

Guidelines under Section 194-Q of Income Tax Act, 1961 – CBDT Circular

➤ Applicability of Section 194Q

✚ Provisions of Section 194Q of the Act shall **not be applicable** in relation to –

- (i) 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;
- (ii) transactions in electricity, renewable energy certificates and energy saving certificates traded through power exchanges registered in accordance with Regulation 21 of the CERC.

➤ Calculation of threshold for the financial year 2021-22

✚ Since section 194Q of the Act mandates buyer to deduct tax on credit of sum in the account of seller or on payment of such sum, whichever earlier, the **provision of this sub-section shall not apply on any sum credited or paid before 1st July 2021.**

If either of the two events had happened before 1st July 2021, that transaction would not be subjected to the provisions of section 194Q of the Act.

✚ Since the threshold of 50 lakh rupees is w.r.t the previous year, **calculation of sum for triggering TDS under section 194Q shall be computed from 1st April, 2021.**

Hence, if a person being buyer has already credited or paid 50 lakh rupees or more up to 30th June 2021 to a seller, the TDS under section 194Q shall apply on all credit or payment during the previous year, on or after 1st July 2021, to such seller.

➤ Adjustment for GST & Purchase Returns

- ✚ It is clarified that **at the time of crediting** of amount to the account of the seller, if the **component of GST** comprised in the amount payable to the seller is **indicated separately, tax shall be deducted** u/s 194Q of the Act on the amount credited **without including such GST**.

However, if the tax is deducted on **payment basis** because the payment is earlier than the credit, the **tax would be deducted on the whole amount** as it is not possible to identify that payment with GST component of the amount to be invoiced in future.

- ✚ The tax is required to be deducted at the time of payment or credit, whichever is earlier. Thus, before purchase return happens, the tax must have already been deducted under section 194Q of the Act on that purchase.

If that is the case and against this purchase return the money is refunded by the seller, then this **tax deducted may be adjusted against the next purchase against the same seller**.

No adjustment is required **if the purchase return is replaced by the goods** by the seller as in that case the purchase on which tax was deducted under section 194Q of the Act has been completed with goods replaced.

➤ Cross application of section 194-O, sub-section (1-H) of section 206C and section 194Q of the Act.

- ✚ If tax has been **deducted by the e-commerce operator** on a transaction **u/s 194-O** of the Act, that transaction **shall not** be subjected to tax deduction u/s **194Q** of the Act.
- ✚ Though section 206C (1H) provides exemption from TCS if the buyer has deducted tax at source on goods purchased by him, to remove difficulties it is clarified that this exemption would also cover a situation where **instead of the buyer the e-commerce operator has deducted tax at source on that transaction of sale of goods by seller to buyer through e-commerce operator**.
- ✚ If a transaction is both within the purview of section 194-O of the Act as well as section 194Q of the Act, tax is required to be deducted **u/s 194-O** of the Act and not u/s 194Q of the Act.
- ✚ Similarly, if a transaction is both within the purview of section 194-O of the Act as well as sub-section (1-H) of section 206C of the Act, tax is required to be deducted **u/s 194-O** of the Act.
- ✚ If a transaction is both within the purview of section 194-Q of the Act as well as sub-section (1-H) of section 206C of the Act, the tax is required to be deducted u/s **194-Q** of the Act.

- The provisions of section 194Q of the Act **shall not apply to a non-resident** whose purchase of goods from seller resident in India **is not effectively connected with the permanent establishment** of such non-resident **in India**.
- The provisions of section 194Q of the Act **shall not apply** on purchase of goods from a person, being a seller, **who as a person is exempt** from income tax or under any other Act passed by the Parliament.
- Similarly, the provisions of sub-section (1-H) of section 206C shall not apply to sale of goods to a person, being a buyer, who as a person is exempt from income tax or under any other Act passed by the Parliament.

The **above clarifications would not apply if only part of the income** of the person (being a seller or being a buyer, as the case may be) is **exempt**.

- Since the provisions apply on payment or credit whichever is earlier, the provisions of section 194Q of the Act **shall apply to advance payment** made by the buyer to the seller.
- A buyer u/s 194Q is required to have total sales or gross receipts or turnover from the business carried on by him exceeding ten crore rupees during the FY immediately preceding the FY in which the purchase of good is carried out.

Since this condition would not be satisfied in the year of incorporation, the **provisions of section 194Q of the Act shall not apply in the year of incorporation**.

Also, the **Turnover or receipts from non-business activity is not to be counted for this purpose**.