS applicable?*

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Thanks!

Any questions?

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