



NEWSLETTER

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Chartered Accountants

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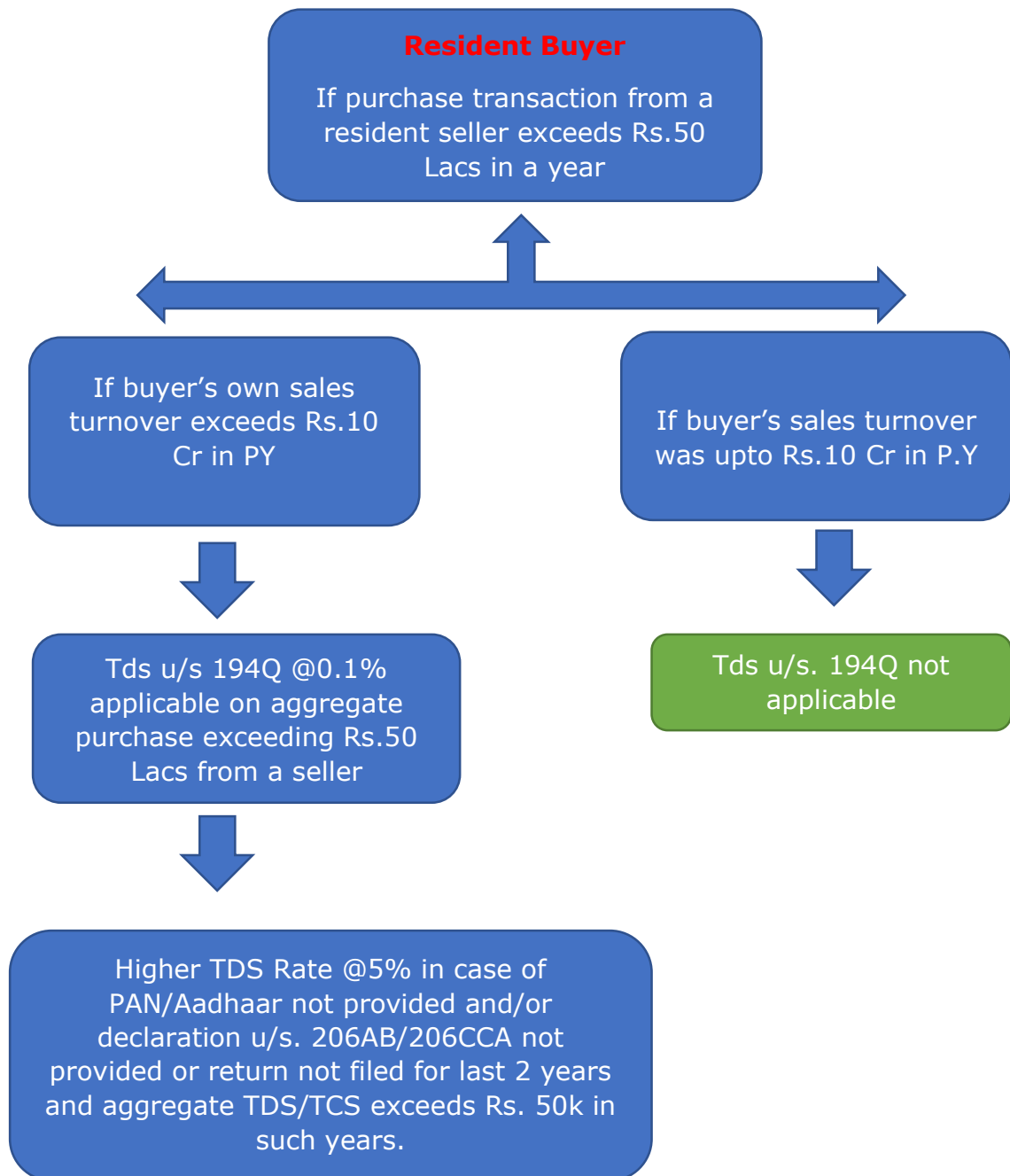
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INCOME TAX

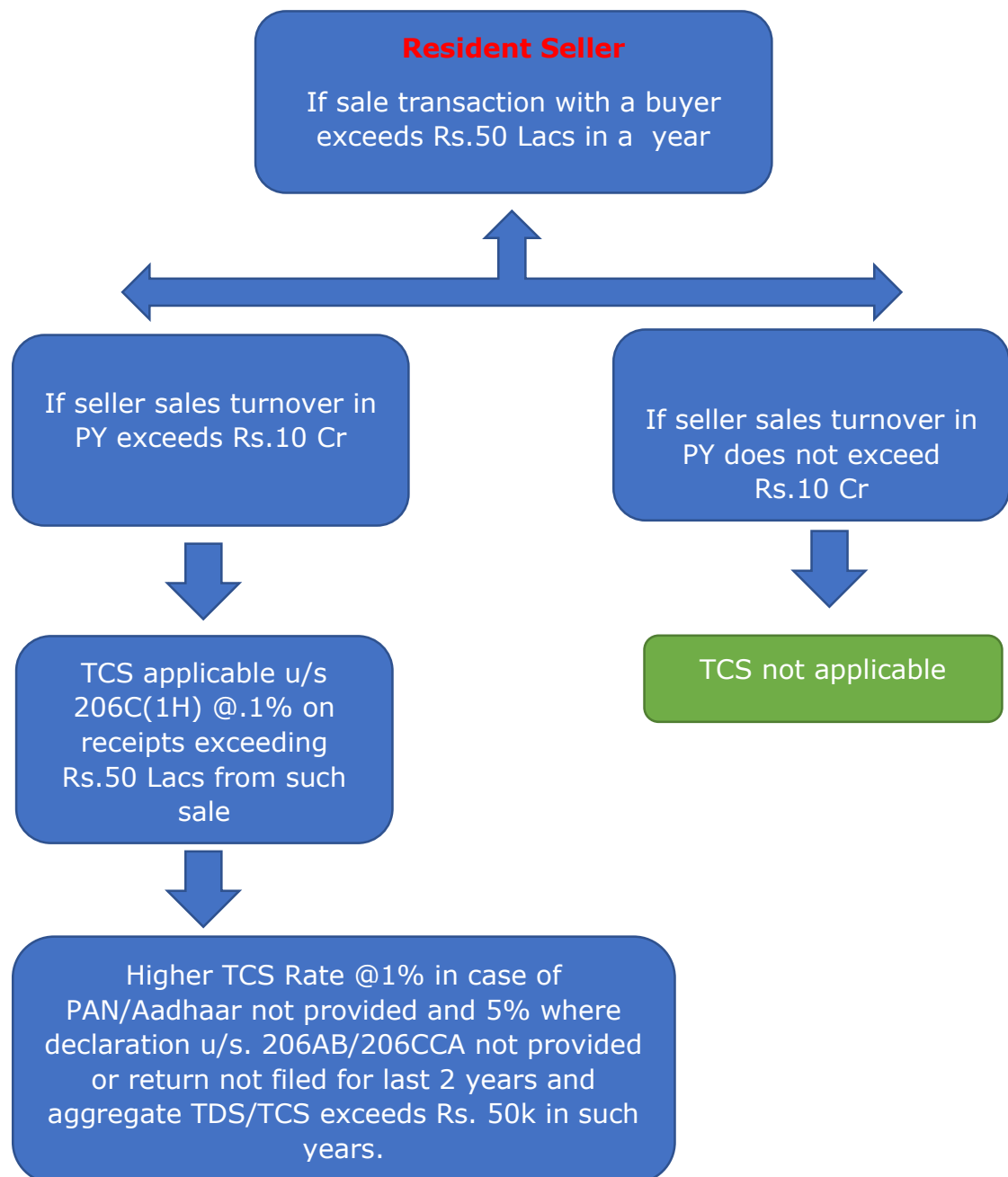
TAX DEDUCTION ON PURCHASE OF GOODS (SEC 194Q)

Illustrated transaction chart 1



Tax Collected on Sale of Goods (Sec 206C(1H))

Illustrated transaction chart 2



Explanations and Clarifications with regards to New Sec 194Q and Sec 206C(1H)

	<u>TDS Applicable to Sec 194Q</u>	<u>TCS Applicable to Sec 206C(1H)</u>
Applicable to whom? And transaction or eligibility criteria	Applicable to resident buyer(purchaser) who buys goods of value exceeding Rs.50 Lacs from a resident seller and his Turnover/Gross receipt from business for PY exceed limit of Rs.10 Cr.	Applicable to resident seller who sales goods of value exceeding Rs.50 Lacs to a buyer and his Turnover/Gross receipt from business of PY exceeds Rs.10 Cr.
Deductor & Deductee / Collector & Collectee	Buyer is the deductor and seller is deductee	Seller is the collector and buyer is collectee
Applicability criteria and effective date	It is effective from 01.07.2021 onwards. Not applicable if (a) tax is deductible under any of the provisions of this Act; and (b) tax is collectible under the provisions of section 206C other than a transaction to which sub-section (1H) of section 206C applies.]	It is effective from 01.10.2020 onwards. Not applicable if buyer is liable to deduct TDS under any provision of I.T act and has duly deducted TDS thereon.
Is it applicable to a Non-Resident?	No, not applicable (The one who do not have permanent establishment in India)	No, not applicable (The one who do not have permanent establishment in India)
Point of Time for deduction / collection	Payment or Credit to Account whichever is earlier	At the time of Receipt
Timeline for deposit to Govt. Treasury	Within 7 th day of subsequent month of deduction/payment	Within 7 th day of subsequent month of deduction/payment
Compliance for return	Quarterly – 26Q	Quarterly – 27EQ
Rate of Tax	@.01%	@.01%
Higher Tax rate	5% on non-furnishing PAN or non-filing of last 2 returns having TDS/TCS more than Rs. 50000 (206AB).	1% for not providing PAN {206(1H)} and 5% on non-filing of last 2 returns having TDS/TCS more than Rs. 50000 (206CCA).

Consequences for non-compliance	This will attract disallowance us 40a(ia) to Buyer if he fails to comply with the provisions of this section	This will attract disallowance us 40a(ia) to seller if he fails to comply with the provisions of this section
Tds/Tcs not applicable if	Tds applicable under any other sections then not applicable under this section 194Q	Tcs not applicable under this section 206C(1H) if TDS is deducted by buyer under any other section.
TDS paid credits	Available for claim in ITR as per Form 26AS	Available for claim in ITR as per Form 26AS

Compiled by Income Tax Team, DNV & Co.

Indirect Tax

GST Amnesty Scheme & Rationalization of Late Fees

The 43rd GST Council met under the Chairmanship of Union Finance & Corporate Affairs Minister Smt. Nirmala Sitharaman through video conferencing on Friday, 28th May 2021. The meeting was also attended by Union Minister of State for Finance & Corporate Affairs Shri Anurag Thakur besides Finance Ministers of States & UTs and senior officers of the Ministry of Finance & States/ UTs. In the meeting various matter discuss which includes, GST Amnesty Scheme, Relaxation in return filings, relief on covid -19 and other medical equipment, Rationalization of late fees.

Amnesty Scheme to provide relief to taxpayers regarding late fee for pending returns:

To provide relief to the taxpayers, late fee for non-furnishing **FORM GSTR-3B** for the tax periods from **July, 2017 to April, 2021** has been reduced / waived as under: -

Return Type (GSTR3B)	Maximum Late Fees
Nil Return (taxpayers, who did not have any tax liability)	Late fee capped to a maximum of Rs 500/- (Rs. 250/- each for CGST & SGST) per return
Others	Late fee capped to a maximum of Rs 1000/- (Rs. 500/- each for CGST & SGST) per return

The benefit of reduced rate of late fee would apply if GSTR-3B returns for these tax periods are furnished between **1st June 2021 to 31st August 2021**

Rationalization of late fee imposed under section 47 of the CGST Act:

To reduce burden of late fee on smaller taxpayers, the upper cap of late fee is being rationalized to align late fee with tax liability/ turnover of the taxpayers, as follows:

A. Relaxation in Late Fees for GSTR 3B and GSTR 1

The late fee for delay in furnishing of **FORM GSTR-3B** and **FORM GSTR-1** to be capped, **per return**, as below (for prospective tax period June,21 onwards):

Taxpayer's Category	Maximum Late Fees
1. Taxpayers having nil tax Liability (Nil Return)	the late fee to be capped at Rs 500 (Rs 250 CGST + Rs 250 SGST)
2. For Taxpayers having Tax Liability:	
a) For taxpayers having Annual Aggregate Turnover (AATO) in preceding year up to Rs 1.5 crore	late fee to be capped to a maximum of Rs 2000 (1000 CGST+1000 SGST)
b) For taxpayers having AATO in preceding year between Rs 1.5 crore to Rs 5 crore	late fee to be capped to a maximum of Rs 5000 (2500 CGST+2500 SGST)
c) For taxpayers having AATO in preceding year above Rs 5 crores	late fee to be capped to a maximum of Rs 10000 (5000 CGST+5000 SGST).

B. Relaxation in late fees for GSTR-4

The late fee for delay in furnishing of **FORM GSTR-4** by composition taxpayers to be capped to Rs 500 (Rs 250 CGST + Rs 250 SGST) per return, if tax liability is nil in the return, and Rs 2000 (Rs 1000 CGST + Rs 1000 SGST) per return for others.

C. Relaxation in late fees for GSTR -7

The late fee payable for delayed furnishing of **FORM GSTR-7** to be reduced to Rs.50/- per day (Rs. 25 CGST + Rs 25 SGST) and to be capped to a maximum of Rs 2000/- (Rs. 1,000 CGST + Rs 1,000 SGST) per return.

All the above proposals to be made applicable for prospective tax periods.

Compiled by CA Salim Shaikh, DNV & Co.

AUDIT AND ASSURANCE

Financial guarantee contracts – Ind AS implication

A financial guarantee contract is a contract that requires the issuer of the contract to make specified payments to reimburse the holder of that contract for a loss the holder incurs because a specified debtor fails to make payment when due in accordance with the original or modified terms of a debt instrument. However, insurance contracts as defined in Ind AS 104 which might prima facie look like a financial guarantee contract are excluded from the scope of financial instruments under Ind AS 109.

Moreover, if an issuer of financial guarantee contracts has previously asserted explicitly that it regards such financial guarantee contracts as insurance contracts and has used accounting that is applicable to insurance contracts, the issuer may elect to apply either Ind AS 109 “financial instruments” or Ind AS 104 “Insurance Contracts” to such financial guarantee contracts. The election thus made can be made on a contract-by-contract basis, but the election once made is irrevocable.

Affirmations that an issuer regards contracts as insurance contracts are typically found throughout the issuer’s communications with customers and regulators, contracts, business documentation and financial statements. Furthermore, insurance contracts are often subject to accounting requirements that are distinct from the requirements for other types of transaction, such as contracts issued by banks or financial institutions. In such cases, an issuer’s financial statements will typically include a statement that the issuer has used those accounting requirements of insurance contracts as per Ind AS 104.

At initial recognition, the issuer shall recognize a financial guarantee contract at its fair value. The fair value would be the amount of premium received by the issuer, which is equal

to premium received, if in similar case the financial guarantee was issued to an unrelated party in a stand-alone arm’s length transaction.

Subsequently, the financial guarantees are to be measured at the higher of the following:

- ✓ The amount of the loss allowance determined in accordance with Para 5.5 of Ind AS 109;
- ✓ The amount initially recognised less, when appropriate, the cumulative amount of income recognised in accordance with the principles of Ind AS 115.

However, the above treatment of initial recognition and subsequent measurement does not apply in three situations:

- ✓ Situation 1: The financial guarantee contract was entered into or retained on a transfer of a financial asset and prevented derecognition of that asset or resulted in continuing involvement in that asset).
- ✓ Situation 2: The financial guarantee contract was designated at fair value through profit and loss at inception.
- ✓ Situation 3: If an issuer of a financial guarantee contract has previously asserted explicitly that it regards such contracts as insurance contracts and has used accounting that is applicable to insurance contracts, the issuer may elect to apply either Ind AS 109 or Ind AS 104 to such financial guarantee contracts.

Examples:

- ✓ 'A' bank owns USD 50 million of 'B' Bank bonds that mature in 10 years' time. 'B' Bank is rated A- by the rating agencies. 'A' Bank is worried that 'B' Bank's credit rating may be downgraded and the value of bonds will decline. To protect against this, 'A' bank enters into a contract with another 'C' Bank that will pay 'A' Bank for any decline in the fair value of 'B' Bank's bonds related to a credit downgrade to AA- or below. The contract is for a three-year period, and 'A' Bank pays USD 1.9 million to enter into the contract. The contract 'C' Bank has issued to 'A' Bank over its USD 50 million investment in 'B' Bank Bonds is not a financial guarantee contract in the scope of Ind AS 109. As the contract pays 'A' Bank in the event of a downgrade only, and not in the event of a failure by 'B' Bank to pay either interest or the redemption amount, it is a derivative instrument. The derivative is within the scope of Ind AS 109 from the point of view of both 'A' Bank and of 'C' Bank.
- ✓ 'ABC Finance' has issued a contract to 'PQR company' over an interest rate swap it has entered into with 'XYZ entity'. The contract requires 'ABC finance' to make payments to 'PQR company' when 'XYZ entity' fails to make payment under the interest rate swap. In 'PQR company's' books, the derivative is an asset. The contract 'ABC Finance' has issued to 'PQR company' is not a financial guarantee contract. A financial guarantee contract is a contract "that requires the issuer to make specified payments to reimburse the holder for a loss it incurs because a specified debtor fails to make payment when due in accordance with the original or modified terms of a debt instrument."
- ✓ As a derivative is not a debt instrument, the contract does not meet the definition of a financial guarantee contract.
- ✓ XYZ has a wholly owned subsidiary, PQR. The subsidiary company, PQR obtained a bank loan in September 2020 that its parent XYZ guaranteed. This loan must be accounted for in both the separate financial statements of XYZ and the consolidated financial statements for the Group.

In the separate financial statements of XYZ, the financial guarantee contract will be accounted for under Ind AS 109. XYZ will initially recognize the financial guarantee contract at fair value and will subsequently measure the financial guarantee at the higher of:

 - The amount of the loss allowance that would be determined in accordance with Ind AS 109; and
 - The amount initially recognized less, when appropriate, the cumulative amount of income recognized in accordance with the principles of Ind AS 115.

In the consolidated financial statements of XYZ, the financial guarantee contract is not separately recognized as the group is regards as a single entity in the consolidated financial statements and, as a single entity, has simply borrowed money from a third-party bank.

'PQR', holding company provides a guarantee directly to its subsidiary, 'ABC' in respect of its bank loan, for no charge. In the individual financial statements of PQR, the guarantee is

not recognized separately as PQR has agreed to contribute money, as necessary, to its subsidiary 'ABC', which will generally be accounted for as a capital contribution as and

when it is contributed. The promise by the parent to inject money at a future date is not recognized upfront as a separate.

Compiled by CA Chandrashekhar Sah Partner, DNV & Co.

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