
	<p style="text-align: center;"><b>कार्यालय, रक्षा लेखा महानियंत्रक</b>  उलान बटार रोड, पालम, दिल्ली छावनी - 110010  <b>Controller General of Defence Accounts</b>  Ulan Batar Road, Palam, Delhi Cantt - 110010  Ph no. (011):25665540,729  Fax- (011) : 25674806, 25674821  e-mail: cgdaaudit9.dad@hub.nic.in</p>	
-----------------------------------------------------------------------------------	--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	-------------------------------------------------------------------------------------

No. AT/IX/9504/IDS/Misc/e-15596

Date: 10.10.2023

**To,****All PCsDA/PCA (Fys)/CsDA****Sub: Clarification regarding applicability of section 194Q.**

- Ref: (i) Government of India, Ministry of Finance, Department of Revenue, Central Board of Direct Taxes Circular No. 20 of 2021 issued vide F.No. 370142/56/2021-TPL dated 25<sup>th</sup> November, 2021.**
- (ii) HQrs. CGDA letter No. AT/Army (Stores)/9504/CDA Matters/ Misc dated 10/08/2021.**
- (iii) HQrs CGDA letter No.AT/IX/9504/IDS/Misc dated 19.01.2023.**

\*\*\*\*\*

As per para-3 of CBDT Circular No. 20 of 2021 cited at reference-1 above, "Finance Act, 2021 inserted a new section 194Q to the Act which took effect from 1<sup>st</sup> day of July 2021. It applies to any buyer who is responsible for paying any sum to any resident seller for purchase of any goods of the value or aggregate of value exceeding fifty lakh rupees in any previous year. The buyer, at the time of credit of such sum to the account of the seller or at the time of payment, whichever earlier, is required to deduct an amount equal to 0.1% Of such sum exceeding fifty lakh rupees as income tax. Buyer is defined to be person whose total sales or 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."

2. However, as per 5.4.2 of the ibid CBDT Circular, a person to be considered as a buyer for the purposes of section 194Q of the Act, following conditions are required to be fulfilled:-

- (a) Such person shall be carrying out a business/commercial activity;  
Contd...



2-

(b) The total sales, gross receipts or turnover from such business/commercial activity shall be more than Rs 10 crore during the financial year immediately preceding the financial year in which goods are being purchased by such person.

In case of any Department of the Government which is not carrying out any business or commercial activity the primary requirement for being considered as a 'buyer' will not be fulfilled. Accordingly, such an organization will not be considered as 'buyer' for the purposes of section 194Q of the Act and will not be liable to deduct tax on the goods so purchased by them. However, if the said department is carrying on a business/commercial activity, the provision of section 194Q of the Act shall apply subject to the fulfillment of other conditions.

3. In view of above, it is advised that prior to deducting TDS@0.1% under Section 194Q of the Income Tax Act, in terms of para 3 of CBDT Circular No. 20 of 2021, it may be ensured that conditions mentioned at para 5.4.2 of ibid circular are fulfilled.

4. This issues with the approval of Sr. Jt. CGDA (AT).

  
Dy. CGDA (AT)

34

रक्षा लेखा महानियंत्रक  
उलान बटार रोड, पालम, दिल्ली छावनी - 110010  
Controller General of Defence Accounts  
Ulan Batar Road, Palam, Delhi Cantt - 110010  
Ph No. 011 - 25665580,729 FAX No. 011-25674806.  
E-mail: hqarmybr.dad@hub.nic.in

No. AT/Army(Stores)/9504/CDA Matters/Misc dated 10.08.2021

To,

All Concerned PCsDA/CsDA

(also through email/CGDA WAN)

**Subject:** TDS deductions under section 194Q of the Income Tax Act 1961

**Reference:** MoF, Department of Revenue letter no. 370142/26/2021-TPL  
dated 30.06.2021 / *circulation 13/2021*  
\*\*\*\*\*

Please find enclosed a copy of Government of India, MoF, Department of Revenue letter cited under reference on the above subject for compliance and necessary action at your end.

2. In addition, it is advised that necessary instructions to sub offices may be issued to comply with provisions/guidelines promulgated therein w.r.t additional deduction of IT equals to 0.1% on credit payment of 50 lakhs and above.

*This issues with the approval of J-CGDA (Army),*

Encl: As above.

*S.K. Verma*  
(S.K. Verma)

Senior Accounts Officer (Army)

Circular No. 13 of 2021

**F. No. 370142/26/2021-TPL**  
**Government of India**  
**Ministry of Finance**  
**Department of Revenue**  
**(Central Board of Direct Taxes)**

\*\*\*\*\*

Dated: 30<sup>th</sup> June, 2021**Sub.: Guidelines under section 194Q of the Income-tax Act, 1961 - reg.**

Finance Act, 2021 inserted a new section 194Q in the Income-tax Act 1961 (hereinafter referred to as "the Act") which takes effect from 1<sup>st</sup> day of July, 2021. It applies to any buyer who is responsible for paying any sum to any resident seller for purchase of any goods of the value or aggregate of value exceeding fifty lakh rupees in any previous year. The buyer, at the time of credit of such sum to the account of the seller or at the time of payment, whichever is earlier, is required to deduct an amount equal to 0.1% of such sum exceeding fifty lakh rupees as income tax.

2. Buyer is defined to be person whose total sales or 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 good is carried out. Central Government has been authorised to specify by notification in the Official Gazette, person who would not be considered as buyer for the purposes of this section.

3. Sub-section (3) of section 194Q of the Act empowers the Board (with the approval of the Central Government) to issue guidelines for the purpose of removing difficulties. Various representations have been received by the Board for issuing guidelines for removing certain difficulties. In exercise of power contained under sub-section (3) of section 194Q of the Act, the Board, with the approval of the Central Government, hereby issues the following guidelines. These guidelines at some places have also tried to remove difficulties in implementing the provisions of section 194-O and sub-section (1H) of section 206C of the Act using power contained in sub-section (4) of section 194-O of the Act and sub-section (1-I) of section 206C of the Act.

**4. Guidelines****4.1 Applicability on transactions carried through various Exchanges:**

4.1.1 It has been represented that there are practical difficulties in implementing the provisions of Tax Deduction at Source (TDS) contained in section 194-Q of the Act in case of certain exchanges and clearing corporations. It has been stated that sometime in these transactions there is no one to one contract between the buyers and the sellers.

4.1.2 In order to remove such difficulties, it is provided that the 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,

Circular No. 13 of 2021

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; and

For this purpose,-

- (i) "recognized clearing corporation" shall have the meaning assigned to it in clause (i) of the Explanation to clause (23EE) of section 10 of the Act;
- (ii) "recognized stock exchange" shall have the meaning assigned to it in clause (ii) of the Explanation 1 to sub-section (5) of section 43 of the Act; and
- (iii) "International Financial Services Centre" shall have the meaning assigned to it in clause (q) of section 2 of the Special Economic Zones Act, 2005.

#### 4.2 Calculation of threshold for the financial year 2021-22.

4.2.1. Since section 194Q of the Act would come into effect from 1<sup>st</sup> July, 2021, it was requested to clarify how the threshold of fifty lakh rupees specified under this section shall be computed and whether the tax is required to be deducted in respect of advance paid before 1<sup>st</sup> July 2021 and sum credited thereafter.

4.2.2 It hereby clarified that,-

(i) 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 1<sup>st</sup> July 2021. If either of the two events had happened before 1<sup>st</sup> July 2021, that transaction would not be subjected to the provisions of section 194Q of the Act.

(ii) Since the threshold of fifty lakh rupees is with respect to the previous year, calculation of sum for triggering TDS under section 194Q shall be computed from 1<sup>st</sup> April, 2021. Hence, if a person being buyer has already credited or paid fifty 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 1<sup>st</sup> July 2021, to such seller.

#### 4.3 Adjustment for GST, purchase returns

4.3.1 It is requested to clarify that whether adjustment is required to be made for GST or purchase returns for the purpose of tax deduction under section 194Q of the Act. Vide circular no 17 of 2020 dated 29<sup>th</sup> Sept 2020 it was clarified that no adjustment on account of GST is required to be made for collection of tax under sub-section (IH) of section 206C of the Act since the collection is made with reference to receipt of amount of sale consideration. However, the situation is different so far as TDS is concerned. It has been clarified in circular no 23 of 2017 dated 19<sup>th</sup> July 2017 as under

*"wherever in terms of the agreement or contract between the payer and the payee, the component of 'GST on services' comprised in the amount payable to a resident is*

*indicated separately, tax shall be deducted at source under Chapter XVII-B of the Act on the amount paid or payable without including such 'GST on services' component. GST for these purposes shall include Integrated Goods and Services Tax, Central Goods and Services Tax, State Goods and Services Tax and Union Territory Goods and Services Tax."*

4.3.2 Accordingly with respect to TDS under section 194Q of the Act, it is clarified that when tax is deducted at the time of credit of amount in the account of seller and in terms of the agreement or contract between the buyer and the seller, the component of GST comprised in the amount payable to the seller is indicated separately, tax shall be deducted under section 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.

4.3.3 Further, with respect to purchase return it is clarified that 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.

#### **4.4 Whether non-resident can be buyer under section 194Q of the Act?**

4.4.1 It is requested to clarify if the provisions of section 194Q of the Act shall apply to a buyer being a non-resident. To remove difficulties, it is clarified that 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. For this purpose, "permanent establishment" shall mean to include a fixed place of business through which the business of the enterprise is wholly or partly carries on.

#### **4.5 Whether tax is to be deducted when the seller is a person whose income is exempt**

4.5.1 It is requested to clarify if the provisions of section 194Q of the Act shall apply to a seller whose income is exempt. To remove difficulty, it is clarified that 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 under the Act (like person exempt under section 10) or under any other Act passed by the Parliament (Like RBI Act, ADB Act etc.).

4.5.2 Similarly, with respect to sub-section (1H) of section 206C of the Act, it is clarified that the provisions of this sub-section shall not apply to sale of goods to a person, being a buyer, who as a person is exempt from income tax under the Act (like person exempt under section 10) or under any other Act passed by the Parliament (Like RBI Act, ADB Act etc.).

4.5.3 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.

Circular No. 13 of 2021

**4.6 Whether tax is to be deducted on advance payment?**

4.6.1 It is requested to clarify if the provisions of section 194Q of the Act shall apply to advance payment made by the buyer. It is clarified that 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.

**4.7 Whether provisions of section 194Q of the Act shall apply to buyer in the year of incorporation?**

4.7.1 It is requested to clarify if the provisions of section 194Q of the Act shall apply to a buyer in the year of its incorporation. It is clarified that under section 194Q of the Act a buyer is required to have total sales or gross receipts or turnover from the business carried on by him exceeding ten crore rupees during the financial year immediately preceding the financial year 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.

**4.8 Whether provisions of section 194Q of the Act shall apply to buyer if the turnover from business is 10 crore or less?**

4.8.1 It is requested to clarify if the provisions of section 194Q of the Act shall apply to a buyer who has turnover or gross receipt exceeding Rs 10 crore but total sales or gross receipts or turnover from business is Rs 10 crore or less. It is clarified that for the purposes of section 194Q of the Act, a buyer is required to have total sales or gross receipts or turnover from the business carried on by him exceeding ten crore rupees during the financial year immediately preceding the financial year in which the purchase of good is carried out. Hence, the sales or gross receipts or turnover **from business carried on by him** must exceed Rs 10 crore. His turnover or receipts from non-business activity is not to be counted for this purpose.

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

4.9.1 It is requested to clarify how section 194-O, sub-section (1H) of section 206C and section 194Q of the Act, apply on the same transaction.

4.9.2 Under sub-section (3) of section 194-O of the Act, a transaction in respect of which tax has been deducted by the e-commerce operator under sub-section (1), or which is not liable to deduction under sub-section (2), shall not be liable to tax deduction at source under any other provision of chapter XVII of the Act.

4.9.3 Under second proviso to sub-section (1H) of section 206C of the Act, provisions of this sub-section shall not apply, if the buyer is liable to deduct tax at source under any other provisions of this Act on the goods purchased by him from the seller and has deducted such tax.

4.9.4 Under sub-section (5) of section 194Q of the Act, the provision of this section shall not apply to a transaction on which-

- (i) tax is deductible under any of the provisions of this Act; and
- (ii) tax is collectible under the provisions of section 206C, other than a transactions on which sub-section (1H) of section 206C applies

4.9.5 After conjoint reading of all these provisions the following is clarified:

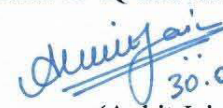
(i) If tax has been deducted by the e-commerce operator on a transaction under section 194-O of the Act [including transactions on which tax is not deducted on account of sub-section (2) of section 194-O], that transaction shall not be subjected to tax deduction under section 194Q of the Act.

(ii) Though sub-section (1H) of section 206C of the Act 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.

(iii) 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 under section 194-O of the Act and not under section 194Q of the Act.

(iv) Similarly, if a transaction is both within the purview of section 194-O of the Act as well as sub-section (1H) of section 206C of the Act, tax is required to be deducted under section 194-O of the Act. The transaction shall come out of the purview of sub-section (1H) of section 206C of the Act after tax has been deducted by the e-commerce operator on that transaction. Once the e-commerce operator has deducted the tax on a transaction, the seller is not required to collect the tax under sub-section (1H) of section 206C of the Act on the same transaction. It is clarified that here primary responsibility is on e-commerce operator to deduct the tax under section 194-O of the Act and that responsibility cannot be condoned if the seller has collected the tax under sub-section (1H) of section 206C of the Act. This is for the reason that the rate of TDS under section 194-O is higher than rate of TCS under sub-section (1H) of section 206C of the Act.

(v) If a transaction is both within the purview of section 194-Q of the Act as well as sub-section (1H) of section 206C of the Act, the tax is required to be deducted under section 194-Q of the Act. The transaction shall come out of the purview of sub-section (1H) of section 206C of the Act after tax has been deducted by the buyer on that transaction. Once the buyer has deducted the tax on a transaction, the seller is not required to collect the tax under sub-section (1H) of section 206C of the Act on the same transaction. However, if, for any reason, tax has been collected by the seller under sub-section (1H) of section 206C of the Act, before the buyer could deduct tax under section 194-Q of the Act on the same transaction, such transaction would not be subjected to tax deduction again by the buyer. This concession is provided to remove difficulty, since tax rate of deduction and collection are same in section 194Q and sub-section (1H) of section 206C of the Act.

  
30.06.2021

(Ankit Jain)

Under Secretary to the Govt. of India



Circular No. 13 of 2021

Copy to:

1. PS to FM/ OSD to FM/ PS to MoS(F)/ OSD to MoS(F)
2. PPS to Secretary (Revenue)
3. Chairman, CBDT & All Members, CBDT
4. All Pr. DGsIT/ Pr. CCsIT
5. All Joint Secretaries/ CsIT/ Directors/ Deputy Secretaries/ Under Secretaries of CBDT
6. The C&AG of India
7. The JS & Legal Adviser, Ministry of Law & Justice, New Delhi
8. CIT (M&TP), Official Spokesperson of CBDT
9. O/o Pr. DGIT (Systems) for uploading on official website.
10. JCIT (Database Cell) for uploading on [www.irsofficersonline.gov.in](http://www.irsofficersonline.gov.in)



"हर काम देश के नाम"  
**कार्यालय, रक्षा लेखा महानियंत्रक**  
 उलान बटार रोड, पालम, दिल्ली छावनी - 110010  
**Controller General of Defence Accounts**  
 Ulan Batar Road, Palam, Delhi Cantt- 110010  
 Ph no. (011):25665728,724 Fax- (011) : 25674806, 25674821  
 e-mail: cgdaudit9.dad@hub.nic.in



No.AT-IX/Stores/9504/IDS/Misc

Date: 19/01/2023

To

All Regional PCsDA/CsDA  
 PCDA (BR) Delhi Cantt.  
 PCDA New Delhi

**Subject: TDS deduction under section 194Q of the Income Tax Act 1961.**

\*\*\*\*\*

Please find enclosed a copy of Ministry of Finance, Government of India, Department of Revenue letter No 370142/56/2021-TPL dated 25th November 2021 (Circular No. 20 of 2021).

2. Para-5.4.2 of ibid circular stated that any Government Department does not carry out any business / commercial activity will not be considered as " Buyer" and according, will not be liable to deduct tax on the goods so purchased by them.
3. It is therefore, requested that it may be intimated whether TDS is being deducted as per provision of 194Q of income Tax Act.
4. This issues with the approval of Sr. Jt. CGDA (AT).

Encl: As above.

*Vishal Krishna*  
 Accounts Officer (AT-IX)

Circular No. 20 of 2021

**F. No.370142/56/2021-TPL**  
**Government of India**  
**Ministry of Finance**  
**Department of Revenue**  
**Central Board of Direct Taxes**  
**(TPL Division)**

\*\*\*\*

Dated 25<sup>th</sup> November, 2021

**Subject: Guidelines under sub-section (4) of section 194-O, sub-section (3) of section 194Q and sub-section (1-I) of section 206C of the Income-tax Act, 1961 – reg.**

Finance Act, 2020 inserted a new section 194-O in the Income-tax Act 1961 (hereinafter referred to as “the Act”) which mandates that with effect from 1<sup>st</sup> day of October, 2020, an e-commerce operator shall deduct income-tax at the rate of one per cent of the gross amount of sale of goods or provision of services or both, facilitated through its digital or electronic facility or platform. However, exemption from the said deduction has been provided in case of certain individuals or Hindu undivided family subject to fulfilment of specified conditions. This deduction is required to be made at the time of credit of the amount of such sale or service or both to the account of an e-commerce participant or at the time of payment thereof to such e-commerce participant, whichever is earlier.

2. Finance Act, 2020 also inserted sub-section (1H) in section 206C of the Act which mandates that with effect from 1<sup>st</sup> day of October, 2020 a seller receiving an amount as consideration for sale of any goods of the value or aggregate of such value exceeding fifty lakh rupees in any previous year shall collect from the buyer, a sum equal to 0.1 per cent of the sale consideration exceeding fifty lakh rupees as income-tax. The collection is required to be made at the time of receipt of amount of sale consideration. Seller is defined as the person whose total sales or 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 sale of good is carried out. Central Government has been authorised to specify by notification in the Official Gazette, the person who would not be considered as seller for the purposes of this section, subject to the fulfillment of certain conditions as specified therein.

3. Finance Act, 2021 inserted a new section 194Q to the Act which took effect from 1<sup>st</sup> day of July, 2021. It applies to any buyer who is responsible for paying any sum to any resident seller for purchase of any goods of the value or aggregate of value exceeding fifty lakh rupees in any previous year. The buyer, at the time of credit of such sum to the account of the seller or at the time of payment, whichever is earlier, is required to deduct an amount equal to 0.1% of such sum exceeding fifty lakh rupees as income tax. Buyer is defined to be person whose total sales or 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. Central Government has been authorised to specify by notification in the Official Gazette, person who would not be considered as buyer for the purposes of this section, subject to fulfillment of specified conditions.

4. Sub-section (4) of section 194-O, sub-section (3) of section 194Q and sub-section (1-I) of section 206C of the Act empowers the Board (with the approval of the Central Government) to issue guidelines for the purpose of removing difficulties.

4.1 In this regard, vide circular no. 17 of 2020 dated 29.09.2020, guidelines were issued by the Board (with the approval of the Central Government) in relation to the provisions of section 194-O and section 206C(1H) of the Act in certain cases to remove difficulties and provide clarity for certain transactions.

4.2 Further, vide circular no. 13 of 2021 dated 30.06.2021, guidelines were issued by the Board in relation to the provisions of section 194Q of the Act through which the difficulties arising from the applicability of the provisions of section 194Q in certain cases were removed. Furthermore, guidelines with respect to the cross application of the provisions of sections 194-O, 194Q and 206C (1H) of the Act were also issued through the said circular.

4.3 In continuation of the above, to further remove the difficulties, the Board, with the approval of the Central Government, hereby issues the following guidelines under sub-section (4) of section 194-O, sub-section (3) of section 194Q and sub-section (1-I) of section 206C of the Act.

## 5. Guidelines

### 5.1 E-auction services carried out through electronic portal:

5.1.1 Representations have been received from various stakeholders involved in the business of carrying out e-auction services through electronic portal owned, operated or maintained by them (hereinafter referred as 'e-auctioneer'). It has been stated that in an e-auction, the e-auctioneer involved in conducting the e-auction through its portal is responsible only for the price discovery for the sale/purchase of goods or services and the result of the auction report is submitted to the client. The client could be the buyer or the seller. Participants in the auctions are sellers (if client is buyer) or buyers (if client is seller). The transaction of sale/purchase is being carried out directly between the buyer and the seller which are not done through the electronic portal of the e-auctioneer. Further, the price so discovered can be further negotiated between the parties without the knowledge of the e-auctioneer. In such a scenario, it has been represented that provisions of section 194-O of the Act does not apply as the transaction of sale/purchase itself is not taking place through the electronic portal.

5.1.2 From the representations made, the following facts have been noticed:

- (a) The e-auctioneer conducts e-auction services for its clients in its electronic portal and is responsible for the price discovery **only** which is reported to the client.
- (b) The price so discovered through e-auction process is not necessarily the price at which the transaction takes place and it is up to the discretion of the client to accept the price or to directly negotiate with the counter-party.
- (c) The transaction of purchase/sale takes place directly between the buyer and the seller party outside the electronic portal maintained by the e-auctioneer and price discovery only acts as the starting point for negotiation and conclusion of purchase/sale.
- (d) The e-auctioneer is not responsible for facilitating the purchase and sale of goods for which e-auction was conducted on its electronic portal except to the extent of price discovery.

- (e) Payments for the transactions are carried out directly between the buyer and the seller outside the electronic portal and the e-auctioneer does not have any information about the quantum and the schedule of payment which is decided mutually by the client and the counterparty.
- (f) For payment made to e-auctioneer for providing e-auction services, the client deducts tax under the relevant provisions of the Act other than section 194-O of the Act.

**5.1.3** In order to remove difficulty, it is clarified that the provisions of section 194-O of the Act shall not apply in relation to e-auction activities carried out by e-auctioneers if **all the facts** listed at (a) to (f) of para 5.1.2 are satisfied. This clarification shall not apply if any of these facts are not satisfied. Further, it is clarified that the buyer and seller would still be liable to deduct/ collect tax as per the provisions of section 194Q and 206C (1H) of the Act, as the case may be.

## **5.2 Adjustment of various state levies and taxes other than GST**

**5.2.1** In Para 4.3.2 of circular no. 13 of 2021 dated 30.06.2021, it has been provided that in case the GST component has been indicated separately in the invoice and tax is deducted at the time of credit of the amount in the account of the seller, then the tax is to be deducted under section 194Q of the Act on the amount credited without including such GST. It has been further provided that in case the tax is deducted on payment basis as the payment is earlier than the credit, the tax is to 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. Further, adjustment of tax deducted in case of purchase return has also been provided.

**5.2.2** It has been represented that in case of goods which are not within the purview of GST, such as petroleum products, various levies like VAT, Excise duty, sales tax etc. are charged. While the treatment of GST component has been clarified in the circular no. 13 of 2021, the same is silent on other non-GST levies which have otherwise been subsumed and replaced by GST.

**5.2.3** In this regard, it is hereby clarified that in case of purchase of goods which are not covered within the purview of GST, when tax is deducted at the time of credit of amount in the account of seller and in terms of the agreement or contract between the buyer and the seller, the component of VAT/Sales tax/Excise duty/CST, as the case may be, has been indicated separately in the invoice, then the tax is to be deducted under section 194Q of the Act on the amount credited without including such VAT/Excise duty/Sales tax/CST, as the case may be. However, if the tax is deducted on payment basis, if it is earlier than the credit, the tax is to be deducted on the whole amount as it will not be possible to identify the payment with VAT/Excise duty/Sales tax/CST component to be invoiced in the future. Furthermore, in case of purchase returns, the clarification as provided in Para 4.3.3 of circular no. 13 of 2021 shall also apply to purchase return relating to non GST products liable to VAT/excise duty/sales tax/ CST etc.

## **5.3 Applicability of section 194Q of the Act in cases where exemption has been provided under section 206C (1A) of the Act**

**5.3.1** Sub-section (1A) of section 206C of the Act provides that notwithstanding anything contained in sub-section (1) of the said section, no tax is to be collected in case of a buyer, who is a resident in India, if such buyer furnishes to the person responsible for collecting tax, a declaration to the effect that the goods (as referred to in sub-section (1)) are to be utilized for the purposes of manufacturing, processing or producing articles or things or for the purposes of generation of power and not for trading purposes.

**5.3.2** As per the provisions of sub-section (1H) of section 206C of the Act, tax is to be collected in respect of sale of goods other than the goods which have not been covered under sub-section (1) or sub-section (1F) or sub-section (1G). It has been represented that in case of goods which are covered under the provisions of sub-section (1) of the said section but exempted under sub-section (1A), tax will not be collectible under either sub-section (1) or sub-section (1H) of section 206C as the provisions of sub-section (1H) categorically exclude the goods which are covered under sub-section (1) of section 206C. It has been requested to clarify if the provisions of section 194Q of the Act will be applicable in such cases.

**5.3.3** The issue has been examined. It is seen that the provisions of section 194Q of the Act does not apply in respect to those transactions where tax is collectible under section 206C [except sub-section (1H) thereof] of the Act. Since by virtue of sub-section (1A) of section 206C of the Act, the tax is not required to be collected for goods covered under sub-section (1) of the said section, it is hereby clarified that in such cases, the provisions of section 194Q of the Act will apply and the buyer shall be liable to deduct tax under the said section if the conditions specified therein are fulfilled.

#### **5.4 Applicability of the provisions of section 194Q in case of department of Government not being a public sector undertaking or corporation**

**5.4.1** There have been representations from department of the Government (both Central Government and State Government), to enquire if such department is required to deduct tax under the provisions of section 194Q of the Act.

**5.4.2** As per the provisions of section 194Q, tax is to be deducted by a person, being a buyer, whose total sales, gross receipts or turnover from **business** carried on by that person exceed ten crore rupees during the financial year immediately preceding the financial year in which the goods are purchased by such person. Thus, for a person to be considered as a buyer for the purposes of section 194Q of the Act, following conditions are required to be fulfilled:

- (a) Such person shall be carrying out a business/ commercial activity;
- (b) The total sales, gross receipts or turnover from such business/ commercial activity shall be more than Rs. 10 crore during the financial year immediately preceding the financial year in which goods are being purchased by such person.

In case of any Department of the Government which is not carrying out any business or commercial activity, the primary requirement for being considered as a 'buyer' will not be fulfilled. Accordingly, such an organization will not be considered as 'buyer' for the purposes of section 194Q of the Act and will not be liable to deduct tax on the goods so purchased by them. However, if the said department is carrying on a business/commercial activity, the provision of section 194Q of the Act shall apply subject to the fulfillment of other conditions.

**5.4.3** Issue has been raised in case where any department of the Government will be considered as a 'seller' for the purposes of deduction of tax under section 194Q of the Act. In this regard, it is hereby clarified that for the purposes of section 194Q, Central Government or State Government shall not be considered as 'seller' and no tax is to be deducted by the buyer, in cases where any Department of Central or State Government are seller of goods.

**140234/2022/AUDIT IX STORE CGDA**

**5.4.4** In connection with above, it is further clarified that any other person, such as a Public sector Undertaking or corporation established under Central or State Act or any other such body, authority or entity, shall be required to comply with the provisions of section 194Q and tax shall be deducted accordingly.

  
25.11.2021  
**Ankit Jain**

**Under Secretary to the Govt. of India**

Copy to:

1. PS to FM/ OSD to FM/ PS to MoS(F)/ OSD to MoS(F)
2. PPS to Secretary (Revenue)
3. Chairman, CBDT & All Members, CBDT
4. All Pr. DGsIT/ Pr. CCsIT
5. All Joint Secretaries/ CsIT/ Directors/ Deputy Secretaries/ Under Secretaries of CBDT
6. The C&AG of India
7. The JS & Legal Adviser, Ministry of Law & Justice, New Delhi
8. CIT (M&TP), Official Spokesperson of CBDT
9. O/o Pr. DGIT (Systems) for uploading on official website.
10. JCIT (Database Cell) for uploading on [www.irsofficersonline.gov.in](http://www.irsofficersonline.gov.in)