



# केन्द्रीय भण्डारण निगम

(भारत सरकार का उपक्रम)

**CENTRAL WAREHOUSING CORPORATION**

(A Govt. of India Undertaking)

जन-जन के लिए भण्डारण/ Warehousing for Everyone



CWC-FD/CA-Taxation Circular/2021-22

23<sup>rd</sup> December, 2021

## **TAXATION CIRCULAR NO. # 48**

**Sub: Clarificatory guidelines issued by CBDT for Section 194-O, Section 194-Q and Section 206C(1H) of Income Tax Act, 1961**

- Ref.: (i) Department of Revenue OM no. 370142/56/2021-TPL dated 25<sup>th</sup> November, 2021  
(ii) Corrigendum to Taxation Circular No.43 dated 25.07.2021  
(iii) Taxation Circular # 43 dated 19.06.2021 on deduction of Tax at Source on payment for purchase of any goods exceeding Rs.50 lakhs w.e.f. 01.07.2021  
(iv) Taxation Circular # 40 dated 16.12.2020 on applicability of provisions of tax collected at source in terms of Section 206C(1H) of the Act.

1. Vide above referred circulars, applicability of the provisions of Section 194Q and Section 206C(1H) of Income Tax Act on the transactions of CWC were informed. Vide the OM referred at(i) above, the Department of Revenue has issued additional clarificatory guidelines (copy enclosed) with respect to **Section 194-O, Section 194-Q and Section 206C(1H) of Income Tax Act, 1961**.
2. Section wise clarifications issued along with Impact of same on CWC is as under:

### **Section 194-O(For E Auction services carried through Electronic Portal)**

- (i) It has been clarified that the provisions of Section 194-O of the Income Tax Act shall not apply in relation to e-auction activities carried out by e-auctioneers through electronic portal if **all the facts listed at (a) to (f)** of para 5.1.2 of the Guidelines are satisfied, which are as under :-
  - (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.
- (ii) In case of CWC, E-auction services are availed through MSTC. Since **condition mentioned at (e) above is not satisfied in the transactions with MSTC**, the MSTC Ltd shall continue to deduct TDS u/s194O @ the applicable rate of 1% ( at present) from the payment of sale proceeds made to CWC by MSTC Ltd . This has also been confirmed by mail from MSTC vide their mail dt 14.12.2021(**Copy enclosed**). **CWC shall avail credit of TDS so deducted.**

**Section 194-Q(on payment for purchase of any goods exceeding Rs. 50 lakh)**

- (i) Vide para No.3 (iii) of Corrigendum at ref. (iii) i.e Corrigendum to Taxation Circular No.43 dated 25.07.2021, it was clarified that TDS u/s 194Q shall be deducted on the amount credited without including GST. While the treatment of GST component has been clarified in the Govt. circular no. 13 of 2021, the same was silent on other non-GST levies which have otherwise been subsumed and replaced by GST.
- (ii) Now OM dated 25.11.2021 has clearly indicated 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.
- (iii) In addition, it is also clarified that in cases where tax is not required to be collected by virtue of sub-section 1A of section 206C of the Income Tax Act, the provision of 194Q of the Act will apply and the buyer shall be liable to deduct tax under the said sections, if conditions specified therein are fulfilled. This means that TDS u/s 194Q is required to be deducted by CWC.

- (iv) **Applicability of section 194-Q in case the seller to CWC is Central Government or State Government:** - There may be a situation in which CWC purchases good from Central Government or State Government( Seller) . In such cases no tax is required to be deducted. However, a Public Sector Undertaking or a Corporation establish under Central or State Act is very much required to comply with the provision of section 194-Q and tax shall be deducted accordingly.

**(Amit Puri)**  
**General Manager (Tax & A/cs)**

**Distribution to:**

1. All Regional Managers of CWC
2. All DGMs/AGMs/Managers/ (Sr.) Asstt.Managers /Accountants in Finance, Accounts & Internal Audit Wings of all ROs.

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2. Director(Fin.), CWC, CO, New Delhi
3. GGM(F&A), CWC, Corporate Office, New Delhi
4. PPS to GGM(systems), CWC, CO, New Delhi –with a request to place this Circular on CWC’s website.
5. Manager(Rajbhasha), CWC, CO, New Delhi, with a request to arrange for Hindi version of this circular on website

**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.

**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**

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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)





**Email****AMIT PURI**

**From :** SAM Accounts <samacc.ahd@cewacor.nic.in>  
**Subject :** Fwd: Non Deduction of any Tax u/s 194 O Reg...  
**To :** amitpuricwc@gmail.com, AMIT PURI  
<puri.amit@cewacor.nic.in>

Tue, Dec 14, 2021 03:38 PM

Thanks & Regards,

Account Division  
CWC, RO Ahmedabad

"आवश्यक हो तो ही प्रिंट आउट ले, पर्यावरण बचाइए"

----- Forwarded Message -----

From: marutsaha@mstcindia.co.in  
To: "SAM Accounts" <samacc.ahd@cewacor.nic.in>  
Cc: ramesh@mstcindia.co.in  
Sent: Tuesday, December 14, 2021 3:03:38 PM  
Subject: RE: Non Deduction of any Tax u/s 194 O Reg...

Dear Sir,

Please refer subclause (e) of 5.1.2.  
सादर / Regards,

मारुत साहा / Marut Saha  
प्रबंधक / Manager  
एम.एस.टी.सी लिमिटेड / MSTC Limited  
वड़ोदरा शाखा / Vadodara Branch  
दूरभाष : ८४२०१७८२८३ / Mobile: 8420178283  
अणु डाक : / e-Mail : marutsaha@mstcindia.co.in

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-----Original Message-----

From: SAM Accounts <samacc.ahd@cewacor.nic.in>  
Sent: 14 December 2021 14:23  
To: marutsaha@mstcindia.co.in  
Cc: ramesh@mstcindia.co.in  
Subject: Re: Non Deduction of any Tax u/s 194 0 Reg...

Sir,

Kindly Confirm under which clause of 5.1.2 the said transaction is not satisfied.

Thanks & Regards,

Account Division  
CWC, RO Ahmedabad

"आवश्यक हो तो ही प्रिंट आउट ले, पर्यावरण बचाइए"

----- Original Message -----

From: marutsaha@mstcindia.co.in  
To: "SAM Accounts" <samacc.ahd@cewacor.nic.in>  
Cc: ramesh@mstcindia.co.in  
Sent: Tuesday, December 14, 2021 12:53:40 PM  
Subject: RE: Non Deduction of any Tax u/s 194 0 Reg...

Dear Sir,

The section 5.1.3, clearly states that all the clauses mentioned in 5.1.2 has to be satisfied for claiming exemption from the TDS deduction. Since, all the conditions of the clause 5.1.2 is not satisfied in our transactions, the deductions u/s 194(0) will continue to take place in our transactions with CWC.

Please revert for any clarifications.

सादर / Regards,

मारुत साहा / Marut Saha  
प्रबंधक / Manager  
एम.एस.टी.सी लिमिटेड / MSTC Limited  
वड़ोदरा शाखा / Vadodara Branch  
दूरभाष : ८४२०१७८२८३ / Mobile: 8420178283  
अणु डाक : / e-Mail : marutsaha@mstcindia.co.in

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-----Original Message-----

From: SAM Accounts <samacc.ahd@cewacor.nic.in>  
Sent: 14 December 2021 12:42  
To: Marutsaha@mstcindia.co.in  
Subject: Fwd: Non Deduction of any Tax u/s 194 O Reg...

Thanks

& Regards, Account Division CWC, RO Ahmedabad; आवश्यक हो तो ही प्रिंट आउट ले, पर्यावरण बचाए;

----- Forwarded Message -----

From: SAM Accounts <samacc.ahd@cewacor.nic.in>  
To: mstcindia@mstcindia.co.in  
Cc: ramesh@mstcindia.co.in  
Sent: Mon, 13 Dec 2021 17:05:41 +0530 (IST)  
Subject: Non Deduction of any Tax u/s 194 O Reg...

Sir,

CWC is conducting various auction of goods through MSTC. MSTC while forwarding the payment received from sellers deducts TDS u/s 194 O. Please find attached herewith the circular no 20/2021 dtd 25.11.2021 issued by CBDT, wherein it was clarified that section 194 O would not be applicable to the transactions done through electronic portal. (Refer Section 5.1.1).

Inline with the referred circular, kindly confirm that MSTC will not deduct any TDS under section 194 O from now onwards.

Email secured by Check Point

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