



### **Functionality provided to ease deductor compliance check in case of non-filers of ITR of past 2 years - new sections 206AB and 206CCA**

Finance Act 2021 inserted two new sections 206AB and 206CCA, which come into effect from July 1, 2021. The sections contain special provisions which provide for higher rate of TDS/TCS for non-filers of Income-tax Returns of past 2 years – known as ‘Specified Person’, who satisfies both the under mentioned conditions:

- A person who has not filed the return of income for both of the 2 AYs relevant to the two PYs immediately before the PY in which tax is required to be deducted/collected. Two PYs to be counted are required to be those whose return filing date under sub-section (1) of section 139 has expired.
- Aggregate of TDS and TCS is INR 50,000 or more in each of these 2 previous years.

Major challenges speculated in implementation of these sections was determination of ITR filing status by deductees/collectee for the past 2 years. To ease out compliance burden on tax deductor or tax collector for diligently satisfying this ITR filing status,

CBDT has issued a new functionality – ‘Compliance Check for Section 206AB & 206CCA’, available through reporting portal of the Income-tax website. Salient features are as under:

- The tax deductor or the collector can feed a single PAN (PAN search) or multiple PANs (bulk search) of the deductee or collectee and can get a response from the functionality if such deductee or collectee is a specified person or not.
- For PAN Search, response will be visible on the screen which can be downloaded in the PDF format. For Bulk Search, response would be in the form of downloadable file which can be kept for record.
- Presently, the list contains name of taxpayers who did not file return of income for both the AYs 2019-20 and 2020-21 and have aggregate of TDS and TCS of INR 50,000 or more in each of these previous 2 years.
- During the FY 2021-22, no new names have been added in the list of specified persons. This is a taxpayer friendly measure to reduce the burden on tax deductor a collector of checking PANs of non-specified person more than once during the FY.
- If any specified person files a valid return of income (filed & verified) for AY 2019-20 or AY

2020-21 during the FY 2021-22, his name would be removed from the list of specified persons. This would be done on the date of filing of the valid return of income during the FY 2021-22.

- If any specified person files a valid return of income (filed & verified) for AY 2021-22, his name would be removed from the list of specified persons. This will be done on the due date of filing of return of income for AY 2021-22 or the date of actual filing of valid return (filed & verified) whichever is later.
- If the aggregate of TDS and TCS, in the case of a specified person, in the PY 2020-21, is less than INR 50,000 his name would be removed from the list of specified persons. This would be done on the first due date under sub-section (1) of section 139 of the Act falling in the FY 2021-22. For the FY 2021-22 this due date of July 31, 2021 has been extended to September 30, 2021.
- Belated and revised TCS & TDS returns of the relevant FYs filed during the FY 2021-22 would also be considered for removing persons from the list of specified persons on a regular basis.

The deductor or the collector may check the PAN in the functionality at the beginning of the FY and then he is not required to check the PAN of non-specified person during that FY. To illustrate, let us assume that a deductor has 10,000 vendors that he deals with. He can use the functionality in the bulk search mode and can get the result of all these 10,000 PANs at one go. Let us assume that the functionality has shown that out of these 10,000 PANs, 5 PANs are specified persons for the purposes of sections 206AB and 206CCA of the Act. Now with respect of the remaining 9,995 PANs, it is clear that they are not in the list of specified persons for that FY. Since no new name would be added in the list of specified persons during the FY, the deductor or collector can be

assured that these 9,995 PANs would remain outside the list of specified persons during that FY. Thus, deductor or collector need not check again with respect to these 9,995 PANs during that FY. There are chances that the 5 PANs which are of specified persons may move out of the list during the FY and for that there will be need to recheck at the time of making tax deduction or tax collection.

The list would be drawn afresh at the start of each FY and the above process would have to be repeated. For example, at the beginning of the FY 2022-23 a fresh list would be prepared with PYs 2019-20 and 2020-21 as the two relevant PYs. Then, no name would be added to the list of specified persons during the FY and only name would be removed based on the logic given in the 3rd to 6th bullets of paragraph above.

It may be noted that as per the provisos of sections 206AB & 206CCA of the Act, **the specified persons shall not include a non-resident who does not have a permanent establishment in India.** Tax deductors & collectors are expected to carry out necessary due diligence in respect of a specified person established by the above referred functionality to consider him as non-specified, if he falls under this proviso.

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