

Interplay of Sections 194O, 194Q, 206C(1H)

Effect of conjoint reading of the provisions of Sec 194O, 194Q, 206C(1H); the following clarifications are given by the Board –

1. If tax has been deducted by the e-commerce operator on a transaction under section 194-O [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.
2. Section 206C(1H) provides exemption from TCS if the buyer has deducted tax at source on goods purchased by him. To remove difficulties, it has been 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.
3. If a transaction is both within the purview of section 194-O as well as section 194Q, tax is required to be deducted under section 194-O and not under section 194Q.
4. Similarly, if a transaction is both within the purview of section 194-O as well as section 206C(1H), tax is required to be deducted under section 194-O. The transaction shall come out of the purview of section 206C(1H) 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 section 206C(1H) on the same transaction. Primary responsibility is on e-commerce operator to deduct the tax under section 194-O

and that responsibility cannot be condoned if the seller has collected the tax under section 206C(1H). This is for the reason that the rate of TDS under section 194-O is higher than rate of TCS under section 206C(1H).

5. If a transaction is both within the purview of section 194Q as well as section 206C(1H), the tax is required to be deducted under section 194Q. The transaction shall come out of the purview of section 206C(1H) 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 section 206C(1H) on the same transaction. If, however, for any reason, tax has been collected by the seller under section 206C(1H), before the buyer could deduct tax under section 194Q on the same transaction, such transaction would not be subjected to tax deduction again by the buyer.