



Tax Collected at Source (TCS) on Sale of Goods

30 September 2020

Statutory Provisions

- ▷ To widen the tax net, the Finance Act, 2020 introduced a new sub-section (1H) in Section 206C of the Income Tax Act, 1961 ('the Act') to cover transactions being sale of goods, consideration of which exceeds INR 50 Lakhs. The said provision is effective from **01 October 2020**.
- ▷ Overview of the provision is as tabulated below:

Particulars	Description
Applicability	Any "Seller" receiving any amount of consideration on sale of goods carried out by him shall collect TCS from the "Buyer".
Threshold Limit	<u>Seller:</u> Total sales, gross receipts or turnover from business <u>exceeds INR 10 crore</u> in the <u>preceding financial year</u> . <u>Buyer:</u> The value or aggregate value of consideration of every single buyer should <u>exceed INR 50 lakhs during</u> the year.
Rate of TCS	<ul style="list-style-type: none">• 0.1% of the Sale consideration exceeding INR 50 lakhs• Up to 31st March 2021, the TCS rate is reduced by 25% (by virtue of Press release dt. 13 May, 2020), i.e. 0.075%.• 1% in case the buyer hasn't provided the PAN/ Aadhar. <u>Reduced rate is not applicable in case PAN/ Aadhar is not provided.</u>

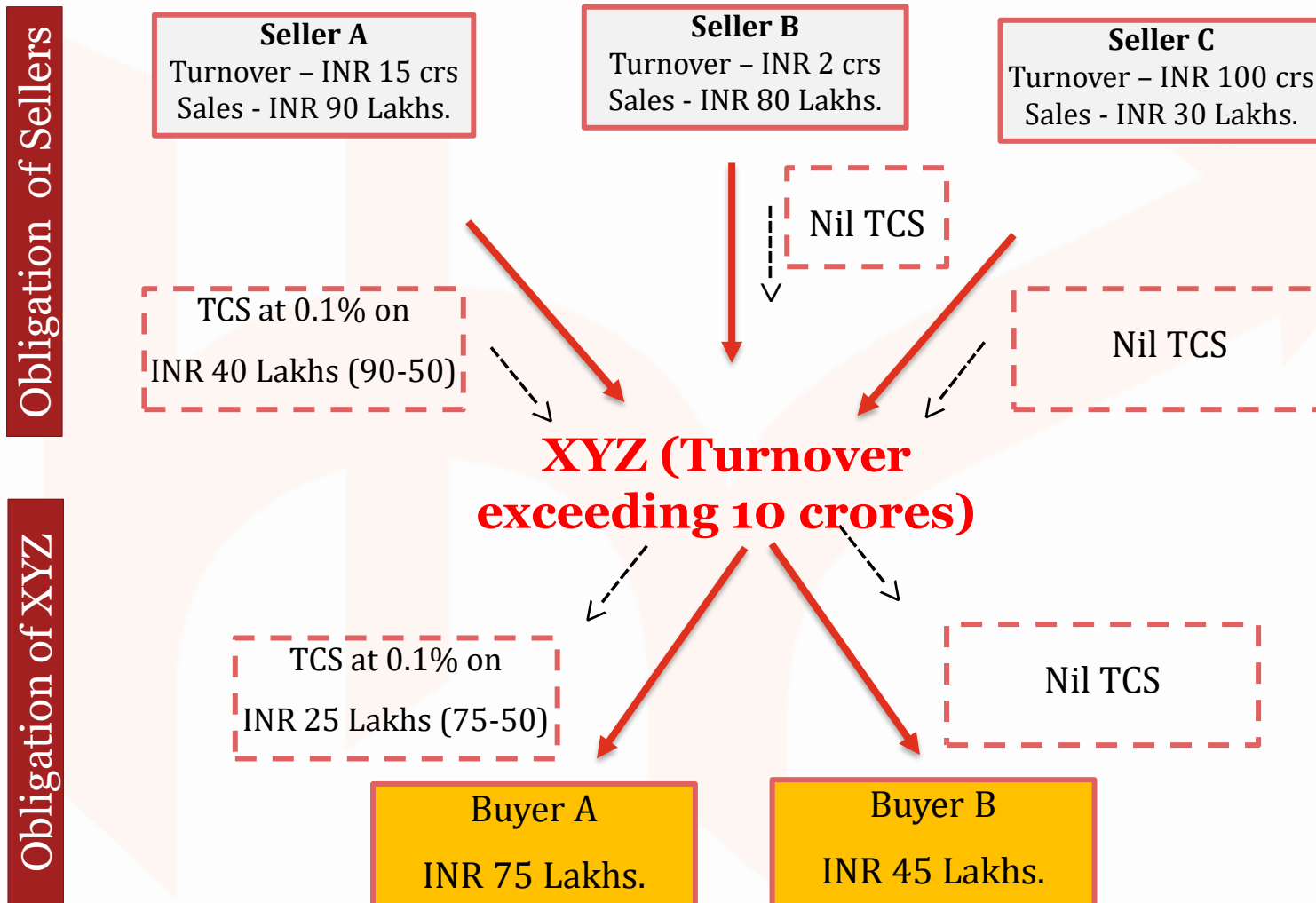
Statutory Provisions

Particulars	Description
Liability to collect	On receipt of consideration from the buyer.
Compliance procedures	<p>The seller has to comply with the following procedures as per Rule 37CA:</p> <ul style="list-style-type: none">• The tax collected has to be deposited by the 7th of the following month in which it is collected.• Quarterly returns in Form 27EQ to be filed.• Certificate of TCS in Form 27D to be issued within 15 days by the seller to the buyer.
Certificate for Lower Withholding of taxes	Section 206C(9) provides that the buyer can obtain a Lower Withholding tax certificate from the Assessing Officer in respect of transactions specified under sub-section (1) & (1C). No such relief is applicable for sub-section (1H). Hence, Nil/ lower withholding application cannot be made for TCS on purchase of goods under section 206C(1H).

Statutory Provisions

Particulars	Description
Non-applicability	<ul style="list-style-type: none">• Where the buyer is liable to TDS provisions on purchase of goods from the seller, and he has deducted such tax.• On Import and/ or Export of goods• Goods which are subject to TCS under other sub-sections of Section 206C viz. Tendu leaves, Scrap, Motor vehicles, Overseas Tour programme, etc.• Where the buyer is the Central Government, State Government, an embassy, a High Commission, a Consulate, a local authority or any other notified person. <p>Following transactions have also been excluded vide <u>CBDT Circular No. 17 of 2020 dt. 29 September 2020</u></p> <ul style="list-style-type: none">• Transactions in securities and commodities traded through recognized stock exchanges• Securities and commodities cleared and settled through recognized clearing corporation (incl. recognised stock exchanges, recognized clearing corporations located in International Financial Service Centre)• Transactions in electricity, renewable energy certificates and energy saving certificates traded through recognized power exchanges.

Illustration



Practical issues under consideration

Issues	View
Definition of Goods	<p>The term "goods" is not defined under the Act. Therefore it would be appropriate to borrow the definition from the Sale of Goods Act, 1930 which includes all movable properties except money and securities but includes actionable claims, growing crops, grass and things attached to or forming part of the land. Therefore, any seller dealing with such goods will have to collect TCS on sale of goods.</p> <p>The definition of goods includes jewellery. The Finance Act, 2017 omitted the subsection (1D) with respect to collection of TCS on sale of jewellery. With the introduction of sub-section (1H) and the wide scope of the term goods, sale of jewellery beyond the threshold limit shall now be covered under (1H).</p> <p>Sale of immovable properties are not covered under the definition of "Goods" and will not require TCS collection by the seller where the value or aggregate value exceeds INR 50 lakhs. It is pertinent to note in this regard that Section 194-IA covers only those transactions where the value of single immovable property is above INR 50 lakhs. Where the value is less than INR 50 lakhs, such transactions are neither covered under Section 194-IA nor Section 206C(1H) of the Act.</p>

Practical issues under consideration

Issues	View
TCS on Trade Receivables as on 30 th September 2020	<p>The said sub-section is effective only from 01 October, 2020, i.e. the legal obligation to comply arises only from 01 October, 2020. Since the point of collection is on receipt of consideration, any consideration received after 01 October, 2020 shall be subject to TCS under this section, even if the sale was concluded prior to 01 October, 2020. (clarified vide Circular 17 of 2020)</p> <p>Hence TCS on Trade Receivables (as on 30th September, 2020) shall be applicable as and when they are collected, on or after 1 October 2020.</p>
TCS on GST amount	<p>The subsection used the phrase “.... <i>Any amount as consideration...</i>”. As per Section 145A(iii) of the Act, the valuation of purchase and sale of goods shall be adjusted to include <i>inter alia</i> for the amount of any tax, duty, cess or fee.</p> <p>The CBDT has clarified that no adjustment on account of indirect taxes including GST is required. (Circular 17 of 2020)</p> <p>Hence, if the amount received by the seller is inclusive of GST, TCS has to be levied on the entire receipt amount.</p>

Practical issues under consideration

Issues	View
Advance Consideration	<p><u>Received before 01 October, 2020 for sales concluded after 01 October, 2020</u></p> <p>The liability to collect TCS is triggered on receipt of consideration. In the given situation, advance is received prior to conclusion of sale. Hence, no obligation to collect TCS arises.</p> <p><u>Received after 01 October, 2020 for sales not recognised during FY 2020-21</u></p> <p>Since the consideration is received after 01 October, 2020, even though the sale is not made/ recognised within the said FY, TCS is required to be collected on such advances received.</p>
Consideration in kind	<p>TCS is required to be collected on <u>“any amount of consideration”</u> by the seller either in kind or adjustment against the existing liability or third party adjustments, provided, the buyer approves of such adjustment.</p> <p>The point of collection of TCS in such case would be the time of passing such adjustment entry in the books of accounts of the seller</p>

Practical issues under consideration

Issues	View
Sales Returns	<p>It is clarified by the CBDT (Circular No. 17 of 2020) that no adjustments for Sales returns is required to be made since TCS is collected on receipt basis.</p> <p>Example: Date of Sales: 01st October 2020; Consideration : INR 60 Lakhs Receipt of Consideration: 10th October 2020 TCS applicable on INR 10 lakhs (60-50) at the applicable rate. Sales Returned on: 15th October, 2020 for INR 5 lakhs</p> <p>Subsequent Sales on 20th October 2020 for INR 20 lakhs Receipt of Consideration: 25th October 2020 for INR 15 lakhs (after adjusting for Sales return of INR 5 lakhs) TCS will be collected on INR 15 lakhs at the applicable rate.</p> <p>TCS for the month of October 2020 shall be payable on INR 25 lakhs by 7th November 2020.</p>

Practical issues under consideration

Issues	View
Should the threshold limit of Buyer be considered from 01 April, 2020 or 01 October, 2020	Since the provision is applicable only from 01 October, 2020, no TCS is required to be collected on the amount of consideration received prior to the said date. However, the threshold limit of INR 50 lakhs, is with respect to the previous year, the calculation of INR 50 lakhs shall be from 01 April, 2020. This has been clarified by the CBDT vide Circular No. 17 of 2020.
TCS to be shown in Sales invoice or receipt advice	There is no statutory requirement to disclose the TCS amount in the invoice or receipt note. In order to have adequate control over the collection of TCS, it is advisable that the seller considers it as a part of the invoice or receipt advice.
Tax Credit Mismatch (Form 26AS) in the buyer's books	The buyer will maintain his books of accounts on mercantile basis. But, the liability to make TCS payment by the seller arises only when he receives the consideration. The Form 26AS will show the TCS amount only when the seller makes the payment and subsequently files the quarterly returns. Hence, there will be a mismatch on this account and would require a reconciliation of books of accounts and Form 26AS.

Practical issues under consideration

Issues	View
TCS on Bad Debts recovered	The TCS provisions will be applicable on of recovery of bad debts which have been written-off by the seller earlier and accordingly the seller has to collect and pay TCS on the recovered amount. (Circular 17 of 2020)
Goods sold to SEZ units/ EOU	Sales made to SEZ units and EOUs are “deemed exports”, and the goods remain within the territory of India and are not exported <i>out of India</i> . Hence, TCS provisions shall be applicable on such sales.
TCS on Composite Contracts	Where TDS is deducted on the entire value of the Contract, TCS provisions shall not be applicable. Where TDS is not deducted on the goods component, the seller is required to collect TCS on the value goods sold.
TCS on Sale of Software	In case tax is deducted under section 194J, no collection of TCS under this sub-section is required. However, where for any reason, TDS is not deducted, it is imperative to carefully analyse whether the software represents goods or services and accordingly apply the TCS provisions.

Practical issues under consideration

Issues	View
TCS on Sale of Fixed Assets	There is no distinction between sale of capital goods and stock-in-trade as per the said sub-section. Thus, TCS shall be collected on sale of fixed assets as well.
TCS on refundable advance received	Refundable advance received are in the nature of deposits received from the buyer and hence does not attract the provisions of this sub-section.
TCS on motor vehicles sold to dealers	TCS under section 206C(1F) is applicable where the value of vehicle (single) sold is more than Rs 10 lakhs. Where the value of vehicle (single) sold is less than Rs 10 lakhs and the aggregate value of all vehicles sold exceeds Rs 50 lakhs, the Seller would be required to collect TCS at the applicable rate under section 206C(1H). This has been clarified by the CBDT vide Circular No. 17 of 2020.
TCS on fuel supplied to non resident airlines	It has been clarified by the CBDT vide Circular No. 17 of 2020 that the provisions of section 206C(1H) shall not apply on sale consideration received for fuel supplied to non resident airlines at airports in India.

Thank You !

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