

CA- INTERMEDIATE

INCOME TAX

AMENDMENTS

applicable for

Nov 2022 ATTEMPT

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(Only faculty with more than 4.5 years

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**AVJ ACADEMY CA FOUNDATION
INTER/FINAL**

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Note for my Dear Students – CA Sanchit Grover

- These notes are useful for Students who are using our Book updated till Finance Act 2021. The amendments contained in this document relate primarily to **circulars & notifications issued between 1st November 2021 to 30th April 2022**. In this document, only the relevant amendments for **CA Inter Nov 2022**, that have been made applicable by ICAI, have been discussed
- Separate amendment videos have been uploaded on our **YouTube channel “CA Knowledge Portal”** discussing these amendments in detail. The link to these amendment videos has also been sent to virtual classes students. All Students are advised to refer to those video lectures while studying these notes for conceptual clarity
- There may be cases where a provision of law has undergone multiple amendments during 1st November 2021 to 30th April 2022. In such case, as per ICAI guidelines the law prevailing on 30th April 2022 (after all such amendments) shall be applicable for exam purpose. This point has been ensured while drafting these amendments.
- The author would like to acknowledge that since these notes are primarily meant for CA Inter Students preparing for Nov 22 examination, we have borrowed certain illustrations and interpretations from ICAI Statutory update and Revision Test Paper meant for CA Inter Nov 2022 exams (*hosted on the website of ICAI*)
- In case any reader of these notes has any doubt or need any clarification, you can contact me at the Instagram ID given below.
- While we have tried to ensure that these notes remain error free, any error that may have been there in these notes may be brought to the knowledge of the author. Your contribution to make our notes error free shall be highly acknowledged in the future editions.

All the Best my dear Students...!!!

Regards,
CA Sanchit Grover

Income Tax Amendments in Detail

Income Tax Amendments for CA Inter (Nov 2022)

Category A: - Amendments relating to Exemptions & Capital Gains

Amendment No. 1: Provisions relating to taxability of ULIP not applicable for CA Inter exams

What provisions related to ULIP did we Study	4 th Proviso & 5 th Proviso were inserted in Sec 10(10D) by Finance Act 2021, as per which Exemption u/s 10(10D) shall not be available in respect of any ULIP policies issued on or after 1 st Feb 2021, if the premium or aggregate of premium for all ULIPs exceeds Rs. 2,50,000 in any FY. Further, in case of such ULIP policies to which 4 th Proviso & 5 th Proviso apply, they were covered in definition of Capital Asset & their taxability at the time of maturity was made similar to taxability of Equity Oriented Mutual Funds
What is the amendment	The above provisions related to ULIP policies were studied during the course of batch but as per ICAI Statutory Update for Nov 22 exams, they have been made inapplicable for CA Inter exams.

Category B: - Amendments relating to Chapter “TDS & TCS”

Amendment No. 2:- Clarifications relating to TDS u/s 194Q

Background provisions of Sec 194Q	Sec 194Q provides that a Specified Buyer (having Total Sales or turnover from business exceeding Rs. 10 Crore in immediately preceding FY) shall be liable to deduct TDS @0.1% of any payment for purchase of goods of value or aggregate of value exceeding Rs. 50L in a preceding year. <ul style="list-style-type: none"> Above TDS is deductible @0.1% only on the amount of payment exceeding Rs. 50L TDS is to be deducted at the time of credit of such sum to the account of the resident-seller or at the time of payment thereof by any mode, whichever is earlier Tax is not required to be deducted under this section in respect of a transaction on which - <ol style="list-style-type: none"> tax is deductible under any of the provisions of this Act; and tax is collectible under the provisions of section 206C, other than section 206C(1H)
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Clarifications by CBDT with regard to Sec 194-Q

1) Applicability of Transactions carried out through Exchanges

Considering the practical difficulties in application of Sec 194Q in cases where transactions are taking place on exchanges & clearing corporations, CBDT has clarified that TDS provisions u/s 194Q shall not be applicable in the following 2 cases:-

- (i) transactions in **securities and commodities** which are traded through recognized stock exchanges or cleared and settled by the recognized clearing corporation, including recognized stock exchanges or recognized clearing corporation located in International Financial Service Centre (IFSC)
- (ii) transactions in electricity, renewable energy certificates and energy saving certificates traded through registered power exchanges.

2) How will threshold of Rs. 50 Lakhs be calculated in PY 21-22

Since provisions of Sec 194Q have been made effective from 1st July 2021, CBDT has provided following 2 clarifications:-

- 1) Any payments or credits made by the Buyer during the period 1st April 2021 to 30th June 2021, shall be considered while calculating threshold limit of Rs. 50L (*this is for the purpose of checking whether Sec 194Q is applicable or not*)
- 2) However, no TDS shall be deducted on payments/credits made on or before 30th June 2021. TDS u/s 194Q shall apply only and only on payments/credits on or after 1st July 2021 (provided the threshold limit of Rs. 50L has been crossed)

Illustration for above clarification

Check the applicability of TDS provisions in each of the following cases if goods are purchased from Mr. X:-

Case No.	Who is the Buyer	Purchase of goods upto 30-06-2021	Purchase of Goods after 01-07-2021	Applicability of TDS u/s 194Q
Case 1	Mr. A (whose turnover in FY 20-21 is 10 Crore)	25 Lakhs	45 Lakhs	No TDS applicable since Buyer is not 'specified buyer'
Case 2	Mr. B (whose turnover in FY 20-21 is 12 Crore)	45 Lakhs	8 Lakhs	TDS @0.1% on Rs. 3L, to be deducted
Case 3	Mr. C (whose turnover in FY 20-21 is 20 Crore)	80 Lakhs	10 Lakhs	TDS @ 0.1% on Rs. 10L, to be deducted
Case 4	Mr. D (whose turnover in FY 20-21 is 50 Crore)	10 Lakhs	80 Lakhs	TDS @ 0.1% on Rs. 40L, to be deducted

3) Whether GST component charged on Invoice be considered while applying provisions of Sec 194Q

Case 1:- If TDS u/s 194Q is being deducted at time of credit of such sum

It is clarified that when tax is deducted at the time of credit of amount in the account of seller and in terms of the agreement or contract between the buyer and the seller, the component of GST comprised in the amount payable to the seller is indicated separately, *tax shall be deducted u/s 194Q on the amount credited without including such GST*

Case 2:- If TDS u/s 194Q is being deducted at time of payment of such sum

If the tax is deducted on payment basis because the payment is earlier than the credit, the *tax would be deducted on the whole* amount as it is not possible to identify that payment with GST component of the amount to be invoiced in future.

Similar Clarification has been brought by another CBDT Circular with regard to VAT, CST or Excise duty (if any) charged on invoice

4) How Purchase Returns should be dealt with while applying Sec 194Q

As per Sec 194Q tax is required to be deducted at the time of payment or credit, whichever is earlier. Thus, before purchase return happens, the tax must have already been deducted u/s 194Q on that purchase. If that is the case and against this purchase return, the money is refunded by the seller, then, this tax deducted may be adjusted against the next purchase against the same seller

No adjustment is required if the purchase return is replaced by the goods by the seller as in that case the purchase on which tax was deducted under section 194Q has been completed with goods replaced

5) Whether TDS u/s 194Q is to be deducted on advance payments made by Buyer

As regards whether the provisions of section 194Q would apply to advance payment made by the buyer, it is clarified that since the provisions apply on payment or credit whichever is earlier, the provisions of section 194Q shall apply to advance payment made by the buyer to the seller

6) Whether provisions of section 194Q shall apply to buyer in the year of incorporation?

As regards whether the provisions of section 194Q shall apply to a buyer in the year of its incorporation, it is clarified that u/s 194Q, a buyer is required to have total sales or gross receipts or turnover from the

business carried on by him exceeding Rs.10 crore during the financial year immediately preceding the financial year in which the purchase of goods is carried out. Since this condition would not be satisfied in the year of incorporation, the provisions of section 194Q shall not apply in the year of incorporation

7) While checking Limit of Rs. 10 Crore for Buyer, do we need to consider Non-business receipts:- For the purposes of section 194Q, a buyer is required to have total sales or gross receipts or turnover from the business carried on by him exceeding Rs.10 crore during the financial year immediately preceding the financial year in which the purchase of goods is carried out. His turnover or receipts from non-business activity is not to be counted for this purpose

8) What if provisions of Sec 194-O , Section 194-Q and Sec 206C(1H) are applicable simultaneously on the same transaction

- If tax has been deducted by the e-commerce operator on a transaction u/s 194-O [including transactions on which tax is not deducted on account of section 194-O(2)], that transaction shall not be subjected to tax deduction u/s 194Q. If a transaction is both within the purview of section 194-O as well as section 194Q, **tax is required to be deducted u/s 194-O and not u/s 194Q.**

- Though section 206C(1H) provides exemption from TCS if the buyer has deducted tax at source on goods purchased by him, to remove difficulties, it is clarified that this exemption would also cover a situation where, instead of the buyer, the e-commerce operator has deducted tax at source on that transaction of sale of goods by seller to buyer through e-commerce operator. **If a transaction is both within the purview of section 194-O as well as section 206C(1H), tax is required to be deducted u/s 194-O.**

Exam point

Once the e-commerce operator has deducted the tax on a transaction, the seller is not required to collect the tax u/s 206C(1H) on the same transaction. It is clarified that here primary responsibility is on e-commerce operator to deduct the tax u/s 194-O and that responsibility cannot be condoned if the seller has collected the tax u/s 206C(1H). This is for the reason that the rate of TDS u/s 194-O is higher than rate of TCS u/s 206C(1H)

9) What if provisions of Section 194-Q and Sec 206C(1H) are applicable simultaneously on the same transaction

If a transaction is both within the purview of section 194Q as well as section 206C(1H), then, tax is required to be deducted u/s 194Q. The transaction shall come out of the purview of section 206C(1H) after tax has been deducted by the buyer on that transaction. Once the buyer has deducted the tax on a transaction, the seller is not required to collect the tax u/s 206C(1H) on the same transaction.

Exam Point:- If, for any reason, tax has been collected by the seller u/s 206C(1H), before the buyer could deduct tax u/s 194Q on the same transaction, such transaction would not be subjected to tax deduction again by the buyer. This concession is provided to remove difficulty, since tax rate of deduction and collection are same in section 194Q and section 206C(1H).

10) Whether TDS u/s 194Q is applicable in cases where no TCS is required to be collected u/s 206C(1) by virtue of Sec 206(1A)

Issue:- Sec 206C(1) provides for collection of tax in case of sale of products like alcoholic liquor for human consumption, tendu leaves, timber, scrap, minerals etc. Further, With a view to promote manufacturing and power-generation sector, it has been provided u/s 206C(1A) that TCS provisions shall not apply where a resident buyer purchases the above specified goods for the purposes of manufacturing, processing or producing articles/things or for the purposes of generation of power (and not for trading purposes) and issues a declaration to this effect.

Hence the issue arises that in case of sale of above products exceeding amount of Rs. 50L, if TCS u/s 206C(1) is not applicable on account of Sec 206C(1A), whether TDS u/s 194Q can be made applicable

Relevant Provisions of Law:- Section 194Q does not apply in respect of transactions where tax is collectible u/s 206C [except sale of goods under section 206C(1H)]. Section 206C(1H) requires to collect tax at source in respect of sale of goods other than goods which have been covered u/s 206C(1)/(1F)/(1G).

Clarification:- In case of goods which are covered u/s 206C(1) but exempted u/s 206C(1A), tax would not be collectible u/s 206C(1)/(1H). It is clarified that the provisions of section 194Q will apply in such cases covered under section 206C(1A) and the buyer is to be liable to deduct tax u/s 194Q, if the conditions specified therein are fulfilled.

Illustration from ICAI RTP for Nov 2022

State Government of Madhya Pradesh grants a lease of coal mine to ABC Co. Ltd., an Indian company, on 1.10.2021 and charged Rs. 8 crores for the lease. ABC Co. Ltd. sold coal for Rs. 2 crores to Mahapower Ltd., another Indian company, during the previous year 2021-22. Mahapower Ltd. furnishes a declaration to ABC Co. Ltd. that the coal is to be utilized for the purpose of generation of power. The turnover of ABC Co. Ltd. and Mahapower Ltd. for the F.Y. 2020-21 amounted to Rs. 11 crores and Rs. 12 crores, respectively. What is the amount of tax required to be deducted or collected at source in respect of the above transactions, if any?

Solution) TCS implications for Leasing activity

Section 206C(1C) provides for collection of tax @2% by every person who grants a lease in any mine or a quarry to another person for the use of such mine or quarry for the purposes of business. Accordingly, State Government of Madhya Pradesh is required to collect tax at source of ` 16,00,000, being 2% on ` 8 crores, being the charges for lease of coal mine

TCS & TDS Implications on Sale of Coal

Under section 206C(1), seller of certain goods, inter alia, coal is required to collect tax from the buyers @1%. However, no collection would be made under section 206C(1), in case of a resident buyer, if such buyer furnishes to the person responsible for collecting tax, a declaration to the effect that goods are to be utilized for the purpose of generation of power.

In the present case, ABC Co. Ltd. is not required to collect tax at source u/s 206C(1) in respect of coal sold to Mahapower Ltd. since Mahapower Ltd. has furnished a declaration to ABC Co. Ltd. that the coal is to be utilized for the purpose of generation of power.

As per section 206C(1H), tax is to be collected in respect of sale of goods other than the goods which have been covered under section 206C(1). In case of goods which are covered under section 206C(1) but exempted under section 206C(1A), tax will not be collectible under either section 206C(1) or section 206C(1H).

Section 194Q requires any person, being a buyer who is responsible for paying any sum to resident for purchase of any goods of the value exceeding Rs. 50 lakhs in any previous year, to deduct tax @0.1% of such sum exceeding Rs. 50 lakhs. The provisions of section 194Q do not apply in respect to those transactions where tax is collectible under section 206C [except under section 206C(1H)].

Buyer means a person whose turnover from the business carried on by him exceeds Rs. 10 crores during the financial year preceding the financial year in which goods are purchased.

In this case, since Mahapower Ltd.'s turnover for P.Y. 2020-21 exceeds Rs. 10 crores, it is a buyer as per section 194Q. Since, tax is not required to be collected on sale of coal to Mahapower Ltd., the provisions of section 194Q would apply and Mahapower Ltd. is required to deduct tax of Rs. 15,000 under section 194Q, being 0.1% of Rs. 1.5 crores, being the sum exceeding Rs. 50 lakhs.

11) Whether TDS u/s 194Q is applicable in case of Government Departments not being PSU

Issue 1:- If Government Department is carrying on business or commercial activity, can it be covered in the definition of 'Buyer'?	TDS u/s 194Q needs to be deducted by such Government Department (<i>provided other conditions of Sec 194Q have been satisfied</i>)
Issue 2:- If Government Department is not carrying on any business or commercial activity, can it be covered in the definition of 'Buyer'?	No, in such case Government department doesn't satisfy the definition of 'Buyer' and hence it is not liable to deduct TDS u/s 194Q
Issue 3:- Can any Government department be considered as "Seller" for the purposes of Sec 194Q	No, hence TDS u/s 194Q cannot be deducted by the Buyer in respect of purchase of goods from Government department.

Amendment No. 3:- Clarifications relating to TCS u/s 206C(1G)

Background knowledge of Sec 206C(1G)	Tax is collectible u/s 206C(1G) by - - an authorised dealer who receives amount under LRS of RBI for overseas remittance from a buyer, being a person remitting such amount out of India; and - a seller of an overseas tour package who receives any amount from the buyer who purchases the package.
Clarification regarding its applicability	However, TCS u/s 206C(1G) would not be applicable, if the buyer is an individual who: • is not a resident in India [in terms of section 6(1) and (1A)]; and • who is visiting India.

Category C:- Amendments relating to Chapter 'Returns under Income Tax'

Amendment No. 4:- Mandatory requirement to file Income tax Return u/s 139 in case of Persons who enter into certain Prescribed transactions

Existing provisions of Sec 139	<p>7th Proviso to Sec 139(1) provides that any person (other than Company or a firm) who is otherwise not required to furnish return u/s 139(1), will have to furnish return on or before due date in following cases:-</p> <ol style="list-style-type: none"> Where such person has deposited an amount or aggregate of the amounts exceeding Rs 1 crore in one or more current accounts maintained with a banking company or a co-operative bank Where such person has incurred expenditure of an amount or aggregate of the amounts exceeding Rs 2 lakhs for himself or any other person for travel to a foreign country Where such person has incurred expenditure of an amount or aggregate of the amounts exceeding Rs 1 lakh towards consumption of electricity Where such person fulfils such other prescribed conditions. 												
What is the amendment	<p>Using the above point (d), person entering into any of the following transactions is also required to compulsorily file return of income:-</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr style="background-color: #f4a460;"> <th style="text-align: left;">Type of person</th> <th style="text-align: left;">Specified Transaction that makes return filing mandatory</th> </tr> </thead> <tbody> <tr> <td>1) A person carrying on business</td> <td>His Total Sales, turnover or gross receipts, as the case may be, in the business exceeds Rs. 60L during the relevant PY</td> </tr> <tr> <td>2) A person carrying on profession</td> <td>His Total Gross receipts in profession exceeds Rs. 10L during the relevant PY</td> </tr> <tr> <td>3) A resident Individual who is aged ≥ 60 years at any time during the relevant PY</td> <td>The aggregate of TDS and TCS in his case \geq Rs. 50,000 during the relevant PY</td> </tr> <tr> <td>4) Any person other than (3) above</td> <td>The aggregate of TDS and TCS in his case \geq Rs. 25,000 during the relevant PY</td> </tr> <tr> <td>5) A person having savings bank account</td> <td>The deposit in one or more savings bank account of the person, in aggregate \geq Rs. 50L during the relevant PY</td> </tr> </tbody> </table>	Type of person	Specified Transaction that makes return filing mandatory	1) A person carrying on business	His Total Sales, turnover or gross receipts, as the case may be, in the business exceeds Rs. 60L during the relevant PY	2) A person carrying on profession	His Total Gross receipts in profession exceeds Rs. 10L during the relevant PY	3) A resident Individual who is aged ≥ 60 years at any time during the relevant PY	The aggregate of TDS and TCS in his case \geq Rs. 50,000 during the relevant PY	4) Any person other than (3) above	The aggregate of TDS and TCS in his case \geq Rs. 25,000 during the relevant PY	5) A person having savings bank account	The deposit in one or more savings bank account of the person, in aggregate \geq Rs. 50L during the relevant PY
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Illustration from ICAI RTP for Nov 2022

Mr. Vikas, a resident in India aged 80 years, is having a house property in Mumbai. He has let out the house property to ABC Ltd. for a rent of Rs. 50,000 per month from 1.4.2021. He does not have any other source of income. Is Mr. Vikas required to file his return of income for A.Y. 2022-23. If yes, why?

Solution) Provisions of Law

An individual whose total income exceeds the maximum amount not chargeable to tax i.e., Rs. 5,00,000 in this case since Mr. Vikas is of 80 years, is required to file a return of income on or before the due date under section 139(1) i.e., 31st July, 2022.

Clause (iv) of seventh proviso to section 139(1) provides that a person (other than a company or a firm) who is not required to furnish a return u/s 139(1) has to furnish return on or before the due date if the person fulfills such other conditions as may be prescribed.

Accordingly, vide Notification no. 3/2022 dated 21.4.2022, the CBDT inserted Rule 12AB which prescribes, inter alia, that in case of resident individual who is aged 60 years or more at any time during the relevant P.Y. is required to file his return of income if the aggregate of tax deducted at source and tax collected at source, in his case, during the P.Y. is Rs. 50,000 or more.

Conclusion in the given case

In this case, Mr. Vikas's total income would comprise of only income from house property from let out of house property in Mumbai. His total income would be Rs. 4,20,000 [Rs. 6,00,000 – 30% under section 24(a)], which is below the basic exemption limit of Rs. 5,00,000.

ABC Ltd. is required to deduct tax at source u/s 194-I @10% of Rs. 6,00,000. Tax deductible would be Rs. 60,000. Since tax deducted at source in case of Mr. Vikas is more than Rs. 50,000, he has to furnish his return of income for A.Y. 2022-23 on or before 31.07.2022, even though his total income is below the basic exemption limit of Rs. 5,00,000.

Amendment No. 5:- Late Fees u/s 234H for failing to intimate Aadhar Number

Background Knowledge	Sec 234H provides that Where a person, who is required to intimate his Aadhar Number under section 139AA(2), fails to do so on or before the notified date (i.e., 31st March, 2022), he shall be liable to pay such fee, as may be prescribed, at the time of making intimation under section 139AA(2) after i.e., 31st March, 2022). However, such fee shall not exceed Rs. 1,000.
What Late Fees has been prescribed	Rule 114(5A) has been inserted to provide that if such person fails to do so by the date notified in section 139AA(2) i.e., 31st March, 2022, then, at the time of subsequent intimation of his Aadhaar number to the prescribed authority, such person would be liable to pay, by way of fee, an amount equal to,— (a) Rs. 500, in a case where such intimation is made within three months from the date referred in section 139AA(2) i.e., by 30.06.2022; and (b) Rs. 1,000, in all other cases.

Amendment No. 6:- Consequences of failing to Intimate Aadhar number

Background Knowledge	As per Sec 139AA, If a person fails to intimate the Aadhar Number on or before 31 st March 2022, PAN allotted to such person shall be made inoperative immediately after the said date for the purpose of furnishing, intimating or quoting under Income Tax Act
Clarification regarding above	<p>Rule 114AAA has been inserted to provide that if PAN of a person has become inoperative, he will not be able to furnish, intimate or quote his PAN and would be liable to all the consequences under the Act for such failure. This will have a number of implications such as:-</p> <ul style="list-style-type: none"> (i) The person would not be able to file return using the inoperative PAN (ii) Pending returns will not be processed (iii) Pending refunds cannot be issued to inoperative PANs (iv) Pending proceedings as in the case of defective returns cannot be completed once the PAN is inoperative (v) Tax will be required to be deducted at a higher rate as PAN becomes inoperative <p>In addition to the above, the tax payer might face difficulty at various other fora like banks and other financial portals, as PAN is one of the important KYC criterion for all kinds of financial transactions</p> <p>In order to have smooth application of section 234H and existing rule 114AAA, it is clarified that the impact of Rule 114AAA(2) would come into effect from 1st April, 2023; and the period from 1st April, 2022 to 31st March, 2023, would be the period during which Rule 114AAA(2) would not have its negative consequences</p>