

TAX PYRAMID

**FAQs
ON
TDS U/S
194Q**

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Section 194Q: An Introduction

Section 194Q is the newly introduced TDS provision inserted in the Income tax Act through Finance Act 2021 which would be effective from 01st July 2021.

194Q requires deduction of TDS by the '**specified buyer**' of goods at the time of payment of amount or payment credited in the books whichever is earlier, if the goods are purchased from a person for aggregate value of more than Rs. 50 lakhs. TDS would be deducted on value which exceeds aggregate value of Rs. 50 lakhs.

If the 'specified buyer' purchase of goods of value more than Rs. 50 lakhs from a person during a financial year then he would now have to deduct the TDS at the time of payment or credit of his books **whichever is earlier**

For this section eligible or '**specified buyer**' would be the one whose total turnover or gross receipts is more than Rs. 10 crores during the financial year immediately preceding the year in which the said purchase took place for which applicability of 194Q is to be decided.

Example 1:

If we are deciding for applicability of TDS u/s 194Q for FY 20-21 then the total turnover or gross receipt of FY 19-20 shall be checked whether it exceeds the threshold limit of Rs. 10 crores or not. In case it exceeds Rs. 10 crores in FY 19-20 then such person would be liable to deduct TDS u/s 194Q in FY 20-21.

Example 2:

A buyer having 11 crores turnover in previous year makes purchases of 40 lakhs from Seller 'X' and 45 lakhs from Seller 'Y'. The buyer despite making aggregate purchases for 95 lakhs still would not be required to deduct TDS u/s 194Q as the aggregate purchases from any seller doesn't exceed 50 lakhs.

Important points for TDS u/s 194Q application

1. Tax is required to be deducted at source by a purchaser of goods whose turnover for previous financial year has exceed Rs. 10 crores.
2. The seller of goods should be a resident of India. TDS u/s 194Q would not be required to be deducted in case of import purchases. Sale by non-residents have been excluded.

3. TDS shall be applicable only on purchase made from those sellers from whom the value or aggregate value of purchases during the financial year exceeds Rs. 50 lakhs
 4. TDS u/s 194Q shall not only be deductible on payment basis but also when the amount is credited as payable in the books of the buyer **whichever is earlier**. In case the buyer has not made payment to the seller but has credited the amount in his books then also the provision of TDS would apply. Therefore, even when the buyer recognises the amount as payable and books the liability on the account then also the provision of TDS shall apply.
 5. TDS rate shall be 0.1% on the value of amount paid or credited. In case the PAN of the seller is not available, TDS rate shall be 5%.
 6. Provision of TDS u/s 194Q would not be applicable, in cases where tax is deductible or collectible under any other provisions (eg- motor vehicle or jewellery etc.) of Income Tax Act except TCS u/s 206(1H).
 7. It shall also be noted that if a transaction qualifies for TDS u/s 194Q and the same is deducted by Customer then the same transaction would not attract TCS u/s 206C (1H). The primary responsibility is of buyer to deduct TDS u/s 194Q on the transaction.
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Comparison between TDS u/s 194Q and TCS u/s 206C(1H) and their applicability

Parameters	TDS on purchase of goods [Section 194Q]	TCS on Sale of goods [Section 206C(1H)]
Who is liable for deduction/collection	Here Buyer is liable to deduct the tax	Here Seller is liable to collect the tax
Turnover limit of person deducting or collecting tax	The total sales, gross receipts or turnover of the buyer should be more than Rs. 10 crores during the financial year immediately preceding the financial year in which such goods are purchased	The total sales, gross receipts or turnover of the seller should be more than Rs. 10 crores during the financial year immediately preceding the financial year in which such goods are sold
Threshold limit of purchase/sale	If the value of purchase made is more than Rs. 50 lakhs	If the value of sales made is more than Rs. 50 lakhs
Rate	0.1%	0.1%
Amount on which tax to be deducted/collected	On the amount of purchase in excess of Rs. 50 lakhs	On the amount of sale consideration in excess of Rs. 50 lakhs
Time of deduction/collection	At the time of credit or payment, whichever is earlier	At the time of receipt
Preference to be given	Purchaser is first liable to deduct the tax if the transaction could be subject to both provision	Seller shall be liable to collect the tax only if the purchaser has not deducted the tax (Purchaser is not liable to deduct the tax or fails to deduct tax)

Illustrations:

Particulars	Case 1	Case 2	Case 3	Case 4
Turnover of Seller (Amt in cr.)	15	8	12	12
Turnover of Buyer (Amt in cr.)	8	15	12	12
Sale of goods (Amt in cr.)	2	2	2	1.5
Sales consideration received against the above sale (In cr.)	1	1	1.5	1.5
Who is liable to deduct or collect tax?	Seller	Buyer	Buyer	Buyer
Rate of Tax	0.1%	0.1%	0.1%	0.1%
Amount on which tax to be deducted or collected (In Cr.)	0.5	1.5	1.5	1.0
Tax to be deducted or collected	5,000	15,000	15,000	10,000

TDS 194Q

SUMMARY

Who will deduct?

Person having total turnover in excess of Rs. 10 crores during the year just before the current financial year is liable to deduct TDS u/s 194Q.

When to deduct?

To be deducted on purchase of goods whose aggregate sale value exceeds Rs. 50 lacs

On What Value?

Sale Value (Not payment Value) which is in excess of Rs. 50 lacs

At what Time?

At time of payment or credit

At what Rate?

TDS u/s to be deducted at 0.1% (5% for non-PAN Seller)

194Q or 206C(1H) to apply?

First TDS u/s 194Q would be deducted by Buyer. In case 194Q is not deducted, then TCS u/s 206C(1H) would be collected by Seller

Frequently Asked Questions (FAQs) on TDS u/s 194Q

01. What would be the date from which TDS provisions under section 194Q would be applicable?

Ans: The provisions of TDS u/s 194Q shall be applicable from 01st July 2021

02. Who is required to deduct TDS u/s 194Q?

Ans: TDS u/s 194Q would be deducted by a buyer whose total sales, turnover or gross receipts is more than Rs. 10 crores during the financial year just before the year in which the purchase of goods take place on which TDS is deductible.

03. When is TDS u/s 194Q to be deducted?

Ans The specified person whose previous year turnover is more than Rs. 10 crores, he would be required to deduct TDS when he purchases from a person goods, whose value or aggregate value is more than Rs. 50 lakhs during a financial year.

TDS u/s 194Q is deductible only when goods are purchased from a resident person.

TDS u/s 194Q shall not be deducted if TDS or TCS is applicable on any other provision except section 206C(1H).

04. At what time would a buyer be required to deduct TDS u/s 194Q?

Ans: TDS u/s 194Q would be deducted at the time of making payment of the amount or credit to the account of seller whichever is earlier. TDS shall be deducted even if instead of making the payment the payable amount is credited to the Suspense Account.

05. Are there any exemptions available from applicability of TDS u/s 194Q?

Ans TDS u/s 194Q shall not be applicable in following cases:

1. If Tax is deductible (TDS) under any other provisions of Income Tax Act.
2. If Tax is collectible (TCS) under any other provisions of Income tax Act except under Section 206C(1H)

In respect of following transactions also provisions of TDS u/s 194Q would not apply:

1. Purchases made from a person from whom aggregate value of purchases during the financial year doesn't exceed Rs. 50 lakhs.
2. Purchases from a person who is not resident of India as per Income Tax Act.
3. Purchase made from a person whose total income is exempt.

06. What is the rate of tax at which TDS u/s 194Q would be deducted?

Ans: TDS would be deducted at 0.1% of the value of purchases exceeding Rs. 50 lakhs. In case the PAN of the seller is not available TDS would be deducted at the rate of 5%.

07. Whether TDS u/s 194Q is deductible only at the time of payment being made to seller?

Ans: Besides being applicable on payment basis, TDS under Section 194Q is also deductible against any amount credited to 'suspense account' or any other account under the books of accounts of the person liable to make payment of such income whichever is earlier.

Therefore, if a person is not making payment but is booking liability against the purchase, then also TDS under section 194Q would be deductible.

08. Would both buyer and seller be liable to deduct/ collect tax on the same transaction where both TDS u/s 194Q and TCS u/s 206C(1H) are applicable?

Ans In case of a transaction where both TDS under Section 194Q and TCS under section 206C(1H) are applicable then TDS under section 194Q would be applicable. And TCS under section 206C(1H) would apply only in case TDS is not deducted.

09. Would TDS under section 194Q be applicable in case of import of goods?

Ans: As mentioned in Section 194Q, TDS would be deductible by Buyer only when purchase is made from person who is resident in India. In case of imports, purchases being made from non-residents, TDS u/s 194Q would not be applicable.

10. Would TDS under section 194Q be applicable in case of export of goods?

Ans: 194Q Provisions doesn't apply when goods are purchased from non-resident person. But In case of exports the seller is resident. Still TDS deduction in this case is impractical as 194Q TDS has to be deducted by a buyer which in case of export is located outside India. Therefore, TDS u/s 194Q won't apply even in cases of exports.

11. Would TDS under section 194Q would be deductible on advance payment?

Ans: When we read the 194Q provision, it says “*any person who is responsible for paying any sum for purchase of any goods of value or aggregate value exceeding fifty lakhs during the financial year, shall, at the time of credit of such sum to the account of the seller or at the time of payment thereof by any mode whichever is earlier, deduct an amount equal to 0.1% of such sum exceeding fifty lacs*”. The words ‘**any sum**’ which are being made for purchase of any goods is noteworthy in the provision. Therefore, we can say that ‘Advance’ which is being paid **for purchase of any goods** would also be liable to TDS deduction.

Besides the section requires deduction of TDS at the time of payment or the time of booking of transaction as credit in “suspense account” whichever is earlier, it also indicates the statute’s intention to make TDS u/s 194Q deductible on payment basis if made before the transaction.

Same has also been clarified vide CBDT Circular No. 136 dated 30.06.2021.

12. Would TDS u/s 194Q be applicable on purchase of ‘Capital Goods’?

Ans: 194Q TDS provisions requires deduction of tax on payment for ‘**purchase of any goods**’. There is no differentiation of goods on any account therefore the purchase of ‘Capital goods’ would also be liable for TDS deduction u/s 194Q provided other conditions for applicability laid down in the section are satisfied.

13. Whether Sale of service would be excluded for calculating the threshold of Rs. 10 crores for buyer in previous financial year?

Ans: As the section specifically mentions 'total turnover, sales or gross receipts', therefore sale of any kind (whether goods or services) from his business would form part of the total turnover/sales for calculation of the threshold of Rs. 10 crores of buyer in previous financial year to decide the applicability of provisions of section 194Q.

14. Whether TDS u/s 194Q would be applicable if purchase transaction was made before 01st July 2021 but any "Not due" payment against the earlier transaction is made after 01st July 2021?

Ans: "Not Due" payments are generally which are not paid at the time of purchases but are paid or become due for payment at a later date on fulfilment of certain milestone / conditions laid down in the contract.

For example, a machine is purchased for Rs. 1 Lac and the contract says that 90% payment is to be made on delivery and assembly while final 10% amount is payable on completion of warranty period of one year. In this case Rs. 10,000/- becomes due for payment only on completion of one year warranty period. Similar conditions in the contract can be regarding some testing to be done at later date.

As far as provisions of 194Q are concerned, TDS is to be deducted at the time of payment made or the credit of the amount even in the suspense account whichever is earlier. When the liability account (Not Due) was booked before 01st July 21, TDS is not required to be deducted on such transactions.

The same has also been confirmed vide CBDT Circular No. 13 dated 30.06.2021 that if any one of the events out of payment or credit to the account including suspense account in the books has happened before 01st July 2021 then TDS u/s 194Q is not deductible

In case where liability has not been booked earlier against the payable amount, then TDS u/s 194Q would be deducted. Payment not being made out of the liability would be subject to 194Q TDS.

15. What about any 'not due' payment in case where the purchase was made after 01st July 2021?

Ans: Purchases made post 01st July 2021 would require 194Q TDS deduction not only on payment basis but also on crediting the amount in the books by the buyer. It means that when the liability is credited against the purchase in the books, buyer would be required to discharge the TDS liability u/s 194Q. Thus, if any amount is booked as liability though not paid would be subject to TDS u/s 194Q at the time of booking covering the not due payments also if it is recognised as liability in the books.

Therefore, when this 'not due' or retained payment is later paid, it would not be subject to TDS deduction as TDS would have been deducted earlier at the time of booking of liability against it.

16. Would TDS u/s 194Q be deducted on purchase value inclusive of GST portion?

Ans: As per CBDT Circular No. 23/2017 dated 19.07.2017, TDS is not deductible on the GST portion. Hence new TDS provision u/s 194Q would also not be deductible on GST portion payable for purchase of Goods.

Say Goods under a contract are purchased for a value of Rs. 100 lakhs and applicable GST rate on the goods is 5%, then Buyer would deduct 0.1% TDS on Rs. 100 lakhs. The final amount payable would be 104.90 lakhs

Particulars	Amount
Gross Value:	Rs. 100 lakhs
Add: GST @ 5%:	Rs. 5 lakhs
Less: TDS Deducted u/s 194Q @ 0.1%	(Rs. 0.10 Lakhs)
Net Payable Amount	104.90 Lakhs

17. Would GST be considered while evaluating Rs. 10 crore threshold for buyer or while calculating Rs. 50 lakhs limit of purchase value?

Ans : No, GST would not be included in total turnover/sales or gross receipts of the buyer for the purpose of evaluating the threshold limits of Rs. 10 crores.

Since GST is not considered for the purpose of deduction of TDS, therefore GST would also not be included in the purchase value or aggregate value of purchases while evaluating Rs. 50 lakhs limit laid down in the section.

18. What would be the consequences in case buyer fails to deduct TDS u/s 194Q?

Ans: In case the buyer fails to deduct TDS u/s 194Q, then he would be liable to pay simple interest @ 1% for every month or part of the month on the amount of TDS not deducted by him.

19. What would be the consequences in case buyer deducts TDS u/s 194Q but fails to deposit it?

Ans: In case the buyer fails to deposit the deducted TDS, he would be levied interest at the 1.5% for every month or part of the month on the amount of tax not deposited to the Government.

20. What would be the consequences in case buyer fails to file TDS return within due time?

Ans: In case buyer defaults in filing TDS return within due time, he would be liable to pay penalty as per Section 234E of the Income tax Act which is Rs. 200 per day for the period of default limited to the amount of TDS deductible.

The default shall also be levied with penalty under section 271H which ranges from minimum of Rs. 10,000 to maximum Rs. 1,00,000. This penalty is also leviable in case inaccurate information is furnished in the filed TDS return.

21. Would TDS u/s 194Q be applicable on securities and commodities?

Ans: As clarified by CBDT vide its Circular No. 13 of 2021 dated 30.06.2021, TDS u/s 194Q won't be applicable on transactions in securities and commodities which are traded through recognised stock exchanges or cleared and settled by the recognised clearing corporations, including recognised stock exchanges or recognised clearing corporations located in International Financial Service Centre.

22. Would TDS u/s 194Q be applicable on electricity?

Ans: As clarified by CBDT vide its Circular No. 13 of 2021 dated 30.06.2021, TDS u/s 194Q won't be applicable on transactions in electricity, renewable energy certificates and energy saving certificates traded through power exchanges registered in accordance with Regulation 21 of CERC

23. Would TDS u/s 194Q be applicable in case advance is received before 01st July 2021 while the sum is credited thereafter?

Ans: As per the provisions of Section 194Q, a buyer is required to deduct tax on sum credited to the account of seller or on payment of such sum whichever is earlier. Therefore, and as clarified by CBDT vide its Circular No. 13 of 2021 dated 30.06.2021, if either of the two events out of paying the sum or credit of the same to the account happens to be before 01st July 2021, that transaction would not be subject to the levy of tax deduction under section 194Q.

24. If a person has already purchased goods worth Rs. 50 lacs from a person before 01st July 2021, would threshold of Rs. 50 lacs be calculated afresh from 01st July 2021 for determining the applicability of TDS u/s 194Q?

Ans: Threshold of Rs. 50 lac is to be calculated for the year starting from 01st April. In case the buyer has already purchased goods worth of Rs 50 lacs from a person before 01st July 2021 then all the made thereafter from that person being over and above Rs. 50 lacs would be liable for TDS deduction by buyer under section 194Q.

25. What would be the impact of Purchase return on 194Q applicability?

Ans: TDS u/s 194Q must have been deducted on the original purchase to which the purchase return pertains to. Later when there is purchase return and amount is refunded the same may be adjusted in the next purchase and the TDS deductible thereon.

In case the purchase return is replaced with goods, it would not require any adjustment in amount hence there would be no impact on TDS deduction u/s 194Q.

26. Whether TDS u/s 194Q would be deducted even if the seller is a person whose income is exempt?

Ans: No, in case the seller is a person whose income is exempt under section 10 of the Income Tax Act or under any other Act such as RBI Act, ADB Act etc, TDS under section 194Q would not be deductible in regard to purchases made from such seller. The same has also been clarified vide CBDT Circular No. 13 dated 30.06.2021.

Similarly, even TCS u/s 206C(1H) would not be applicable in regard to payment for sale of goods received from the buyer whose income is exempt under section 10 of the Income Tax Act or under any other Act.

Note: It shall be noted that above relaxation from TDS/TCS is available when the total income of the person is exempt. In case where partial income is exempt, there would be no relaxation and applicable TDS/TCS would be de leviable.

27. Would TDS u/s 194Q be applicable to those buyers whose business are registered in the current year?

Ans: TDS u/s 194Q is applicable on the buyer whose turnover from the business in the previous financial year is more than Rs. 10 crores. Therefore, in respect of the buyers whose business has come to existence in the current year, TDS provisions of section 194Q would not be applicable.

The same has also been clarified vide CBDT Circular No. 13 dated 30.06.2021.

28. Would TDS u/s 194Q be applicable to those buyers whose turnover from business is less than 10 crores but gross receipts including from non-business activities exceeds Rs. 10 crores?

Ans: No, TDS u/s 194Q would be applicable only on those buyers whose total turnover or gross receipts from business carried by him is more than 10 crores. Gross receipts or turnover from the non-business activities would not be considering while calculating the limit of Rs. 10 crores. The same has also been clarified vide the CBDT Circular No. 13 dated 30.06.2021

29. In case a transaction on which TDS u/s 194-O is applicable along with TDS u/s 194Q and TCS u/s 206C (1H), tax shall be collected/deducted under which section?

Ans: Let's review the statutory provisions in regard to cross application of TDS u/s 194-O, TCS u/s 206C(1H) and TDS u/s 194Q

1. 194-O(3) says that TDS would not be deductible under any other provision of IT Act on a transaction if TDS u/s 194-O(1) has been

deducted on it by the e-commerce operator or on which TDS is not deductible under 194-O(2).

2. As per section 206C(1H), TCS shall not be leviable under 206C(1H) if the buyer is liable to deduct TDS under any provision of the IT Act on the same transaction and the buyer has deducted the said TDS.
3. TDS u/s 194Q would not be deductible if TDS is deductible under any other provisions of the IT Act. TDS u/s 194Q would also not be deducted if TCS is collectible on the transaction under any other provision of the IT Act except 206C(1H).

Now when we read all the above provisions together, we conclude the following:

- A. If a transaction on which TDS u/s 194-O has been deducted then TDS u/s 194Q would not apply
- B. If a transaction on which TDS u/s 194-O has been deducted then TCS u/s 206C(1H) would also not apply.

Although TCS would have been not be collectible if TDS was deducted by buyer but it has been clarified vide CBDT Circular No. 13 dt 30.06.2021 that even though TDS is deducted by e-commerce operator instead of buyer, TCS u/s 206C(1H) would not apply.

- C. If a transaction is under the purview of both 194Q and 194-O, then TDS is required to be deducted under 194-O and not 194Q.
- D. If a transaction is under the purview of both 194-O and 206C(1H), TDS is required to be deducted under 194-O. As clarified vide CBDT Circular No. 13 dated 30.06.2021 primary responsibility shall be of e-commerce operator to deduct 194-O and this responsibility cannot be condoned if seller has collected TCS u/s 206C(1H).
- E. If there is a transaction on which both TDS u/s 194Q and TCS u/s 206C(1H) are applicable then primary responsibility is of buyer to deduct TDS under section 194Q. It is also stated in the CBDT circular that if for some reason TCS is collected by the seller before buyer could deduct TDS, then such transaction would not be subject to TDS u/s 194Q as rates under both the section are same.

Annexure -1

Section 194Q of Income Tax Act 1961 (Bare Act)

After section 194P of the Income-tax Act, the following section shall be inserted with effect from the 1st day of July, 2021, namely: —

'194Q. *Deduction of tax at source on payment of certain sum for purchase of goods.—(1) Any person, being a buyer who is responsible for paying any sum to any resident (hereafter in this section referred to as the seller) for purchase of any goods of the value or aggregate of such value exceeding fifty lakh rupees in any previous year, shall, at the time of credit of such sum to the account of the seller or at the time of payment thereof by any mode, whichever is earlier, deduct an amount equal to 0.1 per cent of such sum exceeding fifty lakh rupees as income-tax.*

Explanation.— *For the purposes of this sub-section, "buyer" means a person whose total sales, gross receipts or turnover from the business carried on by him exceed ten crore rupees during the financial year immediately preceding the financial year in which the purchase of goods is carried out, not being a person, as the Central Government may, by notification in the Official Gazette, specify for this purpose, subject to such conditions as may be specified therein.*

(2) Where any sum referred to in sub-section (1) is credited to any account, whether called "suspense account" or by any other name, in the books of account of the person liable to pay such income, such credit of income shall be deemed to be the credit of such income to the account of the payee and the provisions of this section shall apply accordingly.

(3) If any difficulty arises in giving effect to the provisions of this section, the Board may, with the previous approval of the Central Government, issue guidelines for the purpose of removing the difficulty.

(4) Every guideline issued by the Board under sub-section (3) shall, as soon as may be after it is issued, be laid before each House of Parliament, and shall be binding on the income-tax authorities and the person liable to deduct tax.

(5) The provisions of this section shall not apply to a transaction on which—

- (a) tax is deductible under any of the provisions of this Act; and*
- (b) tax is collectible under the provisions of section 206C other than a transaction to which sub-section (1H) of section 206C applies.'*



“Anyone who stops learning is old, whether at twenty or eighty. Anyone who keeps learning stays young.

The greatest thing in life is to keep your mind young.”

- Henry Ford

