

BPS Consultants LLP

159/3, Smruti building, Jawahar nagar, Road no.2, Goregoan (W), Mumbai – 400062

Tel: 022 28737904 / Email: shahpathik123@gmail.com

Scheme of TCS provisions as contained in section 206C

- Who shall collect tax under section 206C(1H)

Every **seller** of **goods** is liable to collect tax from the **buyer** under this provision in the following circumstances-

1. The term '**seller**' is defined in the provision itself to mean any person. Thus an individual, firm, HUF, company, trust, AoP, BoI, society, - all are covered, who sells goods to buyers whether in wholesale or retail.

2. Only sellers of goods are covered by this provision. Services are not covered. If a person sells goods as well as render services, then **tax shall be collected only on the sale of goods. No tax shall be collected on the sale of services.** If the seller is a registered supplier under GST laws, GST will be charged on both the invoices for sale and services.

3. The seller must be a person whose total sales, gross receipts or turnover from the business carried on by him exceed Rs. 10 crore during the financial year immediately preceding the financial year in which the sale of goods is carried out.

All the sellers are not covered under this provision. Only those sellers of goods whose turnover or gross receipts in the preceding financial year exceeds Rs. 10 crore are only liable to collect tax under this provision.

In computing the threshold limit of Rs. 10 crore, the sale of goods, as well as sale of services, will be counted and added.

Further, in computing the total sales/turnover/gross receipts, the amount of GST shall be included. This is by virtue of the specific provisions of section 145A.

Example 1: Rakesh Trading & Servicing Co. is a partnership firm and sells refrigerators. It also provides repairing, maintenance services of the refrigerators. During the FY 2019-20, its turnover from sale of a refrigerator is Rs. 8 crore and income from repairing and maintenance services is Rs 4 crore. The

rate of GST is 18% in both cases. Determine whether the firm is liable to collect TCS in the FY 2020-21.

For the applicability of a provision of section 206C(1H) for the FY 2020-21, its turnover for the FY 2019-20, the immediately preceding financial year, is to be considered.

Computation of turnover of M/s Rakesh Trading & Servicing Co. for the FY 2019-20:

Particulars	Amount (in Rs./Crore)
Sale of refrigerator	5.00
Sale of Services	4.00
Add: GST @ 18%	1.62
Turnover for the FY 2019-20	10.62

Since the turnover of M/s Rakesh Trading & Servicing Co. exceeds Rs. 10 crore including GST, it is liable for TCS u/s 206C(1H) from the sale of goods in the FY 2020-21.

4. The Central Government may by a notification exclude any person, being a seller, from the applicability of provisions of section 206C(1H).

5. The seller must sell the goods to the buyer. Thus if the seller draws the goods for personal consumption, it will not come under the purview of TCS since one cannot sell to himself.

6. The term '**buyer**' is defined in the provision itself to mean any person who purchases any goods. In other words, a buyer is a person who purchases the goods from the seller. However, the term 'buyer' does not include the followings-

(i) the Central Government, a State Government, an embassy, a High Commission, legation, commission, consulate and the trade representation of a foreign State; or

(ii) a local authority as defined in the Explanation to clause (20) of section 10; or

(iii) 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;

Thus if a seller even if preceding year turnover exceeds Rs. 10 crore and sells goods for more than Rs. 50 Lakh to the Central Government, State Government or other excluded persons as mentioned above, he shall not collect TCS on such sale of goods.

Further, it may be noted that **Government entities or corporations are not exempt** from the TCS provisions. They will be considered as buyers for the purpose of section 206C(1H).

7. The seller shall collect the tax or TCS from the buyer only if he receives consideration of more than Rs. 50 Lakh in a previous year in aggregate from the buyer towards the sale of any goods. This shall apply per buyer basis. It does not apply when the per buyer receipt of sale consideration does not exceed Rs. 50 Lakh but exceeds Rs. 50 Lakh in aggregate from more than one buyer.

Example 2: Continuing from Example-1, Suppose M/s Rakesh Trading & Servicing Co. receives the following amount from the buyers during FY 2020-21 as sales consideration for the sale of goods-

Buyers	Amount Received during FY 2020-21	Remarks
Buyer A	Rs. 25,00,000	No TCS shall apply
Buyer B	Rs. 35,00,000	No TCS shall apply

In the above case, no TCS shall apply even if the seller is liable to collect TCS. This is because receipt of consideration from a single buyer does not exceed Rs. 50 Lakh, though in aggregate receipt from all the buyers exceeds Rs. 50,00,000. This fact is irrelevant.

Suppose, the firm receives Rs. 51,00,000 from Buyer C then it shall collect TCS from Buyer C only.

Buyers	Amount Received during FY 2020-21	Remarks
Buyer A	Rs. 25,00,000	No TCS shall apply
Buyer B	Rs. 35,00,000	No TCS shall apply
Buyer C	Rs. 51,00,000	TCS shall apply on in this case

The TCS shall be collected when the seller receives the amount of sale consideration from the buyer and not at the time of issuing invoices.

Meaning of 'goods' for section 206C(1H)

8. The term 'goods' is neither defined in the provision nor the Income Tax Act has defined the term 'goods'. The provision simply states the sale of any goods. It means goods of all kinds are covered. However, the sale of the following goods are excluded, since on these goods TCS provisions are already covered, except for export of goods-

Goods covered in section 206C(1)	This sub-section covers alcoholic liquor, forest produce, scrap, etc. as 'goods'
Goods covered in section 206C(1C)	This includes lease or a licence or enters into a contract or otherwise transfers any right or interest either in whole or in part in any parking lot or toll plaza or mine or quarry
Goods covered in section 206C(1F)	This includes motor vehicle
Goods exported out of India	

When to collect TCS on sale of goods u/s 206C(1H)

The trigger point to collect the TCS on sale of goods u/s 206C(1H) is the '**receipt of consideration**' from the buyer and not at the time of issuing invoices to the buyer. Therefore, TCS under this section shall be required to be collected at the time of receipt of sales consideration from the buyer. It should be noted that even if the seller receives '**advance money**' from the buyer for sale of goods, the seller is liable to collect TCS on the advance amount.

Every time the seller receives part of the sale consideration in advance, the seller is mandated to deduct TCS under Section 206C(1H). The difficulty arises in the calculation of the amount when TCS is deducted on multiple advance payment transactions and when payments transactions are adjusted against Invoice amount.

If the seller sells the goods on a cash basis i.e. cash sale, the seller can collect the TCS immediately. It would not create any compliance problem as the seller can charge the TCS on the invoice itself.

However, the situation is not the same in the case of credit sale where the seller issues invoices on sale of goods and receives the consideration at a later date. Since at the time of issue of invoices, he cannot charge TCS under this provision, how will he comply with the provisions of section 206C(1H) when he receives the consideration. It appears that he has to raise a separate 'Debit note' for TCS as and when the seller receives the payment from the buyer. It is also possible that the seller does not receive

the payment of the whole invoice but on installments. In such a situation, it would lead to great trouble to keep a track on the threshold limit and issue of the debit note. Further, it would be a matter of great concern for the seller if the transaction with the buyer is not regular or if the buyer refuses to pay the TCS separately later on. This may lead to high compliance cost to the seller.

Alternatively, in order to remove complexities and to simplify the matter, the seller may charge the TCS amount on the invoice and after receipt of consideration from the buyer shall deposit the same to the credit of the central government within the prescribed time limit to be computed from the month in which consideration is actually received.

What is the rate of TCS on sale of goods u/s 206C(1H)

The **rate of TCS on Sale of Goods under section 206C(1H)** is **0.1% of Sales Consideration** if the buyer provides his PAN or Aadhaar Number to the seller.

If the buyer fails to provide his valid PAN or Aadhaar Number, then the **rate of TCS on Sale of Goods under section 206C(1H)** shall be **1% of the Sales Consideration**, instead of 0.1%.

CBDT vide [Press Release dated 13.05.2020](#) has **reduced the rate of TCS under section 206C(1H) from 0.1% to 0.075%** which shall be applicable **from 01-10-2020 to 31-03-2021**. However, where the buyer does not provide his valid PAN/ Aadhaar there is no reduction in rate of TCS and the prescribed rate of 1% shall prevail. From 01-04-2021, the prescribed rate will prevail unless the benefit is extended.

Rate of TCS u/s 206C(1H) for sale of goods (other than Alcohol, Tendu Leaves, Timber, Forest Produce, Scrap, Coal, Lignite, Iron or a Motor Vehicle)

Nature	Rate of TCS from 1-10-20 to 31-3-21		Rate of TCS from 1-4-21	
	PAN/Aadhaar available	No PAN/Aadhaar case	PAN/Aadhaar available	No PAN/Aadhaar case
Sale of Goods u/s 206C(1H)	0.075%	1%	0.1%	1%

What is the effective date of applicability of provisions for TCS on sale of goods u/s 206C(1H)

When the Finance Bill, 2020 was introduced it was originally proposed to be made effective from 01-04-2020. But the Finance Act, 2020 has deferred the **applicability of the provisions of section 206C(1H) to 01-10-2020.**

What is the threshold limit for applicability of section 206C(1H) and how to compute the threshold limit

The **threshold limit prescribed for the applicability of TCS on sale of goods u/s 206C(1H) is Rs. 50,00,000 in a financial year in respect of each buyer.**

The law provides that the threshold limit is required to be computed with reference to the amount of sales consideration received during a previous year. Thus the limit is not linked to the amount of sales made in a previous year but it is linked with the amount of consideration received during a previous year. The receipt thus may include receipt of consideration from the preceding year sales also.

For example, if the seller (liable for TCS under this provision) sold goods worth Rs. 40 Lakh to a buyer in the FY 2020-21 and collected Rs. 10 Lakh in the FY 2020-21.

In the next FY 2021-22, he sold goods worth Rs. 30 Lakh to the same buyer. In the FY 2021-22, the buyer paid all the due amount of Rs. 60 Lakh. The liability to collect tax under section 206C(1H) shall arise in FY 2021-22 since the amount collected is more than Rs. 50 Lakh in the FY 2021-22.

Further, TCS shall be required to be collected on the amount received in excess of Rs. 50 Lakh. Thus in the given example, tax shall be collected under section 206C(1H) on Rs. 10 Lakh and not on the entire amount of Rs. 60 Lakh.

Thus, TCS will be collected on Trade Receivables outstanding as on 30th September 2020 and received on or after 1-10-2020.

It is really harsh to charge TCS on receipt of consideration against the sales effected when the provisions were not in existence. Therefore, a contrary view is also not ruled out.

CBDT should come out with a clarification on applicability of TCS on Trade Receivables outstanding as on 30th September 2020 and received on or after 1-10-2020.

Computation of threshold limit for FY 2020-21

The provisions of section 206C(1H) shall come into effect from 01-10-2020. The limit of Rs. 50 Lakh is given for a financial year. Thus the limit of Rs. 50 Lakh receipt of sales consideration shall be computed from 1-4-2020 itself but liability to collect TCS shall apply from 1-10-2020.

Thus, TCS shall be collected under various situations as given below-

Amount Collected from 1-4-2020 to 30-9-2020	Amount collected from 1-10-2020 to 31-03-2021	Remarks
Rs. 40 Lakh	Rs. 20 Lakh	TCS on Rs. 10 Lakh Rs. 60 Lakh - Rs. 50 Lakh shall be collected
Rs. 55 Lakh	Rs. 12 Lakh	TCS shall be collected on Rs. 12 Lakh. Since the threshold limit already crossed before 1st Oct., all the subsequent collection shall attract TCS.
Rs. 20 Lakh	Rs. 25 Lakh	No TCS shall be required since the threshold limit of Rs. 50 Lakh not crossed.

It is assumed that the seller is liable to collect TCS u/s 206C(1H) since his turnover in the preceding FY exceeds Rs. 10 crore.

Due date for filing of TCS statements

After collecting the TCS and deposit of the same to the credit of the government account, the seller is required to furnish a **quarterly statement of TCS** to the income tax authority in electronic mode in **Form 27EQ** within the following due dates- **[Section 206C(3) read with Rule 31AA)**.

Sl. No.	Quarter of the financial year ended	Due date of furnishing TCS statement
1.	30th June	15th July of the financial year
2.	30th September	15th October of the financial year
3.	31st December	15th January of the financial year
4.	31st March	15th May of the financial year immediately following the financial year in which collection is made

Late Fees: In case of delay in furnishing the TCS statements beyond the due date specified above in the table, late fees of Rs. 200 per day shall be required to be filed by the seller before furnishing the belated statements. The amount of late fees shall not exceed the amount of TCS. [Section 234E]

Due date to Issue the TCS Certificates to the buyers

After furnishing the TCS statements, the seller is required to issue certificate of TCS to the buyer in Form no. 27D as per section 206C(5) read with Rule 37D within 15 days from the due date for furnishing the statement of tax collected at source specified under Rule 31AA-as specified above.

Thus the due date for furnishing the TCS certificates are as under-

Sl. No.	Quarter of the financial year ended	Due date of furnishing TCS statement	Due date of issuing TCS certificates
1.	30th June	15th July of the financial year	30th July of the financial year
2.	30th September	15th October of the financial year	30th October of the financial year
3.	31st December	15th January of the financial year	30th January of the financial year
4.	31st March	15th May of the financial year immediately following the financial year in which collection is made	30th May of the financial year immediately following the financial year in which collection is made

Conclusion

The provisions of TCS have been in the statute for a long time. However, this time, these changes introduced by section 206C(1H) 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. At the end one should keep in mind that TCS has to be collected in the following scenario w.e.f. 01.10.2020.

1. If the sales, turnover or gross receipts of the person selling goods is more than Rs. 10 crores during the financial year 2019-2020.
2. The seller sells goods of value Rs. 50 lakhs or more either in single transaction or in aggregate during the financial year 2020-2021.

3. The seller is not liable to collect tax on sale of goods under any other sub section (1), (1F) or (1G) of the value of goods sold by him.
4. The buyer is not liable to deduct any TDS on the transaction.

The amount of turnover of Rs. 10 crore and the sale transaction with the buyer in excess of Rs. 50 Lakh gives the impression that the provisions of section 206C(1H) intends to cover B2B transactions.