



INCOME TAX ALERT

N. A. SHAH **BULLETIN**

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FAQs on amended TCS provisions

- In order to reduce the cash transactions in sale of goods and services, Finance Act, 2016 has extended the scope of Tax Collection at Sources ("TCS") to following transaction with effect from 1.6.2016-
 - Purchase of Motor Vehicle of value more than INR 10 Lakhs;
 - Sale of goods (other than bullion and jewellery) or provision of services for cash exceeding INR 2 Lakhs.
- The above amendments in TCS provisions have brought in considerable disputes regarding applicability of the provision. CBDT has issued following FAQs answering some common questions.
- Circular no 22/2016 dated 08.06.2016, CBDT has clarified some of the questions pertaining to TCS levy on sale of motor vehicles, which are explained as under:

Qt no	Query	Answer/ Explanation
1	Whether TCS is applicable on sale of Motor Vehicle at retail level or also on sale by manufacturers to dealers / distributors?	TCS has been made applicable on sale of motor vehicle to bring high value transactions within the tax net. The said provision applies on the retail sale and not on sale of motor vehicle made by manufacturer to distributor
2	Whether TCS levy is applicable only on luxury cars?	The provisions shall apply on sale of any motor vehicle where the value exceeds INR 10 Lakhs
3	Whether TCS applies to sales of motor vehicles made to Government Departments, Embassies, Consulates and United Nation Institutes?	The provisions shall not apply to the Government institutions notified under United Nations (Privileges and Immunities) Act 1947 and Embassies, Consulates, High Commission, Legation, Commission and trade representation of a foreign state
4	Whether TCS is applicable on each sale of motor vehicle or on aggregate value of sales during the year?	The provisions are applicable if the sale consideration exceeds INR 10 lakhs. It is applicable to each sale and not to the aggregate value of sales made during the year. It is further clarified that this clarification (in question 4) shall also apply for TCS levy on sale of goods or provision of service as provided u/s 206C(1D) of the Act.
5	Whether TCS on sale of motor vehicle is applicable in case of an individual?	The provisions of TCS shall apply to an individual (seller) who is liable to tax audit u/s 44AB of the Act during the financial year ('FY') preceding the FY in which the motor vehicle is sold by him.

Qt no	Query	Answer/ Explanation
6	How would the TCS provisions apply in case part payment is made in cash and part by cheque?	The TCS on sale of motor vehicle is not dependent on the mode of payment and hence, it applies in case the sales value exceeds INR 10 lakhs, irrespective of the mode of payment.
7	TCS applicability in case of sale of goods and service is only on the cash consideration exceeding INR 2 Lakhs as against TCS applicability on sale of motor vehicles exceeding INR 10 Lakhs. Whether TCS is applicable for both the above transactions (i.e. a total levy of 2%) in case sales consideration of motor vehicle exceeds INR 10 lakhs and part payment is made in cash exceeding INR 2 lakhs?	The levy will only be in either of the provisions (i.e. totally @ 1%) as under: Firstly as clarified in question no 6 above, TCS levy of sale of motor vehicle is irrespective of mode of payment, if the sale consideration exceeds INR 10 Lakhs. However, in case sales consideration of motor vehicle, is less than INR 10 Lakhs and every cash payment thereof exceeds INR 2 lakhs, then TCS @ 1% will be collected on INR 2 Lakhs.

- The above circular mainly clarified certain issues involved in TCS levy on sale of motor vehicles. It did not answer the common question raised by many companies specifically involved in service industry. The CBDT has now issued a circular no 23/2016 dated 24.06.2016 (addendum to circular 22/2016) which specifically answers this question as under:

Qt no	Query	Answer/ Explanation
1	Whether TCS u/s 206C(ID) of the Act is applicable where sales consideration received partly in cash and partly in cheque and the cash receipt is less than INR 2 Lakhs?	TCS u/s 206C(ID) of the Act will not be levied if cash component does not exceed INR 2 Lakhs, even if sales consideration exceeds INR 2 Lakhs.
2	Whether TCS u/s 206C(ID) of the Act only applies to the cash consideration involved or on the whole of the sales consideration?	In case cash payment of the sales consideration of goods and services exceeds INR 2 Lakhs, then such TCS @ 1% is to be computed only on the cash component of sales consideration and not on the entire consideration.

The above circulars have brought in much awaited clarity on the applicability and computation mechanism of the amended TCS levy u/s 206C of the Act on sale of motor vehicles and sale of goods and services.

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