

CBDT clarifies applicability and scope of recent amendment to TCS provisions relating to sale of motor vehicles

June 9, 2016

In brief

The Central Board of Direct Taxes (CBDT) has recently issued a Circular clarifying the applicability and scope of the recent amendment made by the Finance Act, 2016 to the provisions of tax collection at source (TCS) on sale of motor vehicles in excess of INR 1 million.

In detail

Background

With the objective of reducing the quantum of cash transactions, and bringing high value transactions under the tax net, the Finance Act, 2016 amended the provisions relating to the TCS¹ requiring a seller to collect tax at source @ 1% on the following additional items:

- Sale of goods (other than bullion and jewellery)² and services in cash in excess of

INR 0.2 million, provided these transactions have not been subject to withholding tax; and

- Sale of motor vehicle for a value in excess of INR 1 million.

These amendments are effective from 1 June, 2016.

However, the amended provisions gave rise to certain ambiguities on the applicability

and scope of TCS provisions to the sale of motor vehicles.

The CBDT has now issued a circular³ in the form of questions and answers to clarify a number of queries received in this regard.

CBDT circular

The summary of the clarifications provided by the CBDT are tabulated below:

Reference to Question	Query	Clarification
1.	Are TCS provisions applicable to retail sale only, or will they also include sale of motor vehicles by manufacturers to dealers or distributors as well?	TCS provisions will apply only on retail sale. TCS provisions will not apply on sale of motor vehicles by manufacturers to dealers or distributors.

¹ Section 206C of the Income-tax Act, 1961

² Cash sale of bullion (in excess of INR 0.2 million) and jewellery (in excess of

INR 0.5 million) are already subject to TCS.

³ Circular No. 22/ 2016 dated 8 June 2016

Reference to Question	Query	Clarification
2.	Are TCS provisions applicable only on sale of luxury cars, or do they cover any motor vehicle ⁴	TCS provisions will apply on sale of any motor vehicle in excess of INR 1 million and not just on sale of luxury cars.
3.	Are TCS provisions applicable in case of sale (including goods or services in cash) to Government Department, Embassies, Consulates and UN Institutions?	TCS provisions will not apply in case of sale to Government, Notified Institutions ⁵ , Embassies, Consulates, High Commission, Legation, Commission and Trade Representation of a foreign state.
4.	Are TCS provisions applicable on each sale transaction, or on the aggregate value of sales made during the year	TCS provisions will be applicable in respect of each sale transaction. A similar position will apply in case of sale of specified goods or services in cash.
5.	Are TCS provisions applicable in case of sale of motor vehicle by an individual	TCS provision will be applicable in case of sale of motor vehicle by an individual liable to tax audit ⁶ .
6.	Applicability of TCS provisions to sale of motor vehicle where payment is made partly in cash	TCS provisions will be applicable in case of sale of motor vehicles in excess of INR 1 million, irrespective of the mode of payment (i.e. whether by cash or cheque).
7.	Would TCS be applicable @ 2% in case of sale of motor vehicles where part payment in cash exceeds INR 0.2 million.	In case of sale of motor vehicles in excess of INR 1 million, TCS will be applicable @ 1% (not 2%) irrespective of the mode of payment. On sale of a motor vehicle in cash in excess of INR 0.2 million, but less than INR 1 million, TCS will apply @ 1%.

The takeaways

The CBDT Circular is a welcome step that provides much needed clarification on some critical issues, considering that non-compliance with TCS provisions has onerous consequences.

The CBDT circular provides significant relief to manufacturers and dealers or distributors by restricting TCS to only retail sale transactions. On the other hand, the applicability of TCS provisions to sale of any motor

vehicle, and not just luxury cars, will have a wide impact.

Further, certain other aspects relating to TCS provisions (such as the value on which TCS will be computed, applicability of TCS provisions to consideration received in respect of sales made prior to the effective date of 1 June, 2016, etc.) are not addressed in the CBDT circular. These aspects may need detailed examination in the absence of any clarification.

Let's talk

For a deeper discussion of how this issue might affect your business, please contact:

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⁴ The Finance Minister in the Budget Speech of 2016 referred to luxury cars.

⁵ Notified under the United Nations (Privileges and Immunities) Act 1947

⁶ Per Section 44AB of the Income-tax Act, 1961

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