

**Introduction of Section 206AB – Special provision for TDS for non-filers of ITR & Section 206CCA – Special provision for TCS for non-filers of ITR**

Section 206AA of the Act provides for higher rate of TDS for non-furnishing of PAN. Similarly, section 206CC of the Act provides for higher rate of TCS for non-furnishing of PAN. It is seen that while these provisions have served their purpose in ensuring obtaining and furnishing of PAN by various person, there is need to have similar provisions to ensure filing of return of income by those persons who have suffered a reasonable amount of TDS/TCS and hence the Introduction of Section 206AB – Special provision for TDS for non-filers of ITR & Section 206CCA – Special provision for TCS for non-filers of ITR.

Section Introduced in Budget 2021-22 [A]	Effective date [B]	Who is impacted? [C]	When is this provision applicable? [D]	What to do / Action Points? (in case you fall under column [C] and your transaction under column [D] ) [E]	Things to remember/ Key Comments [F]
<b>Section 206AB - Special provision for TDS for non-filers of ITR</b>	01 July 2021	Any Person (Company / Firm / Individual etc.) who is required to deducted TDS under any section <u>other than</u> following sections: 192 - Salary 192A - Payment of accumulated balance due to an employee 194B - Winnings from lottery or crossword puzzle 194BB - Winnings from horse race 194LBC - Income in respect of investment in securitization trust 194N - Payment of certain amounts in cash.	Where TDS is to be deducted under any section other than sections 192, 192A, 194B, 194BB, 194LBC or 194N on amount paid, or payable <b>to a specified person.</b>  Specified person means: a) a <u>person</u> (Company / Firm / Individual etc.) + b) who has <b>not filed the ITRs for - two previous years</b> immediately prior to the previous year in which tax is required to be deducted + c) The <b>time limit of filing ITR</b> under section 139(1) <b>is expired</b> + d) The <b>aggregate TDS or TCS</b> , as the case maybe, is Rs. <b>50,000 or more in each of the two previous years</b>  a) Note: <u>Non-resident</u> who does not have the permanent establishment is excluded from the scope of specified person.	TDS shall be deducted at the <b>higher</b> of the following rates, namely: – (i) at <u>twice the rate</u> specified in the relevant provision of the Act or <u>in force</u> ; (ii) at the rate of <b>5%</b> .	1) Before deducting any TDS on payments to your vendors/suppliers you have to ensure whether they are falling under definition of “Specified Person” (as explained in Column “D”) as the onus to deduct TDS at correct rate is on you i.e. the deductor.  Since this provision is applicable from 01 July 2021, we expect the government to provide further guidelines on how to ensure the same e.g. - providing a database for searching the Persons falling under “Specified Person” based on PAN; or - Self-Declaration from vendor/supplier i.e. deductee for filing of ITR, if applicable.  2) 206AA is still applicable i.e. TDS will be deducted at higher rate of Tax if PAN is not available. If the provision of section 206AA of the Act is applicable to a specified person, in addition to the provision of section 206AB, the tax shall be deducted at higher of the two rates provided in section 206AB and in section 206AA of the Act.

<b>Section 206CCA - Special provision for TCS for non-filers of ITR</b>	<b>01 July 2021</b>	Any Person (Company / Firm / Individual etc.) who is required to collect tax at source under the provisions of Chapter XVII-BB	Where TCS is to be collected under provisions of Chapter XVII-BB on any sum or amount received <b>from a specified person</b> <u>Specified person</u> means: a) a <u>person</u> (Company / Firm / Individual etc.) + b) who has <b>not filed the ITRs for - two previous years</b> immediately prior to the previous year in which tax is required to be deducted + c) The <b>time limit of filing ITR</b> under section 139(1) <b>is expired</b> + d) The aggregate TDS or TCS, as the case maybe, is Rs. 50,000 or more in <b>each</b> of the two previous years  Note: <u>Non-resident</u> who does not have the permanent establishment is excluded from the scope of specified person.	TCS shall be collected at the <b>higher</b> of the following rates, namely: — (i) at <b>twice the rate</b> specified in the relevant provision of the Act; (ii) at the rate of <b>5%</b> .	1) Before collecting any TCS on receipts from your customers you have to ensure whether they are falling under definition of “Specified Person” (as explained in Column “D”) as the onus to collect TCS at correct rate is on you i.e. the collector.  Since this provision is applicable from 01 July 2021, we expect the government to provide further guidelines on how to ensure the same e.g. - providing a database for searching the Persons falling under “Specified Person” based on PAN; or - Self-Declaration from customers i.e. collectee for filing of ITR, if applicable.  2) 206CC is still applicable i.e. TCS will be collected at higher rate if PAN is not available. If the provision of section 206CC of the Act is applicable to a specified person, in addition to the provision of section 206CCA , the tax shall be collected at higher of the two rates provided in section 206CCA and in section 206CC of the Act.
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**Note: “+” indicates cumulative condition**

**Note: Complete text for section 206AB referred above:**

(1) Notwithstanding anything contained in any other provisions of this Act, where tax is required to be deducted at source under the provisions of Chapter XVIII, other than sections 192, 192A, 194B, 194BB, 194LBC or 194N on any sum or income or amount paid, or payable or income-tax return credited, by a person (hereafter referred to as deductee) to a specified person, the tax shall be deducted at the higher of the following rates, namely:—

- (i) at twice the rate specified in the relevant provision of the Act; or
- (ii) at twice the rate or rates in force; or
- (iii) at the rate of five per cent.

(2) If the provisions of section 206AA is applicable to a specified person, in addition to the provision of this section, the tax shall be deducted at higher of the two rates provided in this section and in section 206AA.

(3) For the purposes of this section “specified person” means a person who has not filed the returns of income for both of the two assessment years relevant to the two previous years immediately prior to the previous year in which tax is required to be deducted, for which the time limit of filing return of income under sub-section (1) of section 139 has expired; and the aggregate of tax deducted at source and tax collected at source in his case is rupees fifty thousand or more in each of these two previous years:

Provided that the specified person shall not include a nonresident who does not have a permanent establishment in India.

Explanation. —For the purposes of this sub-section, the expression “permanent establishment” includes a fixed place of business through which the business of the enterprise is wholly or partly carried on.’

**Note: Complete text for section 206CCA referred above:**

(1) Notwithstanding anything contained in any other provisions of this Act, where tax is required to be collected at source under the provisions of Chapter XVII-BB, on any sum or amount received by a person (hereafter referred to as collectee) from a specified person, the tax shall be collected at the higher of the following two rates, namely:

- (i) at twice the rate specified in the relevant provision of the Act; or

(ii) at the rate of five per cent.

(2) If the provisions of section 206CC is applicable to a specified person, in addition to the provisions of this section, the tax shall be collected at higher of the two rates provided in this section and in section 206CC.

(3) For the purposes of this section "specified person" means a person who has not filed the returns of income for both of the two assessment years relevant to the two previous years immediately prior to the previous year in which tax is required to be collected, for which the time limit of filing return of income under sub-section (1) of section 139 has expired; and the aggregate of tax deducted at source and tax collected at source in his case is rupees fifty thousand or more in each of these two previous years:

Provided that the specified person shall not include a nonresident who does not have a permanent establishment in India.

Explanation.—For the purposes of this sub-section, the expression "permanent establishment" includes a fixed place of business through which the business of the enterprise is wholly or partly carried on.

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