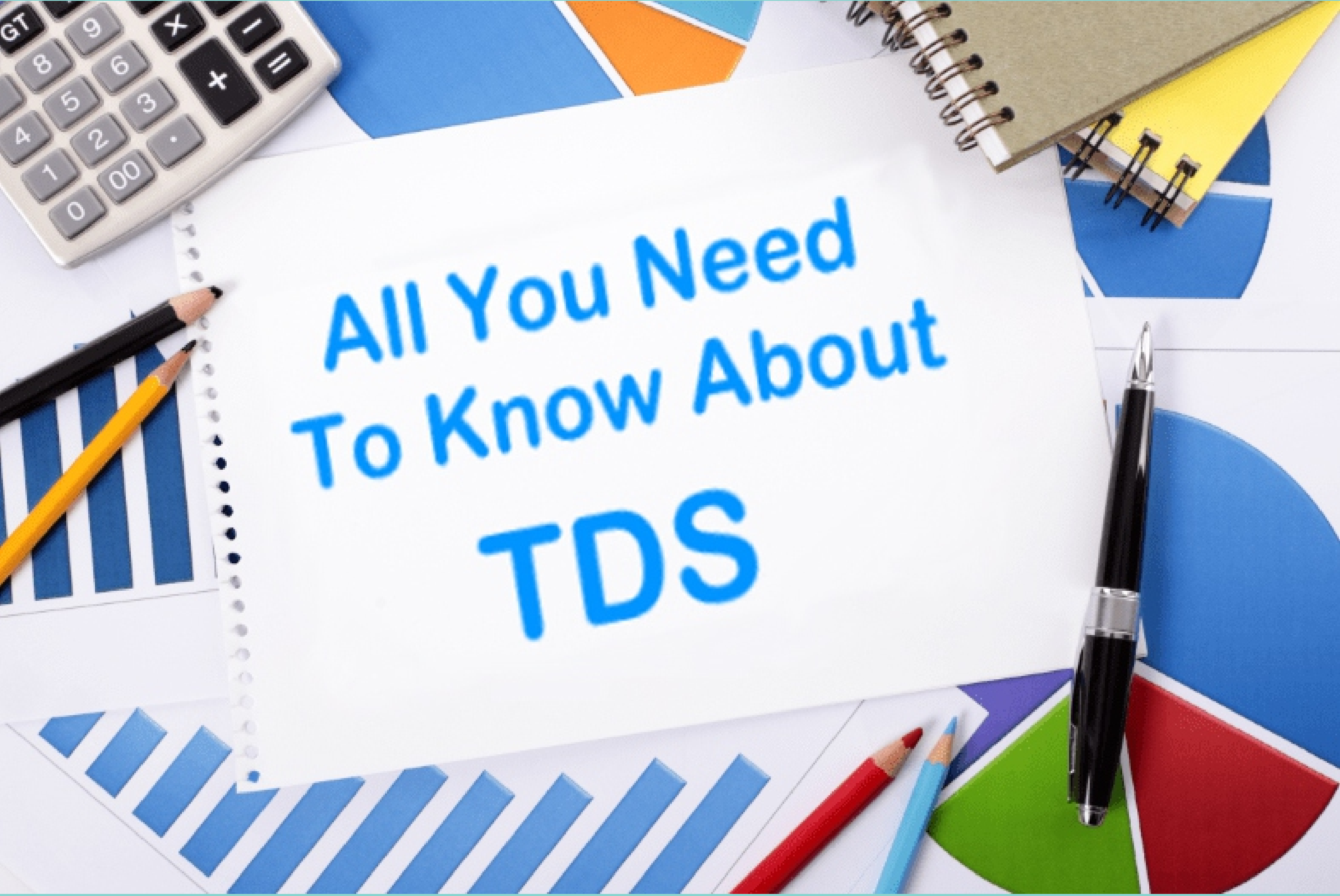

New TDS Provisions

by

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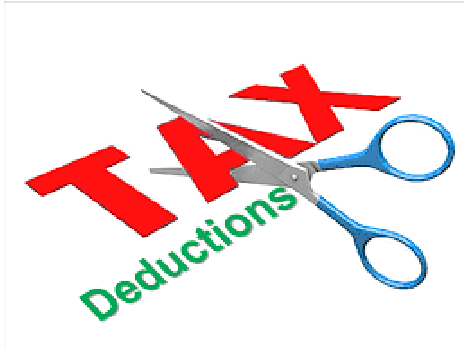
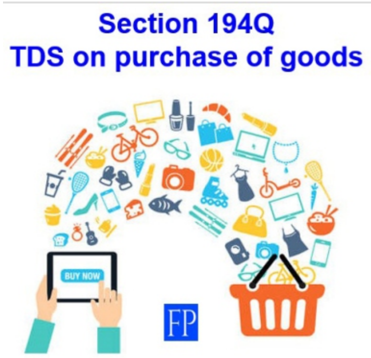


New TDS Provisions introduces w.e.f 1st July, 2021

New Section 194Q - Deduction of tax at source on payment of certain sum for purchase of goods, was proposed to be inserted in Budget 2021.

The same has been notified to be inserted w.e.f 1st July 2021 vide Notification No. 71/2021 dated 08/06/2021. The provision is explained in following points:



I. Purpose

I. The provisions of 194Q are similar to Section 206C(1H) which was introduced last year for introduction of TCS on “Sale of Goods”.

ii. The purpose of this provision is to deduct tax at source on purchase of goods.

II. Who is liable?

I. The buyer/purchaser whose total sales/gross receipts/turnover exceeded Rs. 10 Crores in preceding financial year is liable to deduct the TDS.

In other words, buyers whose turnover exceeded Rs. 10 Crore in Financial Year 2020-2021 are liable to deduct TDS on purchase of goods w.e.f 1.07.2021.

ii. TDS obligation arise at the time of payment or credit whichever as earlier as done similarly in case of other TDS sections.

III. When to deduct TDS under section 194Q?

I. TDS is to be deducted by buyer on payment made to resident (by crediting seller's account or any other mode, whichever is earlier) on purchase of goods of value or aggregate value exceeding Rs. 50 Lakhs.

If value of purchases made from a seller (resident) exceeds Rs. 50 Lakhs, the TDS is to be deducted by the buyer.

ii. The TDS is to be deducted on amount over and above Rs. 50 lakhs. For example, if purchase is of Rs. 73 lakhs the TDS is to be deducted on Rs. 23 Lakhs only.

iii. The deduction of Rs. 50 Lakhs is on total purchases made in a financial year from each supplier. It is one time exclusion available for each financial year i.e. the basic threshold which is available each year.

iv. TDS is to be deducted w.e.f 1.07.2021 but the purchase for its applicability is to be considered from 01.04.2021 which means that for deduction of 50 lakhs the purchase from supplier is to be calculated from 1st April 2021.

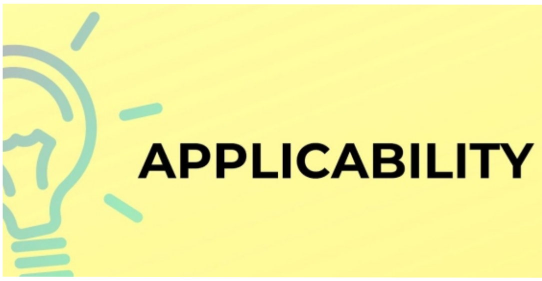
v. TDS is to be deducted even in case of advance payments.

IV. Rate at which TDS is to be deducted?

I. The TDS is to be deducted @ 0.1% of transaction value exceeding Rs. 50 Lakhs in any financial year.

V. Applicability

I. On one transaction either 194Q will apply or 206C(1H) will apply. Where both sections become applicable 194Q will prevail i.e., only buyer will deduct TDS and seller will not be liable to collect TCS.



ii. No requirement to deduct TDS if the same is deductible under any other provision of Income Tax Act or collectable under the provision of section 206C (excluding sub section 1H).

VI. Higher rate of TDS

I. TDS @ 5% if PAN not provided to deductor

- If the seller does not provide PAN to the buyer, then TDS will be deducted @5% instead of 0.1%

- This is made applicable vide section 206AA of Income Tax Act, 1961, Requirement to furnish Permanent Account Number, which provides that in case the PAN is not provided by deductee to deductor the TDS is to be deducted at a higher rate of the following:

  a) at the rate specified in the relevant provision of this Act; or
  b)at the rate or rates in force; or
  c)at the rate of five per cent.

ii. TDS @5% in case of non-filers of income tax returns

VII. TDS for Non – filers of return

- Section 206AB of Income Tax Act, 1961, Special provision for deduction of tax at source for non-filers of income-tax return, provides that in case of specified person the tax shall be deducted at a higher rate of the following:

  a) at twice the rate specified in the relevant provision of the Act; or
  b) at twice the rate or rates in force; or
  c) at the rate of five per cent.

- Specified person refers to the person who has not filed return of income till due date as per Section 139(1) of Income Tax Act for both of the <u>2 preceding previous years immediately prior to the previous year in which tax is to be deducted at source,</u> and the TDS or TCS in his case in each of these previous years is 50,000/- or more.

Thus, basically 2 conditions are to be satisfied for TDS under this provision:-

- The person to whom the amount is payable has not filed returns for last 2 years; and
- In each of those 2 years, in his case as per his form 26AS TDS/TCS was more than Rs. 50,000/-

- If Sections 206AA and 206AB both are applicable to specified person than the tax shall be deducted at higher of the two rates provided in section 206AB and in section 206AA.

VIII. TDS is to be deposited on 7th day of the month succeeding the month in which such TDS is deducted. In case of March the due date is 30th April.

IX. The due date of filing the quarterly returns in 26Q is as follows:

Quarter ending on	Due Date of Filing Return
June	31st July
September	31st October
December	31st January
March	31st May

X. Repercussions if TDS is to be deducted but not deducted, deducted but not deposited before expiry of the time, 30% of the amount on which TDS is to be deducted and deposited will be added to the income of deductor.

XI. To Do List:-

Following communications and workings should immediately be done by a taxpayer having turnover of More than Ras. 10 crores during the previous Financial Year:-

- Communicate with all the buyers/sellers with whom you are likely to cross the threshold Rs. 50 Lakhs of sale/purchase transactions during the year.
  - In case of buyer, the Communication should clearly ask that if he is to deduct TDS u/s 206AB. If Yes, then make amends in your Invoice patterns accordingly as the Invoices shall not contain TCS u/s 206C (1H) in that case.
  - In case of seller, the communication should clearly tell him that please do not charge TCS u/s 206C(1H) in your Invoice as you are going to deduct TDS.
  - Clearly ask details of PAN from such buyers/sellers (This will be required in the most unlikely scenario as in most cases he will give his GST no. which contains PAN)

- Communicate with all the sellers/service providers/contractors/others to who you are going to make payment.
  - His PAN No.
  - His ITR proof of the last 2 years that he has filled his return.
  - In case he is reluctant to provide these details a declaration is to be taken from him stating that:-
    - Either he has filed returns for past 2 years stating acknowledgement No. and date; or
    - In any of the past 2 years his TDS/TCS were below Rs. 50,000/-

- Keep all these communications and declarations handy with you so that the same can be submitted to the authorities and auditors at any point of time.

XII. Summary

Particulars	**194Q**	**Conditions /Remark**
Applicability	Purchase of Goods	
Purpose	Tax Deducted at Source	
Liable	Buyer/Purchaser	➢ Having turnover exceeding in previous financial year Rs. 10 crore and ➢ Purchase is exceeding Rs. 50 Lakhs in current financial year
TDS Rate	0.1%	
TDS Rate in case of non-provision of PAN	5%	As per the provisions of section 206AA
TDS Rate in case of non-filers of ITR	5%	As per the provisions of section 206AB
TDS Deposit	7th of the succeeding month of the month in which TDS is deducted	30th April in case of March.
Return Filing	Quarterly in Form 26Q	31st of the month succeeding the quarter and 31st May in case of March.

Thank You