

CBDT issues another set of guidelines for the deduction of tax at source on e-commerce transactions under Section 194-O of the Income-tax Act, 1961

As a background, the Finance Act, 2020 introduced section 194-O in the Income-tax Act, 1961 which provides that an e-commerce operator (ECO) shall deduct tax at the rate of 1 per cent of the gross amount of sale of goods or provision of service or both, facilitated through its digital or electronic facility or platform. Earlier, CBDT had issued two sets of guidelines to remove difficulties in the implementation of provisions of section 194-O, [guideline 1](#) and [guideline 2](#).

Despite of these clarifications there were issues emerging around transaction where multiple ECOs are involved, TDS on the component of GST and other taxes, transaction of purchase return, etc. These issues were represented through the US India Tax Forum and we are glad that many of our recommendations have come through as clarifications which will further simplify the compliance under Section 194-O.

Press release is accessible [here](#) and notification [here](#).

Sharing a summary of the same as below-

Issue	Clarification
Who should deduct tax at source where there are multiple e-commerce operators involved in a transaction?	<p>In the case where a platform or network like Open Network for Digital Commerce (ONDC) on which multiple e-commerce operators are participating in a single transaction for example there could be a buyer side ECO involved in buyer side functions and a seller side ECO involved in seller side functions:</p> <ul style="list-style-type: none"> • Where the seller side ECO is not the actual seller of the goods or services, the compliance under Section 194-O is to be done by the seller side ECO who finally makes the payment or the deemed payment to the seller for goods sold or services provided. • Where the seller-side ECO is the actual seller of the goods or services, the compliance is to be done by the ECO which finally makes the payment or the deemed payment to the seller for goods or services sold.

E-commerce operators may levy convenience fees or charge commissions for each transaction and sellers may levy logistics and delivery fees for the transaction. Payments may also be made to the platform or network provider for facilitating the transaction. Would these form part of the 'gross amount' for the purposes of TDS under section 194-O?

The clarification is given in the form of the following examples:

- **Example 1** - A buyer purchases goods worth INR100 from a seller and opts for home delivery. The seller charges the buyer an additional INR5 as packaging fees, INR10 as shipping fees and INR3 as a convenience charge (to recoup INR1 charged by the buyer-side ECO and INR2 charged by the seller-side ECO). In this case, the seller will issue an invoice for INR118 to the buyer. The shipping fees, packaging fees and convenience fees are separately charged to the buyer to provide services in relation to the main supply. In such a case, the seller side ECO is required to deduct tax on INR118 since this is the gross amount of sales.

In this example, fees charged by the seller-side ECO (INR3 charged to the seller) and buyer-side ECO (INR1 charged to the seller-side ECO) for services provided would ordinarily have been subjected to tax under section 194H and the seller and seller-side ECO respectively would have had to deduct tax and file TDS return with respect to the fees paid.

However, as the tax has been deducted under section 194-O on the gross amount of sales of INR118, this amount of fees charged will not be subject to TDS under any other provision. However, this is subject to provisions of section 194S.

Payments may also be made to the platform or network (e.g. ONDC) provider for facilitating the transaction. These would form part of the 'gross amount' for the purposes of TDS under section 194-O if they are included in the payment for the transaction. If these payments are being paid on a lump-sum basis and are not linked to a specific transaction, then these need not be included in the 'gross amount'.

- **Example 2** - The seller's label price of a product is INR85, the seller- side ECO's fee (for listing the seller catalog and facilitating the transaction) is INR10 and the buyer-side ECO's fee (to provide an interface to enable the buyer to discover the seller/product and to enable them to place an order) is INR5. The seller issues an invoice for INR100 (gross amount) to the buyer. TDS under section 194-O will be calculated on INR100 at the rate of 1%, and the responsibility of tax deduction and depositing the same would be on the seller ECO. The buyer and seller ECO's fees will not be subject to further TDS (say under section 194H).

<p>How GST, various state levies and other taxes such as Value-added Tax (VAT), sales tax, excise duty, etc. will be treated when calculating the gross amount of sales of goods or provision of services?</p>	<p>Under section 194-O, when tax is deducted at the time of credit of the amount in the account of the seller and the component of GST/various state levies and taxes is indicated separately, tax shall be deducted on the amount credited without including such levies and taxes. However, if the tax is deducted on a payment basis because the payment is earlier than the credit, the tax would be deducted on the whole amount as it would not be possible to identify the amount of levies and tax components.</p>
<p>How will adjustment for purchase returns take place?</p>	<p>Before purchase-return happens, the tax must have already been deducted under section 194-O on that purchase. In such a case, if the money is refunded, then the tax deducted may be adjusted against the next transaction by the deductor with the same deductee in the same financial year. Further, the tax deducted and deposited will be allowed as a credit to the seller. No adjustment is required if the purchase return is replaced by the goods since in that case the transaction on which tax was deducted under section 194-O is completed with the goods replaced.</p>
<p>How will discounts given by the seller as an e-commerce participant or by any of the multiple e-commerce operators be treated while calculating the 'gross amount'?</p>	<p>Seller discount - In the situation where the discount is given by the seller itself, the seller would reduce the price of the products sold or services provided. As an example. if the label price of a product is INR100 and the seller offers a discount of INR10, INR90 will be receivable from the buyer. In this case. the seller will invoice the buyer for INR90 and hence the TDS will be calculated on INR90.</p> <p>Buyer ECO or seller ECO discount - In cases where the discount is given by the buyer ECO/seller ECO, usually the seller receives full consideration for the product, however, part of it is received from the buyer and the balance is discharged to the seller by the buyer ECO/seller ECO.</p> <p>For example, if a discount of INR10 is given by the buyer ECO and if the price quoted by the seller is INR100, buyer ECO will collect INR90 from the buyer and remit it to the seller. Further, the buyer ECO will pay the remaining INR10 to the seller via the seller ECO. The invoice on the buyer will be raised for INR100 and tax will therefore be deducted by the seller-side ECO on INR100, which is the gross amount of sales.</p>

We will be happy to hear your feedback on the above guidelines. Please share your feedback / queries if any and we will pursue the same with CBDT.