

## TCS Provisions, rates and Consequences for default

### Introduction

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TCS or Tax collection at source arises on the part of the seller of goods. Here, tax is collected at the source of income itself.

It is to be collected at source from the buyer, by the seller at the point of sale. Such tax collection is to be made by the seller at the time of debiting the amount payable to the buyer to the account of the buyer or at the time of receipt of such amount from the buyer, whichever is earlier.

#### *Seller*

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The following persons are covered under the scope of the seller for TCS purpose

- The Central and State Government.
- Local authority
- Statutory corporation or Authority
- Company
- Firm
- Co-operative society
- Individual or Hindu undivided family(HUF) if covered under section 44AB (mandatory Audit)

#### *Buyer*

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The buyer is a person who obtains in any sale, by way of auction, tender or any other mode, specified goods, or right to receive any such goods but does not include

- Public sector company,
- Central/state Government,
- Embassy, a high commission, legation, consulate and the trade representation of a foreign state and
- A club
- A buyer in the retail sale of such goods purchased for personal consumption

Thus goods purchased by consumers are not covered under TCS

### Rate of tax and goods specified

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Sl. No.	Nature of goods	Rates in %
1	Alcoholic liquor for human Consumption	1
2	Tendu leaves	5
3	Timber obtained under forest lease	2.5
4	Timber obtained by any mode other than a forest lease	2.5

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5	Any other forest produce not being timber or tendu leaves	2.5
6	Scrap	1
7	Parking lot	2
8	Toll plaza	2
9	Mining & Quarrying	2
10	Minerals, being coal or lignite or iron ore	1 w.e.f 01/07/2012
11	jewellery (if the sale consideration is paid in cash exceeding INR 5 lakhs, 2 lakhs in case of Bullion)	1 w.e.f. 01/07/2012

**Note:**

- Forest produce means grown spontaneously, though at later stage human efforts are required /applied in order to extract the resultant product.TCS is applicable on Forest produce and not on agriculture produce.
- Scrap means waste and scrap from the manufacture or mechanical working of material which is definitely not usable as such because of breakage, cutting up, wear and other reasons.
- Mining and quarrying does not include mining and carrying of mineral oil (i.e.) petroleum and natural gas.
- Surcharge, Education Cess and SH & EC – Non Resident buyers only –
  - a) Surcharge @ 2.5%: Only in case where the buyer is a foreign company and the receipt exceeds Rs. 1 Cr.
  - b) Education Cess @ 2%: Of the tax payable after including Surcharge (if any).
  - c) Secondary and Higher Education Cess @ 1%: Of the tax payable after including Surcharge (if any).

Exemption/ No TCS

- No tax will be deducted from a buyer who purchases specified goods not for the purpose of trading but for the manufacturing, processing, or production of goods/article or thing.
- In this case Buyer gives a declaration, for above use, in duplicate in Form 27C to the seller.
- The seller shall deliver one copy, form 27C collected from buyer, to Chief Commissioner/ Commissioner of Income tax.

TCS at Lower Rate

- A buyer can apply to his Assessing Officer in Form 13 for tax collection at lower rate.
- On receiving application on Form 13, Assessing officer, if satisfied, may issue such certificate directly to seller under advice to the buyer. This rates is applicable for a specific seller, whose name is given in the certificate and not applicable as blanket approval for purchase of specified goods from anybody.

Time of Remittance

Tax collected at source shall be deposited through challan No. 281 within one week from the last day of the month in which collection is made.

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### Time limit for issue of TCS certificate

- The certificate shall be issued to the buyer on Form 27D within 15 days from the end of the month during which amount is collected from the buyer.
- Consolidated form 27D may be issued for 6 months for transaction up to 30 September by 31 October and up to March 31 by April 30th on request from the buyer.

## Quarterly statement of TCS

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Quarterly statement of TCS should be filed in form 27EQ in Computer Media accompanied by declaration in Form 27B as under:

Quarter Ending	Due Date
31 <sup>st</sup> Marc	15 <sup>th</sup> May
30 <sup>th</sup> June	15 <sup>th</sup> July
30 <sup>th</sup> Sept.	15 <sup>th</sup> Oct.
31 <sup>st</sup> December	15 <sup>th</sup> Jan

### Consequences of non collection of TCS

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- Interest [Section 206C(7)]:
  - a) Simple interest @ 1% per month or part of the month on tax amount from the due date on which such tax was collectible to the date on which tax was actually paid.
  - b) The quarterly statement should be filed only after payment of interest.
- Charge on all the assets of the person responsible for tax collection will also be created apart from interest.
- Penalty for Non filing of TCS returns: Rs. 100 per day subject to a maximum of the amount of tax collected.
- Penalty for Non collection of TCS: Sum equal to amount of tax which the person failed to collect.
- Prosecution under section 276BB for failure to pay the tax collected at source for a period not less than 3 months which may be extended up to 7 years.