

TCS on sale of Goods

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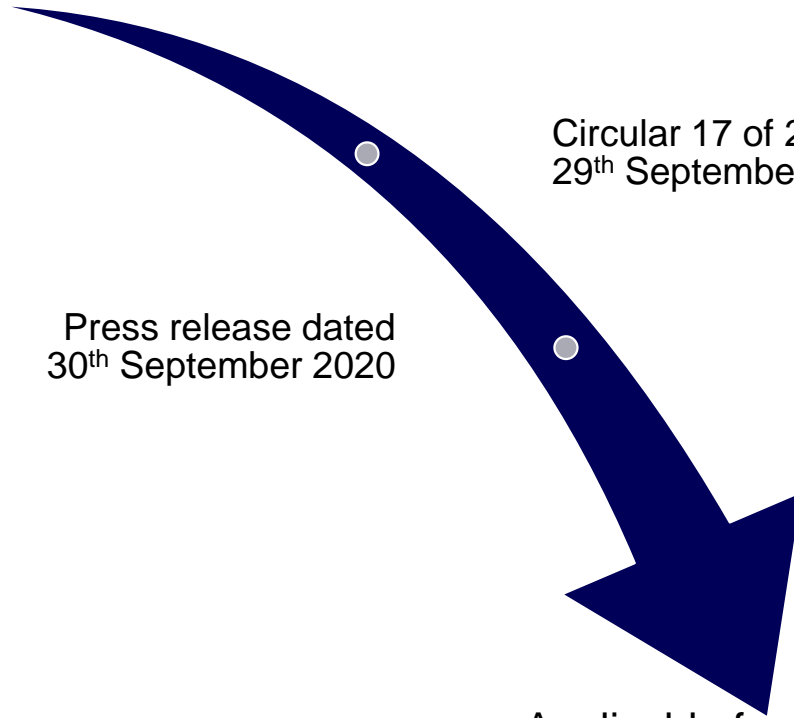
Sub-section (1H)
of section 206C
of Income Tax
Act, 1961

Inserted vide Finance Act, 2020
dated 27th March 2020

Circular 17 of 2020 dated
29th September 2020

Press release dated
30th September 2020

Applicable from 1st October
2020



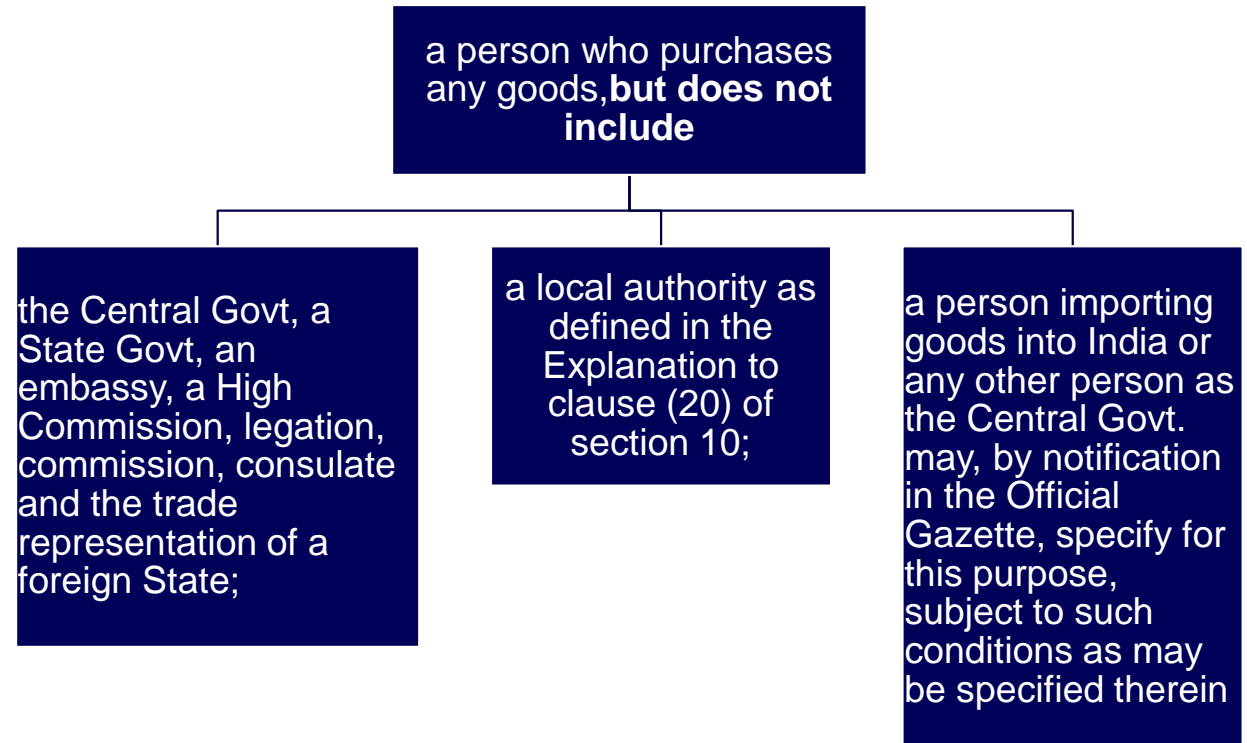
Legal provision (reconstructed)

- Sec. 206C(1H) - Every person, being a **seller**, who **receives any amount as consideration for sale of any goods of the value or aggregate of such value exceeding Rs. 50 lakhs in any previous year**, shall at the **time of receipt of such amount**, collect from the **buyer**, a sum equal to **0.1 % of the sale consideration exceeding Rs. 50 Lakhs** as income tax.
- However, if the buyer has not provided the PAN or the Aadhaar number to the seller, then the applicable rate of TCS will be 1%.

Analysis

Essentials	Particulars
Trigger	Seller receives <u>any amount</u> as consideration
Condition	sale of any goods of the value or <u>aggregate of such value</u> exceeding Rs. 50 lakhs in ANY Previous Year
Time of collection	receipt of such amount
Amount on which TCS is to be collected	sale consideration exceeding Rs. 50 Lakhs
Rate of TCS	<ul style="list-style-type: none">• 0.1% normally• 1% if no PAN/ Adhaar

Who is a Buyer?



Who is a Seller?

means a person

whose total sales, gross receipts or turnover from the business carried on by him exceed Rs. 10 crore during the FY immediately preceding the FY in which the sale of goods is carried out

not being a 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.'

What is goods?

- Section 2(7) of Sale of Goods Act, 1930 defines 'goods' to *inter alia* mean every kind of movable property other than actionable claims and money and includes stocks and shares.
- Sec 206C (1H) shall not apply to transactions in securities and commodities what are traded through or cleared or settled by the recognized stock exchanges including International Financial Services Centre.
- Transactions in electricity, renewable energy certificates and energy saving certificates traded through power exchanges registered under CERC.

When TCS is not required?

- The goods are being exported out of India.
- The goods are liable to TCS under 206C(1) or 206C(1F) or 206C(1G).
- Where the buyer is liable to deduct TDS under any other provision of this Act on the goods purchased by him from the seller and has deducted such amount.
- Fuel supplied to non-resident airlines at airports in India

What are Compliance Action required?

- Upto 31st March 2021, the reduced rate of 0.075% is applicable.
- TCS remission in challan ITNS 281 within 7th day of subsequent month
- TCS statement to be filed quarterly in Form 27EQ.
- A certificate of tax collection is to be given in for 27D.

Whether TCS is to be collected at the time of invoice or Collection?

- Though TCS is to be paid at the time of receipt of consideration, it will be practically difficult to raise demand against the buyer after the sale is completed.
- It is advisable to collect TCS in the invoice raised for sale of goods.
- The seller can also raise a debit note on the buyer to collect TCS.

Adjustment for sales return, discount, GST etc.

- No adjustment on account of sale return or discount or indirect tax including GST is required to be made for collecting TCS u/s 206C(1H) since the collection is made with reference to receipt of amount of sale consideration.
- I.e. TCS will be applicable on the amount which would be received by the seller as sale consideration. For example:

Particulars	Rs.
Value of goods	50,00,000
Less: discount (10%)	(5,00,000)
Taxable value	45,00,000
Add: IGST @18%	8,10,000
Gross amount	53,10,000
Add: TCS @ 0.075% on 3,10,000	232.50
Amount to be collected	53,10,232.50

Whether sales
made to PSU
owned by the
Government
subject to
TCS?

- As per the section, exemption has been granted only in respect of sales made to Central Government or State Government.
- Companies owned wholly or substantially by the government are not Government *per se* and hence not exempt from TCS u/s 206C(1H).

Whether GST will be attracted on TCS?

- No. GST will be calculated only on the sale price and not on TCS.
- (corrigendum to circular No. 76/50/2018-GST dated 07.03.2019)
- The CBDT has clarified that Tax collection at source (TCS) is not a tax on goods but an interim levy on the possible “income” arising from the sale of goods by the buyer and to be adjusted against the final income- tax liability of the buyer.

Case 1

- ABC Ltd. sold goods to M/s. XYZ & Co. for Rs. 75 Lakhs on 10/05/2020. The consideration was received on 17/07/2020. Is ABC Ltd. liable to collect TCS?

Essentials	Whether satisfied?
receives any amount as consideration	No, consideration received before 01.10.2020
sale of any goods of the value or aggregate of such value exceeding Rs. 50 lakhs in any Previous Year	NA
Time of Collection?	NA
Amount on which TCS is collected?	NA

Case 2

- A Ltd. sold goods on 15/01/2020 worth Rs. 1 Crore to B Ltd. The entire sale consideration was received on 15/10/2020. Is A Ltd. liable to collect TCS?

Essentials	Whether satisfied?
Triggered?	Yes, consideration received after 01/10/2020
Sale of any goods of the value or aggregate of such value exceeding Rs. 50 lakhs in any PY?	Yes. The word used is 'any' PY. Therefore, sale need not take place in PY 2020-21 itself.
Time of Collection?	15/10/2020
Amount on which TCS is collected?	Rs. 50 Lakhs (Rs. 1 crore less Rs. 50 Lakhs)

Case 3

- A Ltd. sold goods valuing Rs. 30 Lakhs in FY 2018-19 and goods valuing Rs. 35 lakhs in FY 2019-20 to B Ltd. The entire sale consideration was received on 15/10/2020. Is A Ltd. liable to collect TCS?

Essentials	Whether satisfied?
Triggered?	Yes, consideration received after 01/10/2020
sale of any goods of the value or aggregate of such value exceeding Rs. 50 lakhs in any Previous Year	No. The value or aggregate value of sale in any PY does not exceed Rs. 50 Lakhs.
Time of Collection?	NA
Amount on which TCS is collected?	NA

Case 4

- A Ltd. sold goods to B Ltd. for Rs. 75 Lakhs on 10/05/2020 and the entire consideration was received on 17/06/2020. A Ltd. further sold goods for Rs. 40 Lakhs on 08/09/2020 and the payment was received on 17/10/2020. Is A Ltd. liable to collect TCS?

Essentials	Whether satisfied?
Triggered?	Yes, consideration received after 01/10/2020
sale of any goods of the value or aggregate of such value exceeding Rs. 50 lakhs in any Previous Year	Yes, Value or aggregate value of sale of goods in any PY exceeds Rs. 50 Lakhs (Rs.115 lakhs here)
Time of Collection?	17/10/2020
Amount on which TCS is collected?	<ul style="list-style-type: none">• On 40 Lakhs. Para 3 of press release dated 30/09/2020

Case 5

- A Ltd. received Rs. 70 lakhs as advance on 05/06/2020 from B Ltd. A Ltd. sold goods on 15/10/2020. Is A Ltd liable to collect TCS?

Essentials	Whether satisfied?
Triggered?	No, consideration received before 01/10/2020
sale of any goods of the value or aggregate of such value exceeding Rs. 50 lakhs in any Previous Year	NA
Time of Collection?	NA
Amount on which TCS is collected?	NA

Case 6

- A Ltd. received Rs. 70 lakhs as advance on 15/12/2020 from B Ltd. Sale of goods is yet to be made. Is A Ltd liable to collect TCS?

Essentials	Whether satisfied?
Triggered?	Yes, consideration received after 01/10/2020
sale of any goods of the value or aggregate of such value exceeding Rs. 50 lakhs in any Previous Year	The word used is 'consideration for sale of goods'. Conservative view, it covers advances also.
Time of Collection?	15/12/2020
Amount on which TCS is collected?	20 Lakhs (Rs.70 lakhs – Rs. 20 lakhs)

Thank You