

New amendments in the provisions of Tax deducted at source and Tax collection at source – effective from 1st October 2020

Section	Incidence of tax	Who is to take action	On whom action to be taken	Rate of tax	Threshold, if any
194-O	The TDS is to be paid by e-commerce operator for sale of goods or provision of service facilitated by it through its digital or electronic facility or platform	E-commerce operator	E-commerce participant	1%	Sale of goods or provision of service from HUF or individual equal to Rs. 5 lakhs or above per annum. For other assessee there is no threshold limit
206C(1G)	<p>a. An authorised dealer receiving an amount or an aggregate of amounts of seven lakh rupees or more in a financial year for remittance out of India under the LRS of RBI</p> <p>b. A seller of an overseas tour program package who receives any amount from any buyer, being a person who purchases such package</p>	<p>Authorised dealer i.e., Banks</p> <p>Tour operator</p>	<p>A buyer being a person remitting such amount out of India under LRS.</p> <p>A person who purchases such overseas package</p>	<p>5%</p> <p>5%</p>	<p>Aggregate of amounts of seven lakh rupees or more in a financial year for remittance out of India under the LRS of RBI.</p> <p>No threshold for the amount collected by tour operator.</p>
206C(1H)	On consideration received from a buyer in	A seller whose total	A buyer of the goods.	0.1%	Aggregate of amount of

	a previous year in excess of fifty lakh rupees towards sale of goods other than export.	sales, gross receipts or turnover from the business carried on by it exceed ten crore rupees during the financial year immediately preceding the financial year			consideration more than 50 lakhs.
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Detailed analysis:

TDS on E-commerce transactions through insertion of a new section – 194 - O.

In order to widen and deepen the tax net by bringing participants of e-commerce within tax net, a new section 194-O in the Act is inserted so as to provide for a new levy of TDS at the rate of one per cent. with the following key points:

- The TDS is to be paid by e-commerce operator for sale of goods or provision of service facilitated by it through its digital or electronic facility or platform.
- E-commerce operator is required to deduct tax at the time of credit of amount of sale or service or both to the account of e-commerce participant or at the time of payment thereof to such participant by any mode, whichever is earlier.
- The tax at one per cent is required to be deducted on the gross amount of such sales or service or both.
- Any payment made by a purchaser of goods or recipient of services directly to an e-commerce participant shall be deemed to be amount credited or paid by the e-commerce operator to the e-commerce participant and shall be included in the gross amount of such sales or services for the purpose of deduction of income-tax.
- The sum credited or paid to an e-commerce participant (being an individual or HUF) by the e-commerce operator shall not be subjected to provision of this section, if the TDS is to be paid by e-

commerce operator for sale of goods or provision of service facilitated by it through its digital or electronic facility or platform and such e-commerce participant has furnished his Permanent Account Number (PAN) or Aadhaar number to the e-commerce operator.

- A transaction in respect of which tax has been deducted by the e-commerce operator under this section or which is not liable to deduction under the exemption discussed in the previous bullet, there shall not be further liability on that transaction for TDS under any other provision of Chapter XVII-B of the Act. This is to provide clarity so that same transaction is not subjected to TDS more than once. However, it has been clarified that this exemption will not apply to any amount received or receivable by an e-commerce operator for hosting advertisements or providing any other services which are not in connection with the sale of goods or services referred to in sub-section (1) of the section.
- “e-commerce operator” is defined to mean any person who owns, operates, or manages digital or electronic facility or platform for electronic commerce and is a person responsible for paying to e-commerce participant.
- “e-commerce participant” is defined to mean a person resident in India selling goods or providing services or both, including digital products, through digital or electronic facility or platform for electronic commerce.
- “electronic commerce” is defined to mean the supply of goods or services or both, including digital products, over digital or electronic network.
- “services” is defined to include fees for technical services and fees for professional services, as defined in section 194J.
- Consequential amendments are being made in section 197 (for lower TDS), in section 204 (to define person responsible for paying any sum) and in section 206AA (to provide for tax deduction at 5 per cent. In non-PAN/ Aadhaar cases).
- This will take effect from 1st October 2020.

Widening the scope of section 206C to include TCS on foreign remittance through Liberalised Remittance Scheme (LRS) and on selling of overseas tour package as well as TCS on sale of goods over a limit.

Indian residents can remit up to USD 250,000 under the LRS every year for various purposes such as medical treatment, gifts, maintenance of relatives abroad, foreign education and investment in real estate, stocks, and bonds. In order to widen and deepen the tax net, a new sub-section (1G) has been inserted in section 206C to levy TCS on overseas remittance and for sale of overseas tour package, as under:

- An authorised dealer receiving an amount or an aggregate of amounts of seven lakh rupees or more in a financial year for remittance out of India under the LRS of RBI, shall be liable to collect TCS, if he receives sum in excess of said amount from a buyer being a person remitting such amount out of India, at the rate of five per cent. In non- PAN/Aadhaar cases the rate shall be ten per cent. Similarly, payments for foreign education originating an education loan from a financial institution in India are subject to a lower 0.5% TCS.
- A seller of an overseas tour program package who receives any amount from any buyer, being a person who purchases such package, shall be liable to collect TCS at the rate of five per cent. In non-PAN/ Aadhaar cases the rate shall be ten per cent.
- The above TCS provision shall not apply if the buyer is, -
 - a) liable to deduct tax at source under any other provision of the Act and he has deducted such amount.
 - b) the Central Government, a State Government , an embassy, a High Commission, legation, commission, consulate, the trade representation of a foreign State, a local authority as defined in Explanation to clause (20) of section 10 or any other person notified by the Central Government in the Official Gazette for this purpose subject to such conditions as specified in that notification.
- “authorised dealer” is defined to mean a person authorised by the Reserve Bank of India under sub-section (1) of section 10 of Foreign Exchange Management Act, 1999 to deal in foreign exchange or foreign security.
- “Overseas tour program package” is defined to mean any tour package which offers visit to a country or countries or territory or territories outside India and includes expenses for travel or hotel stay or boarding or lodging or any other expense of similar nature or in relation thereto.
- These provisions will take effect from 1st October 2020.

Further, to widen and deepen the tax net, a new sub-section (1H) to section 206C has been inserted to levy TCS on sale of goods above specified limit, as under:

- A seller of goods is liable to collect TCS at the rate of 0.1 per cent. on consideration received from a buyer in a previous year in excess of fifty lakh rupees. In non-PAN/ Aadhaar cases the rate shall be one per cent.
- Only those sellers whose total sales, gross receipts or turnover from the business carried on by it exceed ten crore rupees during the financial year immediately preceding the financial year, shall be liable to collect such TCS.
- Central Government may notify person, subject to conditions contained in such notification, who shall not be liable to collect such TCS.
- No TCS is to be collected from the Central Government, a State Government and an embassy, a High Commission, legation, commission, consulate, the trade representation of a foreign State, a local authority as defined in Explanation to clause (20) of section 10 or any other person as the Central Government may, by notification in the Official Gazette, specify for this purpose, subject to conditions as prescribed in such notification.
- No such TCS is to be collected for the goods exported out of India.
- No such TCS is to be collected, if the seller is liable to collect TCS under other provision of section 206C or the buyer is liable to deduct TDS under any provision of the Act and has deducted such amount.
- For the frequently asked questions on the TCS on sale of goods, please refer the below **Annexure**.
- These will take effect from 1st October 2020.