

Higher rate of TDS &
TDS
w.e.f. 01st July 2021
Section 206AB &
Section 206CCA

Disclaimer:

All views stated in the opinion are our personal views and are not binding;

Our personal views may be correct/in-correct as they are based on our understanding of the subject and on the law as it stands on 19 June 2021.

Applicability

Finance Act, 2021 has introduced new section **206AB** to provide for Deduction of Tax at source at increased rate for **NON-FILERS OF INCOME-TAX RETURNS**

Following are the conditions for applicability of this provision:

- A person is required to deduct tax under any provisions of Chapter XVIIB; and
- Transaction is done with **Specified Person**; and
- Aggregate of TDS and TCS is INR 50,000 or more in each of the two previous years

"Specified Person" means a person who has not filed Return of Income of immediately two preceding previous years, for which due date u/s 139(1) has expired

These new provisions come into effect from 01st July 2021



Section 206AB – Applicable Tax Rate

Where the conditions mentioned in S.206AB are satisfied (as discussed above) i.e. on payments being made to a 'Specified Person', Tax shall be deducted at HIGHEST of the following:

01. At twice the rate specified in the relevant provision of the Act; or
02. At twice the rate / rates in force (i.e. if modified by CBDT)
03. At the rate of 5%

In addition to non-filing of income tax return, if the specified person does not furnish PAN, then the TDS rate shall be higher than the rates prescribed in this section or Sections 206AA



Applicability

Finance Act, 2021 has introduced new section **206CCA** to provide for Collection of Tax at increased rate for **NON-FILERS OF INCOME-TAX RETURNS**

Following are the conditions for applicability of this provision:

- A person is required to collect tax under any provisions of Chapter XVII-BB; and
- Transaction is done with **Specified Person**; and
- Aggregate of TDS and TCS is INR 50,000 or more in each of the two previous years

"Specified Person" means a person who has not filed Return of Income of immediately two preceding previous years, for which due date u/s 139(1) has expired

These new provisions come into effect from 01st July 2021



Section 206CCA – Applicable Tax Rate

Where the conditions mentioned in S.206CCA are satisfied (as discussed above) i.e. on payments being made to a 'Specified Person', Tax shall be deducted at **Highest** of the

01.

At twice the rate specified in the relevant provision of the Act; or

02.

At the rate of 5%

In addition to non-filing of income tax return, if the specified person does not furnish PAN, then the TCS rate shall be higher than the rates prescribed in this section or Sections 206CC



List of Conditions to be satisfied by specified person

higher TDS/TCS under Sections 206AB and 206CCA:

01

The total amount of deduction and collection of tax (TDS and TCS) (in the case of the specified individual) is Rs.50,000 or more in each of these two previous years

02

Has not filed income tax returns for two preceding years (e.g. FY 2018-19 and 2019-20)

03

The respective due dates for filing their Original Return of Income of the previous years have expired [i.e. u/s 139(1)]

Deductor
/Collect
or



Specified
person

Note: It does not apply to a non-resident who does not have a permanent establishment in India.

Non-applicability of higher deduction u/s 206AB

Section 206AB shall not be applicable in the following cases:

- ✓ If the "Specified Person" is a Non-Resident who does not have a Permanent Establishment in India
- ✓ It is applicable in all cases except the following Sections:
 - Section 192 - Salary
 - Section 192A - Withdrawal of Provident Fund
 - Section 194B - Winning from Lottery
 - Section 194BB - Winning from a horse race
 - Section 194LBC - Income in respect of Investment in Securitization Trust
 - Section 194N - Cash withdrawal in excess of specified limit



Illustration – Section 206AB & 206CCA applicability

Scenario	TDS / TCS of vendor in Previous Year is more than INR 50,000		ROI filing status of vendor in both Previous years	206AB / 206CCA applicable?
	FY 2019-20	FY 2020-21		
Scenario I	Yes	Yes	Not filed for both years	YES
Scenario II	Yes	Yes	File only for One year	YES
Scenario III	Yes	Yes	Filed for both years	NO
Scenario IV	Yes	No	Not filed for both years	NO
Scenario V	No	Yes	Not filed for both years	NO
Scenario VI	No	No	Not filed for both years	NO

Practical Issues which need attention

Persons who are not required to file ROI

01

One of the conditions for invoking Section 206AB & 206CCA is that the payee has not filed ROI. However, no exception is provided for cases where the payee is not required to file their ROI (viz., Income below threshold limit, etc.)

Non-Residents not having PE in India, but are not required to file ROI

02

Certain Non-Residents may not have a PE in India but may earn income which is subjected to TDS (viz., Royalty, Dividend etc.). By virtue of Section 115A, NR is not required to file ROI in India. However, these new provisions i.e. S.206AB may invite trouble for such NR

Extended Due Dates for FY 2020-21

03

The due dates for filing ROI of FY 2020-21 have already been extended to 30th Sep 2021 and beyond. Accordingly, even though S.206AB & 206CCA come into force from 01st July 2021, ROI for previous year i.e. FY 2020-21 may not have been filed by assesseees

Increased Compliance burden on Assesseees

04

Currently, there is no practical mechanism to independently verify whether the vendor has filed ROI or whether TDS & TCS exceeds INR 50,000. In the absence of such framework, Companies would be required to obtain declarations from vendors

Way Forward for Assesseees...

For Section 206AB and 206CCA

- Obtain declaration from vendors about their status of Income Tax Returns for last two years and TDS & TCS credit in each of the previous two years. In absence of declaration, deductors / collectors will have to deduct TDS / collect TCS at penal rates
- In the absence of mechanism to independently verify the status of ROI filed & TDS / TCS credits, it is suggestible to maintain appropriate chain of communication from vendors in the form of declarations to substantiate before the tax authorities for any future scrutiny proceedings

Apart from the above for Individual Vendors it is mandatory that they link their PAN with Aadhar (Section 206AA r.w.s. 139AA r.w.r. 114AAA)



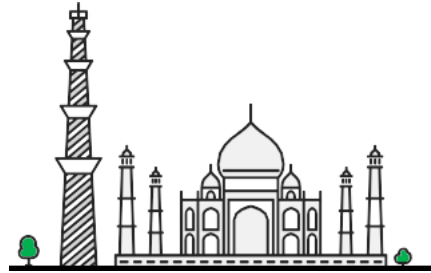
- Obtain confirmation from vendors about their status of PAN-AADHAR linking.
- PAN of Vendor is inoperative if no such linking is done.
- In absence of confirmation, deductors / collectors will have to deduct TDS at penal rates.

Contact us



HYDERABAD

Suite 5, Level 3, Reliance Cyber Ville., Madhapur, Hitech City, Hyderabad – 500081



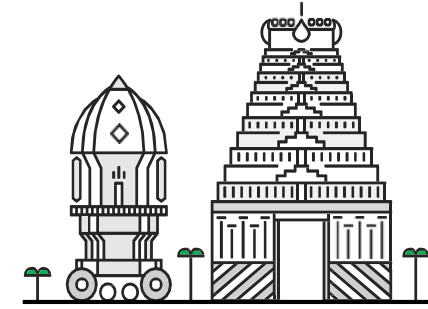
DELHI

C- 699A, 1st Floor, Sector-7, Palam Extn., Dwarka, New Delhi, Delhi 110075



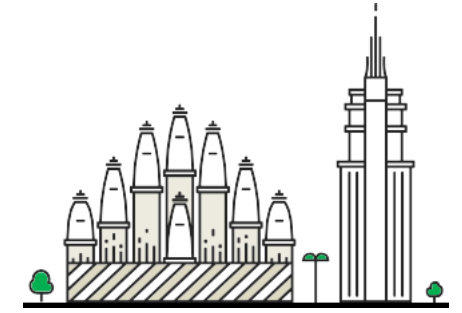
MUMBAI

Flat no.3, Plot no.226/227, Sion East, Mumbai - 400022



CHENNAI

Old no 19, New no 13B, New Bangaru colony first Street, KK Nagar West, Chennai 600078



BANGALORE

90/1, 3rd Floor, Pasha South Square, Rathavilas Road, Basavangudi, Bangalore - 560004

Vizag: Level 3, Kupilli Arcade, Akkayyapalem, Visakhapatnam 530016, Andhra Pradesh

Vijayawada: # 56-11-3, Sri Devi Complex, Y.V.R Street, MG Road, Patamata, Vijayawada, Andhra Pradesh

Tirupati: H. No: 6-154/1, Syamala Nilayam, Near Water Tank, Akkarampalli, Tirupathi, Andhra Pradesh

Kurnool: #21, Top Floor, Skandanshi Vyapaar, New Bus Stand Road, Kurnool 518 003, Andhra Pradesh



UAE Address: 2103, Bayswater Tower, Business Bay, Dubai, UAE



USA Address: SBC LLC, 8 The Green, Suite A in the City of Dover, Delaware - 19901

Thank You



www.steadfastconsultants.in

