

Practical Aspects of Finance Act 2021



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Shared at

Hisar Branch of NIRC of ICAI

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SENIOR CITIZEN

- ❖ S. 194 P
- ❖ Age 75 years or above
- ❖ Should have only pension income and interest from **same** bank
- ❖ Banker to give 87A relief, on declaration, deduct tax on interest
- ❖ No ITR in such case

S. 44AB / 44ADA

✦ Extensions !!!!

✦ S. 44AB (a), if 5% criteria met for receipts & payments

✦ 1 Cr to 5 Cr from AY 2020-21

✦ 5 Cr to 10 Cr from AY 2021-22

✦ Can we do audit even if not required?!!

✦ Non -A/c Payee Cheque/ Draft - Cash

✦ S. 44ADA – HUF, LLP excluded

ESI / PF

- ❖ S. 36(1)(va) / 43B
- ❖ Explanation added for employee contribution
- ❖ To clarify that the provision of s. 43B does not apply and deemed to never have been applied for the purposes of determining the —due date

GOODWILL

- ❖ Now not a depreciable asset
- ❖ S. 2(11) – Block of asset
- ❖ S. 32(1)(ii) – Depreciation
- ❖ S. 43(6) – WDV of Block of asset
- ❖ S. 50 – STCG
- ❖ S. 50B – Slump sale
- ❖ S. 55 – Cost
- ❖ Deprecation claimed till AY 2020-21 to be reduced from cost of asset
- ❖ Take care of AS

TDS – 194Q

- ❖ W.e.f. 1.7.2021. Similar to 206C(1H) !!
- ❖ Exceptions - Tax is collectible u/s. 206C other than transaction to which s. 206C(1H) applies
- ❖ Memorandum - If on a transaction TCS u/s 206C(1H) is required as well as TDS u/s 194Q, then on that transaction only TDS shall be there
- ❖ Cases where 50L condition is met:
 - ❖ Turnover in PY: Seller - 25 Cr, Buyer 5 Cr
 - ❖ Turnover in PY: Seller - 5 Cr, Buyer 25 Cr
 - ❖ Turnover in PY: Seller - 25 Cr, Buyer 25 Cr

TDS – 194Q

FY ending	Seller 206C(1H)			Buyer (194-Q)			Bal.
	Sale	Receipt	TCS	Purchases	Payment	TDS	
2021	80	40	Nil	80	40	NA	40
2022	50	60	On 10	50	60	Nil	30
2023	80	50	Nil	80	50	On 30	60
2024	80	140	On 90?? 30?? 60??	80	140	On 30	Nil

194Q vs. 206C(1H)

- S. 194Q(6)(b) - Provisions of this section shall not apply to a **transaction on which tax is collectible u/s 206C** other than a transaction to which s. 206C(1H) applies
- S. 206C(1H) – Exceptother than goods being exported out of India or **goods covered in** s-s. (1) / (1F) / (1G)
- CBDT clarification on S. 206C(1H) vs. 206C(1F) - (1F) is for a single motor vehicle
 - Receipt from dealer of motor vehicle covered u/s 206C(1H), if not subjected to s. 206C(1F)
 - Sale to consumer:
 - Receipt of Rs. 10 L or less from buyer would be subjected to 206C(1H), if receipt of sale consideration for such vehicles during PY > Rs. 50 L
 - Receipt of sale consideration for sale of motor vehicle exceeding Rs. 10 L would not be subjected to 206C(1H) if subjected to 206C(1F)

CBDT GUIDELINES

- Circular No. 13 of 2021 dt. 30th June 2021
- Exemption to:
 - Transactions in securities and commodities which are traded through recognized stock exchanges or cleared and settled by the recognized clearing corporation including recognized stock exchanges or recognized clearing corporation located in International Financial Service Centre (IFSC)
 - Transactions in electricity, renewable energy certificates and energy saving certificates traded through power exchanges registered in accordance with Regulation 21 of CERC

CBDT GUIDELINES

- **Calculation of threshold for the financial year 2021-22**
 - **Non-applicability on Payments / Crs prior to 1.7.2021**
 - **Limit of Rs. 50L from 1.4.2021**
 - **GST & Purchase Return**
 - **No TDS on GST portion unless GST not charged separately**
- TDS on purchase return can be adjusted against next purchase from same seller**

CBDT GUIDELINES

- Not applicable to non-resident whose purchase of goods from seller resident in India is not effectively connected with his PE (Exports exempted)
- Not applicable if seller's whole income is exempt u/s 10 or any other act passed by Parliament. – farmers exempt – similar for 206C(1H)
- TDS on advance payment is required

CBDT GUIDELINES

- Not applicable to buyer in year of incorporation
- For 10 Cr limit - sales or gross receipts or turnover **from business** carried on by him must exceed Rs 10 crore
- If TDS by e-commerce operator u/s 194-0 [including transactions on which there is no TDS due to s. 194-0(2)], then no TDS u/s 194Q
- If TDS by e-commerce operator u/s 194-0 then no TCS u/s 206C(1H)
- If transaction is both within the purview of s. 194-0 as well as s.194Q, then TDS u/s 194-0 only and not u/s 194Q.

CBDT GUIDELINES

- If a transaction is both within purview of s. 194-0 as well as u/s 206C(1H), tax is required to be deducted u/s 194-0.
- Transaction shall come out of purview of s. 206C(1H) after tax has been deducted by e-commerce operator.
- Here primary responsibility is on e-commerce operator for TDS u/s 194-0 and that responsibility cannot be condoned if the seller has collected tax u/s 206C(1H).
- **Reason - rate of TDS u/s 194-0 is higher than rate of TCS u/s 206C(1H)**

CBDT GUIDELINES

- If a transaction is both within the purview of s. 194-Q as well as s. 206C(1H) , tax is required to be deducted u/s 194-Q.
- The transaction shall come out of the purview of s. 206C(1H) after tax has been deducted by the buyer on that transaction.
- However, if, for any reason, tax has been collected by the seller u/ s. 206C(1H), before the buyer could deduct tax u/s 194-Q on the same transaction, such transaction would not be subjected to tax deduction again by the buyer.
- Reason - tax rate of deduction and collection are same in section 194Q and s. 206C(1H) .

S. 194 Q EXEMPTIONS

- Purchases from Non-Residents (Imports)
- Non-resident whose purchase of goods from seller resident in India is not effectively connected with his PE (Exports exempted)
- If on a transaction TDS is deducted under any other section.. Say 194C / 194 -O.
- Transactions in electricity, renewable energy certificates & energy saving certificates traded through power exchanges
- Transactions in securities & commodities which are traded through recognized SE or cleared & settled by recognized clearing corporation including recognized SEs or recognized clearing corporation located in IFSC

S. 194 Q EXEMPTIONS

- If buyer's sales or gross receipts or turnover **from business** does not exceed Rs 10 crore – Schools, Hospitals...
 - Though CG, SG, Embassy, High Commission, etc. Local authority, exempt from s. 206C(1H) but s. 194Q !!!!
 - If seller's whole income is exempt u/s 10 or any other Act passed by Parliament – farmer...
 - Transaction on which tax is collectible u/s 206C other than a transaction to which s. 206C(1H) applies.
- If tax has been collected by seller u/ s. 206C(1H), before buyer could deduct tax u/s 194-Q on the same transaction.

RULE 31AA(4)(VII)

- Details in TCS Return Form 27EQ to be filled where TCS not collected due to:
 - TDS made
 - From CG, SG, Importer, etc
 - Exempt under any notification
- For purposes of section 206C (1F) / (1G) / (1H) credit for TCS shall be given to the person from whose account tax is collected and paid to CG account for the AY relevant to the PY in which such tax collection is made

TDS / TCS ON NON-ITR FILERS

- ❖ S. 206AB (TDS) / 206CCA (TCS)
- ❖ Higher rate of TDS u/s 206AA / TCS u/s 206CC or new sections (except for non-residents not having a PE in India, and where TDS is u/ss 192, 192A, 194B, 194BB, 194LBC or 194N) for **non-filers of ITR**:
 - ❖ For both of 2 consecutive yrs (for which time limit u/s 139(1) has not expired) **AND**
 - ❖ TDS & TCS \geq Rs. 50000/- in **each** year.
 - ❖ TDS would be at higher of:
 - ❖ Twice the rate specified in the relevant provisions of the Act
 - ❖ Twice the rate or rate in force or

5%

S. 206AB / 206CCA COMPLIANCE

- ❖ **Functionality through Reporting Portal of ITD - <https://report.insight.gov.in>**
- ❖ **Registration of Tax Deductors / Collectors on Reporting Portal –TAN mode - Principal Officer**
- ❖ **Accessing the compliance check facility**
- ❖ **PAN search mode**
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Q. How I file income tax return

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