

SICASA

E-NEWSLETTER



Chengalpattu District Branch of SIRC Of ICAI
(Formerly known as SICASA of Kanchipuram District Branch)

OCTOBER 2021

VOL IV/NO.10

Let's celebrate the birth
Anniversaries
of the great souls

**"Climbing to the top
demands strength,
whether it is to the top
of the Mount Everest or
to the top of your career"
- Dr. APJ Abdul Kalam**

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FROM THE SICASA CHAIRMAN'S DESK



My Dear Students

October is a very significant month in which we celebrate the birth anniversaries of the Great Souls of our Nation.

Gandhi Jayanti is celebrated on 2nd October every year to mark the birth anniversary of Mahatma Gandhi. He was born on 2 October, 1869 in Porbandar, Gujarat. He is an inspiration in the lives of famous world leaders and our lives also.

World Students' Day is observed on 15 October every year to mark the birth anniversary of A.P.J. Abdul Kalam. This day honors and pays respect to him and his efforts in the field of science and technology and also the role of the teacher that he played throughout his scientific and political careers.

These two men who were born as ordinary men like you and me were forced by circumstances to face greater challenges and emerged as champions. History is full of such simple human beings who won over forces well beyond their control and emerged as champions.

So whatever challenges you are facing now are not to stifle you but to discover who you are. In fact, challenges when conquered help you to chase greater challenges and in turn provide you greater growth.

Mother earth is never benevolent to any seed. The seed has to sprout and fight against the forces of the earth and emerge above the soil. As a child when you began to crawl, your mother used to place a toy a little away to crawl and challenge you to reach for it. Also when you began to take the first tiny steps, your mother used to keep a little away from you and challenge you to reach for it.

Was that act of cruelty? or was it an act of love to play the role of a catalyst in your growth ?

Similarly existence always challenges you so that you can discover the stuff you made of.

Stay Safe. Stay Healthy.
CA Shivachandra Reddy K
SICASA Chairman



FROM THE BRANCH CHAIRMAN'S DESK



My dear students,

Day by day, SICASA newsletter is coming out very nice on time under the guidance of SICASA Chairman Sri. Siva Chandra Reddy. Teachers day celebration on Acharya Devo Bhava was very well organised and the Chief Guest of the celebration Smt. Jahanzeb Akhtar, IRS, Principle Commissioner of Income Tax graced the occasion and gave valuable inputs to our students.

My congratulations to all the students who have cleared their foundation, inter and final exams. The branch also welcomes the newly qualified chartered accountants. SICASA is organising various study circle meetings every month and every student should use this opportunity and get benefited out of it.

Reading room in the branch is open and the students can approach the branch and use the facility. Covid 19 protocol should be followed strictly.

Mock test for intermediate and final students have been scheduled between 04.10.2021 to 22.10.2021 and for foundation students it's between 13.10.2021 to 20.10.2021. Students must make use of these mock test series.

With regards.

CA Kathiresan C

BRANCH CHAIRMAN



Controlled Foreign Corporations

Controlled Foreign Corporation (CFC) can be defined as those corporate entities incorporated in lower tax jurisdictions which are controlled either directly or indirectly by residents of a higher tax jurisdiction.



PRITHIKA J P
SRO0576115

Since it is considered as a separate legal entity, profits earned by such CFCs cannot be taxed in the hands of the parent company unless the profits are distributed to the parent company.

These CFCs tend to earn passive income and when such profits from such income are not distributed, it leads to deference of tax for the jurisdiction where the parent entity is located and ultimately leads to erosion of tax base.

Before we get into the discussion, given below are meaning to certain terms to make the understanding of this topic easier:

- a) Base Erosion and Profit Shifting (BEPS): BEPS refers to tax planning strategies which exploit gaps and mismatches in the tax rules between different countries and to shift the income from high tax locations to low tax locations which will reduce the overall tax paid.
- b) Tax Havens: A tax haven is generally an offshore country that offers foreign individuals and businesses little or no tax liability in a politically and economically static environment.
- c) Fiscally Transparent Entities: Fiscally transparent entities are those where, under domestic law of a Contracting State, income (or part thereof) of the entity or arrangement is not taxed at level of such entity, but at level of persons who have an interest in that entity.
- d) Portable Income: Portable income is such income which can be easily shifted from one jurisdiction to another. It generally denotes passive income.
- e) Passive Income: Passive income refers to income earned from sources which lack active participation and not earned through direct and commercial operations comprises of earnings which are derived via rental property, limited partnership, or any other enterprise in which any individual is not involved in active participation. A few analysts consider portfolio income as passive income, and hence, interest and dividends would also be regarded as passive income. Passive income requires little to no effort in order to earn and maintain. It is termed as progressive passive income when an earner puts in little effort to generate income. It can also include income from related parties.



f() **Tainted Income:** Income earned by the assessee in an unethical manner or by resorting to acts forbidden by law (E.g., Income earned through impermissible avoidance arrangements)

Meaning and need for CFC Legislation:

In several countries, the shareholders are taxed on the entity's income only when the entity distributes the same as dividend. Hence, it was a common practice of the entities to create companies in lower tax jurisdictions or tax havens and shift the passive income to that newly established foreign entity. This way tax on such passive income could be avoided by the parent entity until the foreign subsidiary distributed the same as dividend. Parent entity, to defer tax on such income in the home country indefinitely, started obtaining loans from such foreign entities without actually declaring the same as dividend. This was also used by multinational corporations as a means to attract inward investment which resulted in the recipient suffering additional tax on those profits.

In order to address this issue, governments of various countries started introducing legislations which aimed at eliminating the benefits for such deferral of income which are generally referred to as CFC laws. CFC laws are not necessarily limited to dealing with entities viewed as corporate entities.

Steps to developing a CFC Legislation:

Ownership / Control Test:

An entity will be treated as a CFC only if a certain percentage of ownership / control is in the hands of residents of the parent country. It may have a threshold for domestic ownership, below which a foreign entity is not considered a CFC. In addition, domestic members of a foreign entity owning less than a certain portion or class of shares may be excluded from the deemed income regime. Control may be defined as voting power to influence the business of a CFC or having a significant stake in the CFC's assets, profits or liquidation proceeds. These rules may apply to both direct and indirect subsidiaries of resident shareholder so that taxpayer does not resort to creation of multiple layers of holding companies

Taxation of Passive income in the hands of the Parent Entity:

The significant consequence of an entity being identified as a CFC is taxing of passive income in the hands of the parent entity as if the same had been remitted even when the income clearly remains in the legal ownership of the CFC. CFC rules target income taxed at a lower rate by either listing countries with low tax rates or setting a minimum tax rate threshold or by a combination of both



Incomes that can be includible in the hands of the Parent entity:

- a) Investment or passive sources including interest and dividend, rent and royalties from unrelated parties
- b) Purchasing goods from related parties or selling goods to related parties where the goods are both produced and for use outside the CFC's country
- c) Performing services outside the CFC's country for related parties
- d) Non-operating, insubstantial or passive businesses
- e) Deemed dividend
- f) Earnings of the CFC loaned by the CFC to domestic related parties

Provisions to mitigate the mechanisms of CFC Rules:

Most of the mechanisms in place for taxation of income of CFC have an inherent potential for creating double taxation as it is taxed in the foreign country where the CFC resides and same is taxed in the home country and potentially again on distribution of the same income to the shareholders of the home country. The following are the ways in which the same can be mitigated:

- a) **Participation Exemptions:** Provide that certain types of dividend are not taxed in the hands of the shareholders or may provide that capital gains on shares would not be taxed as long as specified proportion of company's share capital is held for a specified period
- b) **Credit Method:** Credit is given with respect of CFC income in the home country as regards to foreign taxes paid and on distribution again a tax credit is given of the income distributed
- c) **Exemption of dividend from CFC**

Approaches to taxing of CFC income:

There are two approaches that can be taken for taxation of income from a CFC

a) Categorisation of countries based on their tax system, KYC norms and extent of cooperation in sharing information:

Some countries in spite of levying low tax may have sophisticated taxation system, sufficient KYC norms and a cooperative approach at the time of sharing details of information upon request. These countries are known as "White Listed Category Jurisdictions". There might be some countries which can also be "Black Listed Category Jurisdictions" which are determined based on substance over form test, look through approach, business purpose test, etc., White listed category jurisdictions which do not assist in tax evasion must not be doubted provided they pass the above mentioned tests.



b) Income specific CFC legislation:

Tax is levied on the specified income of a resident shareholder. Target is to tax certain passive income (in some cases active income also upon satisfaction of certain conditions) of the foreign corporation of which the residents of a jurisdiction are shareholders. On fulfilling certain conditions it will be presumed that the shareholders have been acting in a malafide manner by shifting the income deliberately to lower tax jurisdiction to park it outside the home country in order to defer the tax on the same.

BEPS Action Plan 3 to mitigate CFCs:

OECD regards CFC rules are being important in tackling BEPS and has made a series of best practice recommendations in relation to the building blocks of an effective CFC legislation. The reason why OECD was not able to provide more than best practice was due to fundamental disagreement over the policy of CFC legislation. In particular whether states should use the legislation to protect other states' tax bases from earnings stripping.

The following are the building blocks as per the OECD recommendation:

- a) **CFC definition:** CFC rules to apply to foreign subsidiaries controlled by shareholders in the parent jurisdiction. These rules to also apply to non-corporate entities if they earn income that raises BEPS concerns and they are not addressed
- b) **Definition of CFC income:** CFC rules to define the income that ensures that BEPS concerns are addressed but countries are free to choose their own definition
- c) **Computation and attribution of CFC income:** CFC income to be calculated under a notional application of the parent's jurisdiction's tax laws and attribution should be subject to a control threshold and based on proportionate ownership or influence
- d) **Prevention and elimination of double taxes:** CFC rules not to result in double taxation and appropriate measures to be provided for credit of foreign tax paid relief where a dividend is paid out of attributed income or where taxpayers dispose of their interest in a CFC where there has been attribution
- e) **CFC exemptions and threshold requirements:** Companies to be exempted from CFC rules where they are subject to an effective tax rate that is not below the applicable tax rate in the parent jurisdiction



Provisions of the Income Tax Act, 1961 for CFCs:

- a) **Section 2(22)(e):** Deemed dividend provisions for closely held entities where loan is given by the entity to its shareholder holding not less than 10% of voting power/ to any concern in which such shareholder is a member or a partner and in which he has substantial interest / payment made to the individual benefit of any such shareholder, to the extent entity holds accumulated profits
- b) **Section 9(1)(i):** Concept of POEM to determine the residential status of a foreign company along with transition provisions if it becomes resident for the first time on the basis of POEM
- c) Implementation of **GAAR provisions**
- d) **Section 115BBD:** Provides concessional tax rate of 15% on gross basis on dividend received from foreign companies in which Indian company holds 26% or more in the nominal value of the equity share capital of the company
- e) **Section 115BBF:** Concessional tax rate of 10% on gross basis for royalty income from patents developed (at least 75% of the expenditure to be incurred in India) and registered in India

Thanks & Regards

Prithika J P



Intimation u/s 143(1) of Income tax Act

Where a return has been made under section 139, or in response to a notice under sub-section (1) of section 142, such return shall be processed under Section 143(1) of Income Tax Act, 1961.



All about Intimation under Section 143(1)



PRIYANKA B
SRO0597061

Letter of Intimation u/s 143(1)

All the income tax returns filed by the taxpayers are first processed online at the Centralised Processing Centre (CPC). After processing the return, the income tax department then issues intimation under section 143(1) to the taxpayers informing them about the results. This assessment primarily includes arithmetical errors, internal inconsistencies, tax calculation and verification of tax payment. Such communication to the taxpayer post the preliminary assessment is called intimation under Section 143(1). The preliminary assessment is wholly computerised and does not have any human intervention and is delegated to Centralised Processing Centre (CPC).

This notice is issued for the following reasons:

Section	Description
143(1)(a)(i)	Arithmetical Error in ITR Notice u/s 143(1)(a)(i) is issued when there is an arithmetical error in the filed Income Tax Return.
143(1)(a)(ii)	Incorrect Claim in ITR It means, ❖ An item in the ITR is not consistent with the same item or any other item in the ITR ❖ Information that needs to be reported in the ITR has not been reported ❖ Deduction claimed in the ITR exceeds the specified statutory limit as per the Act.



143(I)(a)(iii)	<p>Disallowance of loss claimed in ITR As per the ITAct, the assessee cannot carry forward the loss if he files his income tax return after the prescribed due date. When the return is filed after the due date u/s 139(I) and yet the loss has been claimed, notice u/s 143(I)(a)(iii) is issued to disallow such loss.</p>
143(I)(a)(iv)	<p>Disallowance of expense claimed in ITR If an expense is disallowed under the audit report but the assessee claims it in the income tax return. Notice under section 143(I)(a)(iv) is issued to disallow such expense.</p>
143(I)(a)(v)	<p>Disallowance of deduction claimed in ITR If the assessee files his IT Return after the due date prescribed u/s 139(I). Thus in such case he cannot claim certain specified deductions (Sec 10AA and Sec 80H to Sec 80RRB under chapter VI-A). However, if he has claimed such deductions, the tax department would issue a notice u/s 143(I)(a)(v).</p>
143(I)(a)(vi)	<p>Addition of income appearing in Form 26AS, Form 16 or Form 16A Notice u/s 143(I)(a)(vi) is received when there is a mismatch in details of TDS on salary as per Form 26AS or Form 16 or mismatch in TDS as per Form 16A and income details reported in the filed Income Tax Return.</p>

❖ The intimation has two columns: 'As provided by the taxpayer in the Return of Income' and 'As computed u/s 143 (I)

❖ Comparison is made for major categories such as

- a) Income under various heads,
- b) Gross Total Income,
- c) Deductions under Chapter VIA (80C, 80D etc), and
- d) Tax deducted at source and tax payments by taxpayers in the form of advance tax and self assessment tax.



Communication on Email and SMS:

The system auto-generates the communication u/s 143(1)(a) and communicates to the assessee on the email and mobile no. entered while filing the income tax return.

The intimation received under Section 143(1) is password protected. The ITR intimation password will be your PAN (in lowercase) followed by date of birth in DDMMYYYY format without giving any space.

Kind of intimations possible are below,

- ❖ Intimation with no demand or no refund
This generally happens if the department has accepted the return as filed without carrying out any adjustments to it.
- ❖ Intimation determining demand
Issued in case of adjustments made under Section 143 (1) due to a discrepancy found and tax liability is arrived at.
- ❖ Intimation determining refund
Issued where any interest or tax is found to be refundable either where no discrepancy is found in the return already filed or after making adjustments as referred to in Section 143(1) and after giving credit to the taxes and interest paid by the taxpayer.

Due Date to submit response to notice u/s 143(1)(a):

If you have received a notice under section 143(1)(a), you must file a response within 30 days from the date of issue of notice.

- ❖ If you Agree to the mismatch in notice – File a Revised Return u/s 139(5)
- ❖ If you Disagree to the mismatch in notice – Submit a response
- ❖ When you Partially Agree to the mismatch in notice – File a Revised Return u/s 139(5) and submit a response

Time Limit for issue of Communication for Proposed adjustment u/s 143(1)(a):

The income tax department can send intimation u/s 143(1)(a) within one year from the end of the financial year in which the return is filed.

If a taxpayer does not receive any intimation within such period, it means that there are no adjustments and changes to the ITR filed. There is no change in tax liability or refund.



How to File Response to Notice u/s 143(1)(a) ?



- a. Visit the e-Filing portal and login using valid credentials
- b. Click on Pending Actions > e-Proceedings from the dashboard
- c. Click on the option to View Notice for adjustment u/s 143(1)
- d. Click on the Notice/Letter pdf.
- e. You will be able to view the notice issued to you. If you wish to download the notice, click Download.
- f. Click on the option to submit response.
- g. You will be able to view the details of the Prima Facie Adjustments found by CPC in your filed ITR. Click on each variance to provide responses.
- h. On clicking the variance, details of the variance will be displayed. To provide response for the particular variance, click Provide Response.
- i. Select the relevant response from the dropdown and click Save after responding to each Prima Facie Adjustment.
- j. Once all the responses have been provided, click Back. On clicking Back, you will be taken back to the details of Prima Facie Adjustment found by CPC in your filed ITR. After responding to each variance, the responses will be saved. Click Continue. Select the Declaration checkbox and click Proceed to e-Verify.
- k. On successful e-Verification, a success message is displayed along with a Transaction ID. You will also receive a confirmation message on your email ID registered on the e-Filing.

Thanks
Priyanka B



Section 194Q under CBDT

NOTIFICATION

THE INCOME TAX DEPARTMENT ISSUED A CIRCULAR DATED 30TH JUNE 2021 LAYING DOWN THE GUIDELINES FOR TDS DEDUCTION UNDER SECTION 194Q. THESE GUIDELINES ARE GIVEN TO REMOVE THIS SECTION'S DIFFICULTIES AND RELATED SECTIONS 194-O AND 206(1H).



ANNAPOORANI K
SRO0732034

Section 194Q was inserted by the Finance Act 2021, which is applicable from 1st July 2021. Section 194Q applies to a buyer who has a:

- ❖ Turnover of more than Rs.10 core in the previous financial year.
- ❖ He purchases goods exceeding Rs.50 lakh of value in a year.

Such a buyer has to deduct TDS at the rate of 0.1% on the amounts exceeding Rs.50 lakh. This section is exactly the opposite of section 206C(1H), where TCS must be collected.

Section 194-O governed the TDS on payments to e-commerce participants and was applicable from 1st October 2020. Under this section, the e-commerce operator has to deduct TDS at 1% at the time of credit of the sale of goods and/or services. The provisions of this section are applicable only when the gross sale of the e-commerce participant in the previous year exceeds Rs.5 lakh. **Section 206(1H)** imposes liability on the seller to collect TCS on the sale of goods if the aggregate value of sale exceeds Rs.50 lakh during a financial year. This provision applies to the seller whose gross turnover exceeds Rs.10 core during the financial year preceding the FY in which the sale is carried out.

CBDT has laid down guidelines for the applicability of section 194Q relevant to 194O and 206C (1H) for the current financial year.

CALCULATION OF THRESHOLD FOR SECTION 194Q FOR FY 21-22

Accordingly, section 194Q will not become applicable on any sum paid or credited before 1st July 2021. Also, the threshold of Rs.50 lakh in a year to be calculated starting from 1st April 2021. Hence, if a buyer has paid Rs.50 lakh or more up to 30th June 2021, TDS under section 194Q will apply to all the payments made after 1st July. _



ADJUSTMENT FOR PURCHASE RETURN OR GST

For TDS calculation under section 194Q, in cases where the GST amount is mentioned separately in the invoice, TDS is to be deducted on the net amount without including GST. However, TDS would be deducted on the entire amount if it is impossible to identify the amount of GST component to be invoiced in the future. Also, for tax collection under section 206C(1H), no adjustment of GST is required as the TCS is to be deducted from the total sale consideration. In case of purchase return where the seller returns the money, the tax deducted may be adjusted against the next purchase against the same seller. Whereas in case the purchase return is replaced by goods, no adjustment is required to be made.

APPLICABILITY OF SECTION 194Q TO NON-RESIDENTS

The TDS provisions of section 194Q will not apply to a non-resident. However, if the purchase is by the non-resident having a permanent establishment in India, then these provisions will be applicable.

APPLICABILITY IN CASE OF EXEMPT INCOME FOR THE SELLER

The provisions of these sections will not apply in case the seller's income is exempt. However, if the seller's income is only partially exempt, these provisions will apply.

APPLICABILITY IN CASE OF ADVANCE PAYMENT

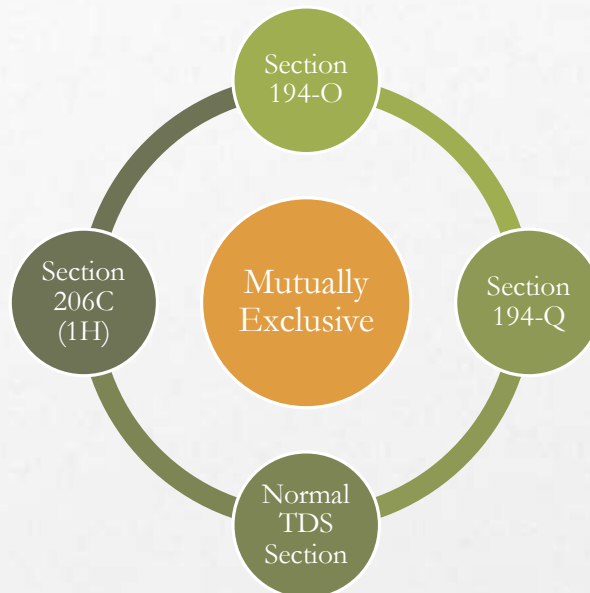
CBDT clarified that as the provisions of these sections apply at the time of payment or credit, whichever is earlier, any advance payment will be subject to the rules of this section.

CROSS APPLICABILITY OF SECTION 194-O, 206C (1H), AND SECTION 194Q

- If a transaction is pertaining to which TDS has been deducted under section 194-O (TDS by e-commerce operator), that transaction will not be subject to tax deduction under section 194Q.
- The exemption from tax collection at source by the seller under section 206C (1H) is applicable if the buyer has deducted TDS. The circular clarifies that this exemption also extends to the e-commerce operator.
- If a transaction falls within the purview of both sections 194-O and 194-Q, the tax will be required to be deducted under section 194-O. Similarly, if a transaction falls under both sections 194-O and 206C (1H), the tax will be required to be deducted under section 194-O. Further, once the e-commerce operator has deducted tax on a transaction, the seller is not required to collect tax under section 206C (1H). It is clarified that it is the primary responsibility of the e-commerce operator to deduct tax under section 194-O, and he cannot do away with the same even if the seller has collected tax under 206C(1H), which is why the rate of TDS is higher in section 194-O than section 206C (1H).



•Moreover, if the transaction falls under the purview of sections 194-Q and 206C (1H), the tax will be required to be deducted under 194Q. Once the buyer has deducted tax under 194-Q, the seller will not be liable to collect tax under section 206C (1H). However, if before TDS deduction under 194-Q, TCS has been deducted by the seller under 206C(1H), then such transaction would come out of the purview of TDS. This concession is provided since TDS and TCS rates are the same in 194-Q and 206C (1H).



Further, it was clarified that the TDS provisions under this section require the buyer to have a total turnover of Rs.10 core in the financial year immediately preceding the financial year of purchase of goods. As this condition will not be satisfied in the first year of the business itself, these provisions will not apply in the year of incorporation.

Also, for the threshold of 10 core turnover, only gross receipts from business carried on by the buyer, turnover or receipts from non-business activity shall not be counted.

Also, many stakeholders represented that they would face difficulties in implementing section 194-Q for exchanges and clearing corporations. CBDT clarified that section 194Q would not become applicable in transactions through recognised stock exchanges and settled by the recognised clearing corporations. Also, these provisions will not apply to transactions in electricity, energy-saving certificates, and renewable energy certificates traded through registered power exchanges

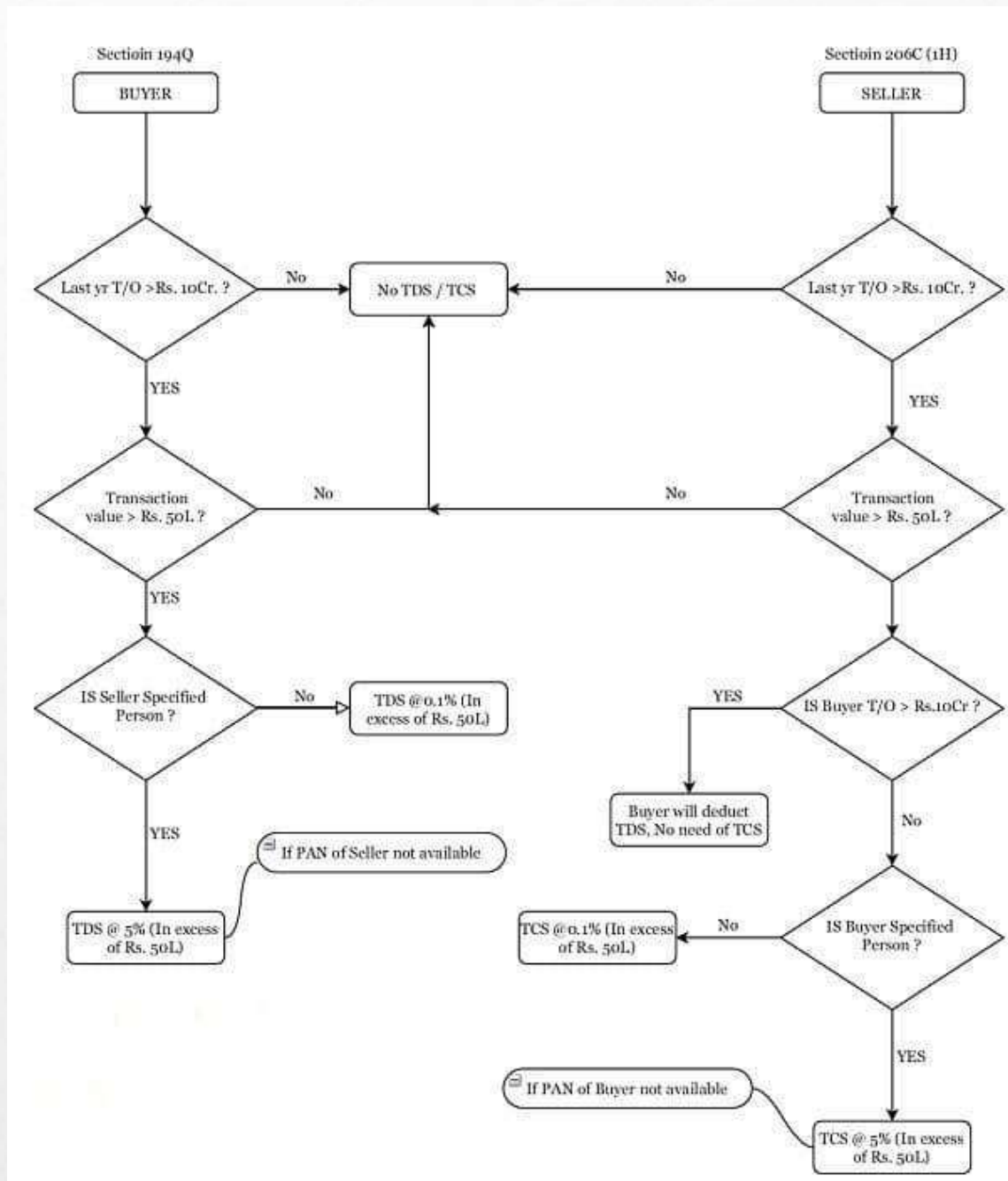


Difference between Section 194Q and Section 206C(1H)

Sr. No.	Particulars	Section 194Q	Section 206C(1H)
1	Person responsible for deduction/collection	Buyer	Seller
2	Threshold	Purchase more than Rs. 50 Lakhs	Sales more than Rs. 50 Lakhs
3	Time of deduction/collection	At the time of credit or payment whichever is earlier	At the time of receipt
4	Rate	0.01% (5% if PAN is not available)	0.01% (1% if PAN is not available)

Examples on applicability


Sr. No.	Buyer's Turnover	Seller's Turnover	Transaction Value	Section Applicable
1	15 Cr.	6 Cr.	55 Lakhs	194Q
2	7 Cr.	13 Cr.	55 Lakhs	206C(1H)
3	12 Cr.	15 Cr.	55 Lakhs	194Q
4	5 Cr.	9 Cr.	55 Lakhs	NA
5	13 Cr.	15 Cr.	30 Lakhs	NA



Thanks & regards
 Annapoorani K



TRIVIA Corner

- 
- i. How many type of taxes in Indian GST?
 - ii. What is the purpose of accounting conceptual Framework?
 - iii. Under GST “Value Addition “ refers ?
 - iv. Which Type of company can create secret reserve ?
 - v. When at an AGM of a company no auditors are appointed or reappointed , In that case who can appoint auditor to fill the vacancy?

Previous Month Answers:

- 1) Comptroller & Auditor General of India
- 2) Planning an Audit of Financial statements
- 3) Strategy Evaluation
- 4) MGT-7
- 5) 5%



**SICASA of Chengalpattu District Branch of SIRC of ICAI
(Formerly known as SICASA of Kanchipuram District Branch)**

Contribution From Our CA ASPIRANTS:

Articles are invited from students for publishing in e-newsletter. The articles shall be either on the specific subject or a general article.

For all the artistic minds, you may highlight your artistic skills by sending your art to us. It could be drawing, poem, photographs and all the art work which is unusual in your way!

Students can mail their work with Name, SRO Number, Mobile Number, Residential Address, Office Address & Photo to our E-Mail mentioned below

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