



CPA CONNECT



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Dear Colleague,

Warm Greetings at the beginning of the New Financial Year 2024-25!

As you know through this broadcast, I am updating our constituency about critical issues related to financial management, legal compliance and governance. Through the last three issues, we have covered the requirements on maintenance of Books of Accounts in the Income tax Act. In this Issue, I will be dealing with a special provision on TDS/TCS and its implication on the NPOs

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"Introduction of New TDS Sections: Impact and Implications"

1. Understanding the Implications of Sections 206AB and 206CCA of the Income Tax Act

The Finance Act of 2021 brought significant changes to the Income Tax Act of 1961 with the insertion of two new sections, 206AB and 206CCA. Effective from July 1, 2021, these sections mandate the deduction or collection of tax at a higher rate for certain non-filers. Section 206AB focuses on tax deducted at source (TDS) from specified persons, while Section 206CCA deals with tax collected at source (TCS) from non-filers.

The primary objective behind the introduction of these sections is to encourage compliance with income tax return filing among specified persons who have neglected to do so in previous assessment years, despite significant tax deductions or collections at source. Under these provisions, any individual or entity making payments to such specified persons must deduct tax at source at a higher rate than the normal rate prescribed under the relevant section of the Act.

Although both sections cover similar provisions, Section 206AB applies to Tax deducted at Source (TDS), while Section 206CCA applies to Tax Collected at Source (TCS). However, it's important to note that the provisions of Section 206CCA are generally not applicable to transactions involving NGOs. Therefore, this article will focus primarily on Section 206AB.

For the purposes of Sections 206AB and 206CCA, a non-filer is termed as a specified person. This includes persons who have failed to file their income tax returns for the previous two assessment years and have had an aggregate amount of TDS or TCS deducted during the previous year of Rs. 50,000 or more.

However, the Union Budget of 2023 has proposed a change in the definition of a "specified person" in the Income Tax Act. This amendment aims to provide relief by excluding individuals who are not required to file their income tax returns for the applicable assessment year, as well as non-residents without a permanent establishment in India.

Under Section 206AB, if the deductee is identified as a specified person, TDS must be deducted at a higher rate, which is the higher of either two times the rate specified in the relevant section or 5%. Additionally, if the specified person fails to provide PAN, tax must be deducted at 20% or the rates applicable as per the respective section, whichever is higher.

Failure to comply with the provisions of Section 206AB may result in the deductor being held liable for the payment of the differential amount of TDS not deducted, along with applicable interest.

In conclusion, Sections 206AB and 206CCA of the Income Tax Act introduce significant changes aimed at promoting compliance with income tax return filing. Understanding these provisions is crucial for deductors to ensure proper tax deduction and avoid potential liabilities.

Example:

An organisation enters into a contract for professional services with Mr. X and makes a payment of INR 10 Lakhs. The tax is deductible at 10% under Section 194J. But Mr X did not file his IT return for last year, and the due date for filing the return has expired.

Particulars	Treatment before the Introduction of Section 206AB i.e. 01/07/2021	Treatment after the Introduction of Section 206AB i.e. 01/07/2024
Annual amount of professional service	10 Lakhs	10 Lakhs
TDS Rate (194J)	10%	10%
Amount of TDS at normal rate	1 Lakh	1 Lakh
ITR Filing Status	No need to verify whether ITR filed or not	Need to verify whether ITR filed or not for previous financial year for which Due date for filing is expired
Amount of TDS, If ITR not filed	1 Lakh	<p>The TDS should be deducted at higher of the following:</p> <ul style="list-style-type: none"> Twice the rate prescribed in the Act, i.e. 20% (2*10%), or 5% <p>In this case, TDS amount would be 2 lakhs (10 Lakh * 20%)</p> <p>In case, the organization deducts only 1 lakh as TDS, then the differential amount of 1 lakh would be payable by the Organization.</p>

2. Applicability of Section 206AB and Specified Exclusions

Section 206AB shall be applicable on any type of transaction, such as contract payments, professional charges, rent etc. with the specified persons discussed above provided that the specified person has not filed the ITR for last two assessment years and the aggregate TDS deducted in preceding financial year is Rs. 50,000 or more.

In case, If the ITR for any of the last two assessment years is filed or aggregate TDS deducted in preceding financial year is less than Rs. 50,000/- during the previous year, the section 206AB is not

applicable and TDS can be deducted at the normal specified rate subject to the availability of PAN.

Exclusions: The following type of payments shall be excluded from the applicability of Section 206AB:

- Salary (Section 192)

Analysis: *The section 206AB is not applicable for TDS in case of Salary, however, the employer has to generate form 16A and 16B from the TDS portal Traces and issue the same to its employee by 15th June of every year. Non-issue of the form 16A and 16B within the specified due-date is a non-compliance.*

- Premature withdrawal of EPF (Section 192A)
- Winnings from any lottery or card games, or crossword puzzles (Section 194B)
- Winnings from any horse races (Section 194BB)
- Income concerning investment in securitisation trust (Section 194LBC)
- Cash withdrawals (Section 194N)
- Non-residents who do not have a permanent establishment (PE) in India.
- Consideration paid for the sale of immovable property (Section 194-IA)
- Rent payment to the landlord above Rs 50,000 (Section 194-IB)
- Payment for contractual or professional services above Rs 50 lakh (Section 194M)
- Transfer of virtual digital assets (Section 194S) to:
 - Individual or HUF, whose gross business turnover is less than Rs 1 crore or gross receipts from the profession are less than Rs 50 lakhs during the preceding financial year, or
 - Individual/HUF who does not have 'income from business or profession'.

3. Compliance checking facility

The Income Tax Department has activated the online system to determine the 'Specified Person' on whom the higher rate of TDS / TCS will be applicable under the newly introduced Sections 206AB. The user needs to access the reporting portal of Income Tax and follow the below mentioned steps,

- On the Reporting Portal homepage, click on the Register button.
- e-filing login page opens or directly opens e-filing portal.
- Log in to the e-filing portal.
- After login select the reporting Portal under Pending Actions.
- Redirected to the Reporting Portal
- select the New Registration option and click Continue.
- select the Form type as Compliance Check (Tax Deductor & Collector).
- The Entity Category will be displayed. Click Continue to navigate to the entity details page.
- Provide all entity details and click on the "Add Principal Officer" button
- Furnish Principal Officer details on the Principal Officer Details page.
- Click on the Preview button to view the entered entity and principal officer details.
- Click on the Submit button.
- Acknowledgment receipt will be generated

Once the registration request is approved by the Income-tax Department, an email notification will be sent to the Principal Officer along with ITDREIN details and login credentials.

- The Principal Officer needs to login into the portal,
- After successfully logging in, Click on the Compliance Check for Section 206AB link.

Upon clicking Compliance Check for Section 206AB, the compliance check functionality page appears. Through the functionality, tax deductors can verify if any person is a "Specified Person" as defined in Section 206AB.

Note: The detailed guideline issued by the Income Tax department on compliance check for Section 206AB is attached for reference.

Link for reference: <https://report.insight.gov.in/reporting-webapp/portal/homePage>

Watch out for our next edition in 15 Days' time where we would discuss about,

Section 194N and Section 194R of Income tax Act

*In the meantime, if you have any question on the above,
feel free to get back to me/us and we will respond to it.*

"Turning your ear to Wisdom and applying your heart to Understanding"



With Best Regards

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