

# Guidelines for TDS by e-commerce, TCS on sale of goods amounting ₹50 lakh or more issued

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The Income Tax Department on Tuesday issued detailed guidelines for new provision for Tax Deducted at Source (TDS) by e-commerce operator and Tax Collected at Source (TCS) on sales of goods exceeding ₹50 lakh. As announced in the Budget, the two provisions will come into effect from October 1. TDS refers to payment made after deduction tax at specified rate while TCS payment received along with tax amount at a specified rate. Both these intend to curb tax evasion. As prescribed by the Finance Act 2020, rate of TDS by e-commerce operator will be one per cent while rate of TCS here would be 0.1 per cent. For TDS, threshold for payment has been kept at ₹5 lakh while for TCS, the threshold is ₹50 lakh.

According to a circular issued by the Central Board of Direct Taxes (CBDT), TDS and TCS will not be applicable on transactions in securities and commodities which are traded through recognized stock exchanges or cleared and settled by the recognised clearing corporation, including recognised stock exchanges or recognized clearing corporation located in the International Financial Service Centre. Same will be applicable in case of transactions in electricity, renewable energy certificates and energy saving certificates traded through power exchanges.

For e-commerce operator, in order to avoid duplication, it has been decided that the payment gateway will not be required to deduct tax on a transaction, if the tax has been deducted by the e-commerce operator. In the case of insurance agent or insurance aggregator, it has been said that after the first year of policy, if the insurance agent or insurance aggregator has no involvement in transactions between insurance company and the buyer of insurance policy, he would not be liable to deduct tax for subsequent years. However, the insurance company will be required to deduct tax on commission payment, if any, made to the insurance agent or insurance aggregator for those subsequent years. Sale of motor vehicle will be subject to TCS from October 1. Talking about adjustment for sale return, discount or indirect tax, the department clarified that no adjustment on account of sale return or discount or indirect taxes including GST is required to be made for collection of tax since the collection here is limited to sale consideration. TCS will not apply on the sale consideration received for fuel supplied to foreign airlines at airports in India.

Sandeep Jhunjunwala, Partner at Nangia Andersen, feels that the current circular clarifies on several puzzling aspects such as no adjustment for sales return, discount or GST component and applicability on receipts post October 1, even if sales was made before that period. Clarity regarding liability of the person responsible for TDS in cases where multiple e-commerce operators are involved in transactions such as use of third-party electronic payment gateways in settlement of e-commerce transactions has been brought in. However, several ambiguous aspects need more clarity such as applicability of TCS provisions on deemed exports within India to SEZ and EOU units, free of cost sales and warranty replacements. On e-commerce TDS, the most significant uncertainty is around treatment of subsequent returns of goods by customers and consideration of discount codes and gift vouchers for computing amounts to be subject to TDS. "Foreign e-commerce operators also need to comprehend the interplay between Section 194-O and Equalisation Levy when supply of goods or provision of services encompasses resident e-commerce participants," he said.

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