

7th May 2020

**Subject: New provisions for Tax Collection at Source (TCS) on Foreign
Exchange dealers etc. - Finance Act 2020**

Apart from the rather ubiquitous Tax Deduction at Source (TDS) the Income Tax Act also has a less well-known mechanism requiring tax deposit at source, called Tax Collection at Source or TCS. Initially provisions relating to TCS were made applicable only to persons engaged in sale of alcoholic liquors, certain forest produce, minerals like iron ore and coal, and scrap. Later these were extended to those engaged in running Parking lots, Toll plazas, and mining & quarrying. Under these provisions the seller of these goods/ services is required to collect from the buyer a specified percentage of sale proceeds over and above the sale consideration, and deposits it with the government on behalf of the buyer.

2. Finance Act 2020 has extended the provisions of TCS to three new categories of businesses / activities with effect from 1.10.2020:

- i. Foreign currency dealers,
- ii. Foreign tour operators, and
- iii. Sellers of goods whose turnover exceeds INR 10 crore.

2.1 Foreign currency dealers

Every *Authorized Dealer* (i.e. persons authorized by RBI under section 10(1) of FEMA to deal in foreign exchange or foreign security) who receives an amount for remittance out of India from a Buyer under the Liberalized Remittance Scheme of RBI shall collect TCS @ 5% of such amount at the time of receipt of the amount from the Buyer or debit of account of the Buyer whichever is earlier, and deposit it in government account on behalf of the Buyer.

The provision will be applicable only if the aggregate sum remitted by the Buyer during the financial year exceeds INR 700,000/-.

The rate of TCS will be 0.5% in cases of amounts remitted for pursuing education after taking loan from any financial institution referred to in section 80E.

The above provision shall not apply in cases where the Buyer is the Central Government, or a State Government, or foreign embassy or mission etc. or a Local Authority or an entity notified by CBDT.

2.2 Foreign tour operators

Every Seller of '*overseas tour programme package*' who receives any amount from a Buyer purchasing such package shall collect TCS @ 5% of such amount at the time of receipt of amount from the Buyer or debit of the account of the Buyer whichever is earlier, and deposit it in government account on behalf of the Buyer.

For this purpose '*overseas tour programme package*' means, a 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 expenditure of similar nature or in relation thereto.

In case the Buyer does not provide particulars of his PAN/Aadhar Card TCS will have to be made @10%.

There is no minimum threshold for applicability of TCS in this case. Therefore, sale of every foreign tour package will be subject to TCS. The amount of TCS will have to be collected by the tour operator at the time of sale of the foreign tour package. There is no exception for business trips outside India.

2.3 Sellers of goods whose turnover exceeds INR 10 crore

Every seller whose total sales or turnover from the business carried on by him exceed INR 10 crore during the immediately preceding financial year, shall collect TCS @ 0.10% of the sale consideration for sale of any goods (other than for goods being exported) exceeding INR 50 lakh at the time of receipt of the sale consideration from the Buyer, and deposit it in government account on behalf of the Buyer.

In case the Buyer does not provide particulars of his PAN/Aadhar Card TCS will have to be made @1%.

The provision will not apply to cases where the aggregate value of the sale consideration for any goods to a Buyer does not exceed INR 50 lakh in a year.

The provision will also not apply to cases where the Buyer is a person importing goods into India or is the Central government or a State government, or foreign embassy or mission etc. or a Local Authority or an entity notified by CBDT.

These provisions will also not apply where the Buyer is a tax resident of India and furnishes a declaration to the person responsible for collecting tax, affirming that the goods are utilized for manufacturing, processing or producing articles or things or for the purposes of generation of power and not for trading purposes.

These provisions will also not apply, if the Buyer is liable to deduct tax at source under any other provision of Income tax Act on the goods purchased by him from the Seller and has deducted such amount.

3. Other provisions relating to deposit of TCS in government account within seven (7) days of the end of the month in which it was collected, filing of quarterly returns of TCS, issue of TCS certificates, and filing of applications for making TCS at a lower rate etc., remain unchanged.