Tax Collection at Source [TCS] u/s 206C(1H) of the Income Tax Act, 1961 – w.e.f. 1st October, 2020

Is the new TCS @ 0.075% (w.e.f. 1st October, 2020) to be collected on sale of goods, applicable to your business?

(With changes as per CBDT Circular dated 29-09-2020)
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Is the new TCS @ 0.075% (w.e.f. 1st October, 2020) to be collected on sale of goods, applicable to your business?

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Introduction

The Central Board of Direct Taxes (CBDT) has brought about changes in the TCS provisions with effect from 1\textsuperscript{st} October, 2020 through the Budget 2020 i.e. Finance Act 2020. \textbf{CBDT has issued a Circular dated 29-09-2020 and a Press Release dated 30-09-2020 explaining the provision of section 206C(1H).}

These changes shall affect a wide range of businesses across various industries. Hitherto, TCS was applicable to a select few industry verticals, but the new changes are slated to affect a wide range of entities into the business of selling various kinds of goods.

\textbf{We had earlier published a white paper explaining the new changes. The earlier white paper and all earlier communications sent by us requires some changes in view of CBDT Circular and Press Release which are made herein.} We hope that it will answer most of your questions regarding the new levy. Read more to find out whether the new changes are applicable to your business or not.
Newly introduced Section 206C(1H) to levy TCS @ 0.075%

<table>
<thead>
<tr>
<th>Section</th>
<th>Nature of Receipts</th>
<th>Reduced rate from 1st October 2020 to 31st March 2021*</th>
<th>Rate of TCS from 1st April 2021 onwards</th>
</tr>
</thead>
<tbody>
<tr>
<td>206C(1H)</td>
<td>Sale of goods (other than Alcohol, Tendu Leaves, Timber, Forest Produce, Scrap, Coal, Lignite, Iron or a Motor Vehicle)</td>
<td>0.075%*</td>
<td>0.1%</td>
</tr>
</tbody>
</table>

*The prescribed rate of TCS u/s 206C(1H) is 0.1%. However, since the rates of TDS and TCS have been slashed by 25% due to the measures announced by the Finance Ministry in the wake of COVID-19, the rate u/s 206C(1H) stands reduced by 25% too.
Find out applicability of TCS u/s 206C(1H) for FY 2020-21

Are you a seller of goods? (other than Alcohol, Tendu Leaves, Timber, Forest Produce, Scrap, Coal, Lignite, Iron or a Motor Vehicle)

- Yes
  - Whether turnover from business in FY 2019-20 exceeded INR 10 crores
    - Yes
      - Have you sold goods to any person in one or more transactions exceeding INR 50 Lakhs in FY 2020-21*
        - Yes
          - On collection of sales consideration, deposit TCS on or before the due date with government
        - No
          - Section 206C(1H) not applicable
    - No
      - Sec 206C(1H) Not applicable
  - No
    - Section 206C(1H) not applicable

- No
  - Sec 206C(1H) Not applicable

*See FAQs for exceptions with respect to categories of customers, higher rate of TCS for non-furnishing PAN, practical examples on threshold limit of INR 50 lakhs and other issues etc.
Find out applicability of TCS u/s 206C(1H) for FY 2021-22 onwards

Are you a seller of goods? (other than Alcohol, Tendu Leaves, Timber, Forest Produce, Scrap, Coal, Lignite, Iron or a Motor Vehicle)

No

Section 206C(1H) not applicable

Yes

Whether turnover from business in preceding FY exceeded INR 10 crores

No

Sec 206C(1H) Not applicable

Yes

Have you sold goods to any person in one or more transactions exceeding INR 50 Lakhs during current FY.

Yes

Charge TCS @ 0.1% of sales value in sales invoice as a separate line item

On collection of sales consideration, deposit TCS on or before the due date with government

File quarterly return in Form 27EQ

No

Section 206C(1H) not applicable

*See FAQs for exceptions with respect to categories of customers, higher rate of TCS for non-furnishing PAN, practical examples on threshold limit of INR 50 lakhs and other issues etc.*
FAQs on this new levy

What are the changes made by Budget 2020 i.e. Finance Act, 2020?
As per the provisions of Budget 2020 i.e. Finance Act, 2020, every seller of goods (other than Alcohol, Tendu Leaves, Timber, Forest Produce, Scrap, Coal, Lignite, Iron or a Motor Vehicle), whose turnover from sale of goods exceeds INR 10 crores in the preceding financial year, shall be required to collect TCS at the rate of 0.1% (0.075% for FY 2020-21) from customers to whom sales after 30th September, 2020 exceeds INR 50 lakhs (E.g. For applicability of liability of TCS for sales in FY 2020-21, the sales of FY 2019-20 should exceed INR 10 crores). This provision is applicable from 1st October, 2020. It may be noted that these provisions are not applicable to service providers since it is applicable only to seller of certain kinds of goods.

What is included in the term goods?
The term “Goods” has not been defined in the Income tax act and hence reference is made to Section 2(7) of the Sale of Goods Act, 1930 which defines goods to “mean every kind of movable property other than actionable claims and money; and includes stock and shares, growing crops, grass, and things attached to or forming part of the land which are agreed to be severed before sale or under the contract of sale”. 
For the purpose of Section 206C(1H), goods shall mean to include all goods as per above definition, however, the below goods shall be excluded since there are separate provisions u/s 206C for taxing these goods:

- Alcoholic Liquor for human consumption
- Tendu leaves
- Timber obtained under a forest lease
- Timber obtained by any mode other than under a forest lease
- Any other forest produce not being timber or tendu leaves
- Scrap
- Minerals, being coal or lignite or iron ore
- Motor vehicle (if value exceeds INR 10 Lakhs)

Apart from the above, even goods exported out of India shall be excluded. As per CBDT Circular, following are excluded and shall not be considered as ‘goods’:

(i) transactions in securities and commodities which are traded through recognized stock exchanges or cleared and settled by the recognized clearing corporation, including recognized stock exchanges or recognized clearing corporation located in International Financial Service Centre;

(ii) transactions in electricity, renewable energy certificates and energy saving certificates traded through power exchanges registered in accordance with Regulation 21 of the CERC; and

For this purpose,-

(i) "recognized clearing corporation" shall have the meaning assigned to it in clause (i) of the Explanation to clause (23EE) of section 10 of the Act;

(ii) "recognized stock exchange" shall have the meaning assigned to it in clause (ii) of the Explanation 1 to sub-section (5) of section 43 of the Act; and

(iii) "International Financial Services Centre" shall have the meaning assigned to it in clause (q) of section 2 of the Special Economic Zones Act, 2005.

If Turnover in FY 2019-20 does not exceed INR 10 crores but sales to one customer exceeds INR 50 Lakhs after 30th September, 2020, will TCS u/s 206C(1H) provisions apply to such sales?

No. The first condition for applicability of Section 206C(1H) is that the sales turnover of the preceding financial year should exceed INR 10 crores. Since the turnover in FY 2019-20 does not exceed INR 10 crores, there is no requirement of TCS even though sales consideration received from one party has exceeded INR 50 Lakhs after 30th September, 2020.

What is the limit upto which there is no liability of TCS u/s 206C(1H) on seller of goods under section 206C(1H)?

If the sales consideration received during the year from any single customer is below INR 50 Lakhs then the seller of goods will not be liable for TCS. Only when the sales consideration received for sales to any single customer during the year exceeds INR 50 Lakhs, the seller will be liable for collecting TCS on the sales consideration exceeding INR 50 lakhs made to such a
customer. The seller’s liability for TCS will be only for those customers from whom sales consideration received is more than INR 50 Lakhs in the financial year or period from each one respectively.

Whether TCS u/s 206C(1H) is to be collected on the total invoice amount inclusive of GST or only on the value of goods excluding GST?
In our opinion, TCS is to be collected on amount including GST.

Whether TCS u/s 206C(1H) has to be collected at the time of receipt of sales consideration and not at the time of raising sales invoice?
As per Section 206(1H), TCS is required to be collected at the time of receipt of sales consideration, however, TCS should be mentioned in sales invoice so that the seller is able to quantify the amount of TCS to the buyer. Please note that if sales are made before 01-10-2020 and sales consideration of such sales is received on or after 01-10-2020 then such receipts will be liable to TCS. As per example given in Press Release dated 30-09-2020, first 50 lacs of receipts on or after 01-10-2020 will not be liable to TCS. Excerpts from Press Release are quoted below:

"It has been reported in the media that TCS has been made applicable to the amount received before 1st October, 2020. It is clarified that this report is not correct. In this connection, it may be noted that this TCS shall be applicable only on the amount received on or after 1st October, 2020. For example, a seller who has received Rs. 1 crore before 1st October, 2020 from a particular buyer and receives Rs. 5 lakh after 1st October, 2020 would be required to collect tax on Rs. 5 lakh only and not on Rs. 55 lakh [i.e Rs. 1.05 crore - Rs. 50 lakh (threshold)] by including the amount received before 1st October, 2020.

It has also been reported in certain section of the media that every transaction will attract this TCS. This report is not correct. It may be noted that this TCS applies only in cases where receipt of sale consideration exceeds Rs. 50 lakh in a financial year. As the threshold is based on the yearly receipt, it may be noted that only for the purpose of calculation of this threshold of Rs. 50 lakh, the receipt from the beginning of the financial year i.e. from 1st April, 2020 shall be taken into account. For example, in the above illustration, the seller has to collect tax on receipt of Rs. 5 lakh after 1st October, 2020 because the receipts from 1st April, 2020 i.e. Rs. 1.05 crore exceeded the specified threshold of Rs. 50 lakh."

What if the customer does not have a permanent account number?
In that case, the rate of TCS u/s 206C(1H) to be collected shall be 1% of the sales consideration.

If the customer is deducting TDS under the Income Tax Act, whether the seller will be liable to collect TCS u/s 206C(1H)?
No. If the customer is deducting TDS under the Income Tax Act on the transaction, the seller will not be liable to collect TCS u/s 206C(1H).
Whether TCS u/s 206C(1H) has to be collected from all categories of customers?
The seller shall not be liable to collect TCS u/s 206C(1H) from the below category of customers:
- the Central Government, a State Government, an embassy, a High Commission, legation, commission, consulate and the trade representation of a foreign State; or
- a local authority as defined in the Explanation to clause (20) of section 10; or
- 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;

Whether TCS u/s 206C(1H) has to be collected on export sales?
No. These provisions do not apply to goods exported out of India.

Fuel supplied to non-resident airlines (Clarification given in CBDT Circular dated 29-09-2020)
The provisions of sub-section (1 H) of section 206C of the Act shall not apply on the sale consideration received for fuel supplied to non-resident airlines at airports in India.
Examples

See the below examples for clarity.

E.g. If Sales consideration is INR 70 lakhs, and since the threshold limit for applicability of TCS u/s 206C(1H) is INR 50 lakhs per customer, whether TCS u/s 206C(1H) has to be collected on INR 70 lakhs or on INR 20 lakhs?
In our opinion TCS must be collected on INR 20 lakhs. (In view of Press Release dated 30-09-2020)

E.g. Goods are sold to a customer viz. M/s PQR for INR 55 Lakhs in September 2020 and sales consideration received upto 30th September, 2020 is INR 45 Lakhs. For the period beginning from 1st October, 2020, the receipt of outstanding consideration is INR 10 lakhs. Whether the seller is liable for collecting TCS u/s 206C(1H)?
For sales consideration received Rs.10 Lakhs on or after 1st October, 2020 TCS will have to be collected on Rs.5 lakhs only. As per Press Release dated 30-09-2020 the receipt of first Rs.50 lacs is not liable for TCS. Out of the total receipt amount of Rs.55 Lakhs, first Rs.50 lakhs (Rs.45 Lakhs received in September, 2020 and Rs.5 Lakhs out of Rs.10 Lakhs received in October 2020) will not be liable to TCS. Therefore, on balance Rs.5 Lakhs, TCS will have to be collected.
E.g. If goods are sold to a customer viz. M/s PQR for INR 55 Lakhs in September 2020 and sales consideration received on 5th October, 2020 is INR 55 lakhs, whether the seller is liable for collecting TCS u/s 206C(1H)?

The provisions of section 206C(1H) will apply to sales consideration received on or after 01-10-2020. Hence the seller will be liable to collect TCS on the sales consideration received after 01-10-2020 on Rs.5 Lakhs (after deducting first Rs.50 Lakhs as per Press release dated 30-09-2020) even though the sales were made before 01-10-2020.

E.g. If goods are sold to a customer viz. M/s XYZ for INR 80 lakhs in September 2020 and for INR 35 lakhs in October 2020, on what amount is the seller liable to collect TCS u/s 206C(1H)?

The applicability of Section 206C(1H) is triggered when sales to a customer exceeds INR 50 lakhs in aggregate during a financial year. In our opinion, for this purpose, the sale of goods for the period before 1st October, 2020 has also to be considered. In the given example, sales up to 30th September, 2020 is INR 80 lakhs which is above INR 50 lakhs, hence the applicability of Section 206C(1H) is triggered. The seller will be liable to collect TCS on whatever amount is collected on or after 01-10-2020, subject to exemption of threshold amount of receipt of Rs.50Lakhs.

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sales up to September 2020</td>
<td>INR 80 Lakhs</td>
</tr>
<tr>
<td>Sales in October 2020</td>
<td>INR 35 Lakhs</td>
</tr>
<tr>
<td><strong>Total Sales in FY 2020-21</strong></td>
<td>INR 115 Lakhs</td>
</tr>
<tr>
<td>Receipts after 01-10-2020</td>
<td>INR 115 Lakhs</td>
</tr>
<tr>
<td><strong>Amount liable to TCS u/s 206C(1H)</strong></td>
<td>INR 65 Lakhs (after deducting first Rs.50 Lakhs)</td>
</tr>
</tbody>
</table>

E.g. If goods are sold to a customer viz. M/s XYZ for INR 30 lakhs in September 2020 and for INR 35 lakhs in October 2020. The total sales is Rs.65 Lakhs. The seller has received Rs.10 lakhs on 29-09-2020 and balance Rs.55 Lakhs on 01-11-2020, On what amount is the seller liable to collect TCS u/s 206C(1H)?

The seller will be liable to collect TCS on INR 15 Lakhs (as and when the amount is received from the customer and after deducting receipt of first Rs.50 Lakhs ) which is the sales consideration received in the period from which the provisions of section 206C(1H) have become applicable i.e. from 1st October, 2020.
### What are the due dates for payment and filing returns for the TCS so collected?

<table>
<thead>
<tr>
<th>Month in which TCS collected</th>
<th>Due date for payment of tax</th>
<th>Due date for filing return</th>
</tr>
</thead>
<tbody>
<tr>
<td>April</td>
<td>7th May</td>
<td>15th July</td>
</tr>
<tr>
<td>May</td>
<td>7th June</td>
<td>15th October</td>
</tr>
<tr>
<td>June</td>
<td>7th July</td>
<td>15th January</td>
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<td>July</td>
<td>7th August</td>
<td></td>
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<tr>
<td>August</td>
<td>7th September</td>
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<tr>
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<td>7th October</td>
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<tr>
<td>October</td>
<td>7th November</td>
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<td>November</td>
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<td>January</td>
<td>7th February</td>
<td>15th May</td>
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<tr>
<td>February</td>
<td>7th March</td>
<td></td>
</tr>
<tr>
<td>March</td>
<td>7th April</td>
<td></td>
</tr>
</tbody>
</table>

### Questions?

For more information on India’s new Tax Collection at Source as well as other investment incentives and opportunities for doing business in India, please contact MGI Worldwide’s Tax Experts at C.R. Sharedalal & Co. in Gujarat, India:

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