

EY Tax Alert

CBDT notifies ten luxury goods for income tax collection at source at the rate of 1%

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Executive summary

This Tax Alert explains Notification No. 36/2025 dated 22 April 2025 S.O. 1825(E) (Notification) issued by the Central Board of Direct Taxes (CBDT)¹, which notifies ten specific luxury goods for tax collection at source (TCS) by the seller from the buyer at a rate of 1% if the value of sale consideration exceeds INR 1m. The notified goods include wristwatch, art piece (such as antiques, painting, sculpture), collectibles (such as coin, stamp), yacht, rowing boat, canoe, helicopter, sunglasses, bag (such as handbag, purse), shoes, sportswear and equipment (such as golf kit, skiwear), home theatre system, and racehorse and polo horse. The CBDT has also released four FAQs on the expanded coverage of TCS.

This notification has come into force on 22 April 2025, being the date of notification in Official Gazette.

¹ Apex direct tax administrative body in India



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Background

- ▶ Section 206C(1F) of the Indian Income Tax Law (ITL) stipulates that any seller who receives any amount as consideration for sale of specified goods of the value exceeding INR 1m shall collect tax at source at the rate of 1% of the sale consideration from the buyer. Such TCS can be claimed credit by the buyer against final tax liability while filing return of income.
- ▶ Prior to amendment by Finance (No.2) Act (FA) 2024 with effect from 1 January 2025, the Section covered only motor vehicle. In this regard, FAQ 1 of CBDT Circular No. 22/2016 dated 8 June 2016 clarified that such TCS applies to transactions of retail sales and, accordingly, it does not apply on sale of motor vehicles by manufacturers to dealers/distributors.
- ▶ Considering a notable increase in luxury goods expenditure by high-net-worth individuals, FA 2024 amended the TCS provision to enhance tracking of such expenses and to broaden the tax base.
- ▶ The amended provisions extended TCS @ 1%, effective from 1 January 2025 to any other goods that may be notified by the Central Government, with a value exceeding INR 1 m.
- ▶ **Definition of Seller²:** For the purposes of this provision, "seller" is defined to mean any of the following entities:
 - a) Central or State Government
 - b) Local authority
 - c) Corporation or Authority established by or under Central, State or Provincial Act
 - d) Company, firm, co-operative society
 - e) Individual/Hindu undivided family (HUF) whose total sales or gross receipts or turnover from business exceeds INR 10m during the financial year immediately preceding the financial year in which the specified goods are sold
 - f) Individual/HUF whose gross receipts from profession exceeds INR 5m during the financial year immediately preceding the financial year in which the specified goods are sold

- ▶ **Definition of Buyer³:** "Buyer" for the purposes of this provision is defined as a person who obtains in any sale, goods of the specified nature, excluding:

- a) Central Government, State Government and an embassy, a High Commission, legation, commission, consulate and the trade representation of a foreign State
- b) Local authority
- c) Public sector company which is engaged in the business of carrying passengers
- d) Reserve Bank of India⁴

- ▶ In this context, the CBDT, vide the Notification, has notified certain goods (in addition to motor vehicles) on which TCS shall apply @ 1%. It has also released four FAQs on the Notification.

Notification:

- ▶ The Notification notifies the following ten goods of the value exceeding INR 1m, for TCS @ 1%:
 - a) any wristwatch
 - b) any art piece such as antiques, painting, sculpture
 - c) any collectibles such as coin, stamp
 - d) any yacht, rowing boat, canoe, helicopter
 - e) any pair of sunglasses
 - f) any bag such as handbag, purse
 - g) any pair of shoes
 - h) any sportswear and equipment such as golf kit, skiwear
 - i) any home theatre system
 - j) any horse for horse racing in race clubs and horse for polo

Effective date of expanded coverage of TCS @ 1%

The Notification is stated to come into force from the date of its publication in Official Gazette viz. 22 April 2025. This is clarified by FAQ 4 by the CBDT. Thus, receipt of any amount as consideration for sale of

² Explanation (aa)(iii) to section 206C of the ITL

³ Explanation (c) to section 206C of the ITL

⁴ Exempted through a separate Notification No. 115/2024 dated 16 October 2024 SO 4545(E)

specified goods of the value exceeding INR 1m on or after 22 April 2025 shall be liable for TCS @ 1%.

Potential issues and EY point of view (POV)

A number of issues may arise from the Notification during practical implementation of expanded coverage of TCS @ 1%. The four FAQs presently issued by CBDT provides limited clarity. It would be desirable for the CBDT to issue further clarifications for better clarity and ease of compliance by taxpayers. Pending such clarity, considering the object of TCS @ 1% to track high value spending, it would be advisable for sellers to adopt a conservative approach. The salient features and some ambiguous issues are discussed below in the form of FAQs:

► **Whether all luxury goods are covered by TCS @ 1%?**

EY POV - No. TCS @1% applies only on the specified notified goods (in addition to motor vehicles) and will not apply to other luxury goods, even if their value exceeds the threshold of INR 1 m. For example, items such as jewellery, aircraft, designer apparel, etc. are presently not included (although possibility of coverage in future through further notifications cannot be ruled out).

But in case of notified goods, there could be ambiguity on scope of coverage. This is because, for certain items a broad description is provided followed by illustrative items. For instance, "any art piece such as antiques, painting, sculpture". Hence, whether a particular item qualifies as art piece in the nature of antiques, painting or sculpture can become contentious.

► **Whether expanded coverage applies to sales effected on or after 22 April 2025 or receipts on or after 22 April 2025?**

EY POV - On a plain reading, it appears to apply to receipts on or after 22 April 2025, but it would be good if the CBDT clarifies the issue.

► **Whether expanded coverage applies only to retail sales?**

EY POV - In the context of motor vehicles, the CBDT had clarified that it applies to all transactions of retail sales and not to sale of motor vehicles by manufacturers to dealers/distributors. It would be good if the CBDT clarifies on similar lines for the expanded coverage of luxury goods.

► **Whether TCS @ 1% applies to non-resident buyers?**

EY POV - Yes. There is no exclusion for non-resident Indians (NRIs) or persons of Indian origin (PIOs) or foreign citizens visiting India.

► **Whether consideration will include indirect taxes applicable on sale like Goods & Services Tax (GST)?**

EY POV - In the context of erstwhile TCS @ 0.1% on sale of goods exceeding value of INR 5m during financial year (which is withdrawn w.e.f. 1 April 2025), the CBDT had clarified that consideration will include GST since TCS is made with reference to receipt of amount of sale consideration⁵. While presently there is no similar clarification in the context of motor vehicle or notified luxury goods, we believe similar position might apply.

► **Whether applicability of TCS @ 1% will exclude applicability of tax deduction at source @ 0.1% by the buyer on the same transaction?**

EY POV - Yes. The tax deduction at source @ 0.1% by buyer from a resident seller under section 194Q of the ITL does not apply if, *inter alia*, tax is collectible under section 206C of the ITL by the seller.

► **Whether salaried employee who is subjected to TCS @ 1% on purchase of any specified luxury goods can claim offset against salary tax withholding by the employer?**

EY POV - Yes. The employee can do so by furnishing Form 12BAA to his/her employer.

► **Whether salaried employee or an individual not carrying on any business or profession is required to collect TCS @ 1% on sale of notified luxury goods?**

EY POV - No. Please refer definition of "seller" as explained in earlier part of this Alert.

► **Whether consideration received by any mode (i.e. cash or cheque or online mode) is covered by TCS @ 1%?**

EY POV - Yes. But it should be noted that receipt of cash consideration in excess of INR 0.2m is prohibited under the ITL⁶ and the recipient can be penalized for an amount equal to the amount of such cash receipt⁷.

⁵ Para 4.6 of CBDT Circular No 17/2020 dated 29 September 2020

⁶ Section 269ST of the ITL

⁷ Section 271DA of the ITL

- **How is the threshold of INR 1m required to be computed in case of sale of multiple items of notified and non-notified goods where cumulative consideration exceeds INR 1m but consideration for an individual notified item does not exceed INR 1m?**

EY POV - FAQ 3 issued by the CBDT clarifies that TCS will be levied on sale of a single item of the notified goods which is of the value exceeding INR 1m. The different possible scenarios and EY POV are summarized in the table below:

Scenario	Items and consideration	EY POV on applicability of TCS @ 1%
Sale of notified goods along with non-notified goods	<ul style="list-style-type: none"> Wristwatch INR 0.6m Jewellery INR 0.6m Total INR 1.2m 	No
Sale of multiple items of the notified goods (same class)	<ul style="list-style-type: none"> Wristwatch INR 0.6m Wristwatch INR 0.6m Total INR 1.2m 	Ambiguous - requires further clarity from the CBDT
Sale of multiple items of the notified goods (different class)	<ul style="list-style-type: none"> Wristwatch INR 0.6m Sunglasses INR 0.6m Total INR 1.2m 	

- **Whether buyer is obliged to furnish Permanent Account Number (PAN) to the seller?**

EY POV - Yes. Failure to furnish Aadhar-linked PAN attracts higher TCS at 5% instead of 1%⁸. But this provision does not apply to non-resident buyer who does not have permanent establishment⁹ (PE) in India.

- **Whether buyer can apply for lower TCS certificate from Tax Authority?**

EY POV - No. The provision for obtaining lower TCS certificate¹⁰ does not cover TCS @ 1% on motor vehicle / notified luxury goods.

- **What are other compliances required of the seller?**

EY POV - The seller needs to obtain Tax Collection Account number, deposit TCS on timely basis, file quarterly TCS statements and issue TCS certificates to the buyer. The seller also needs to indicate buyer's PAN in all correspondence, bills, vouchers and other documents which are sent to the buyer.

- **What are the consequences of non-compliance of TCS @ 1% on notified luxury goods?**

EY POV - Non-compliance of TCS @ 1% attracts "assessee-in-default" proceedings under the ITL in terms of which the TCS can be recovered from the seller along with interest @ 1% per month. The seller can also be penalized for an amount equal to the amount of failure to collect TCS unless the seller proves reasonable cause for such default.

If there is default by way of non-deposit of TCS collected, then higher interest @ 1.5% per month applies. Furthermore, it attracts prosecution under the ITL unless the TCS amount is paid before the due date of furnishing quarterly TCS statement and/or the seller proves in the prosecution proceedings that there was reasonable cause for such default.

Also, defaults in procedural compliances like non-furnishing of quarterly TCS statements, TCS certificates, non-quoting of PAN etc. attract fees or penalties.

⁸ Section 206CC of the ITL

⁹ For this purpose, PE includes only fixed place PE and not other forms of PE like dependent agent PE.

¹⁰ Section 206C(9) of the ITL

Comments

The expansion of TCS @ 1% on notified luxury goods is a significant measure by the Government to track high value spending and increase the tax base. Since it has become applicable immediately w.e.f. 22 April 2025, sellers of such goods may need to implement systems and start compliances on immediate basis to avoid adverse consequences of non-compliance. This may pose practical challenges for the sellers. It may be beneficial if the CBDT considers providing transitional relaxation for smooth implementation of the expanded coverage of TCS and also clarifying some of the unclear aspects for the benefit of taxpayers.

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