



Section 51 :- TDS

Following recipients are liable to deduct TDS

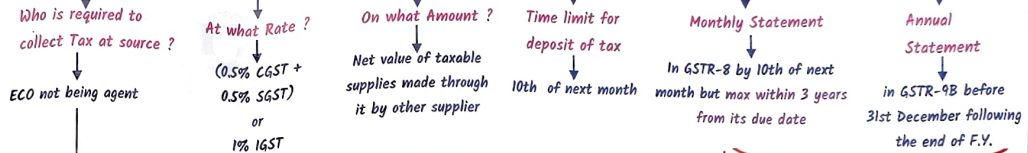
- a) Dept. or establishment of govt. (except ministry of defence)
 - b) Local Authority
 - c) Govt. Agencies
 - d) Notified Person
- 1) Authority, board or other body setup with 51% equity concern with govt.
- ii) Society established by CG/SG/LA under the Society registration act
- iii) PSU
- Any Act
- Established by Govt.

TDS provisions shall not apply to supply between one person to other person as specified above

- ▷ TDS Rate :- (1% CGST + 1% SGST) or 2% IGST
- When = Total value of taxable supplies > ₹ 2,50,000 under a contract
- ▷ Tds to be deducted from - the payment made or credited to supplier of taxable goods &/or services
- ▷ Time limit to deposit = within 10 days of end of month in which TDS is deducted
- ▷ Deductor shall furnish return = GSTR 7
- ▷ TDS certificate to be furnished to deductee - GSTR -7A
- ▷ Deductee can claim credit of TDS in his electronic cash ledger
- ▷ Interest on delay deposit of TDS = 18% p.a.
- ▷ Excess/Erroneous deduction of TDS = Refund in accordance with provision of section 54
- ▷ No refund if TDS is credited to the electronic cash ledger of deductee
- ▷ Deducor has to be compulsorily registered without any threshold limit
- ▷ Amount in default shall be determined as per sec 73 or 74
- ▷ TDS not to be deducted in following case -
 - ▷ Supplier in state A, place of supply in State A & Recipient is in state B.
 - ▷ Total value of Taxable supply <= ₹ 2,50,000 under a contract
 - ▷ When recipient is Authorities under ministry of Defense
 - ▷ When tax is to be paid under RCM by recipient i.e. deductee
 - ▷ When payment is made to unregistered supplier
 - ▷ When payment relates to the Cess component.
 - ▷ receipt of exempted goods &/or services
 - ▷ Goods on which GST is not leviable
 - ▷ All activities specified in schedule III irrespective of value



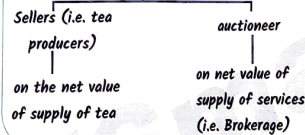
Section 52:- TCS



Where consideration is collected by ECO for supplies made through it

- Net value of taxable supplies = Aggregate value of Taxable supplies (other than services notified u/s 9(S)) made during month by all registered persons through ECO (- aggregate value of taxable supplies returned to suppliers during month)
- Net value of taxable supplies are calculated for each supplier separately on monthly basis. No TCS if net value is nil or negative

CBIC Clarification - collection of TCS by Tea Board respectively from the



- Some cases where TCS provisions are not applicable-
1. If supplier of services is not liable for registration, ECO is not required to collect tax at source on supplies made through it.
 2. On Exempt supplies
 3. On supplies made by composition taxpayer as he cannot make supplies through ECO u/s 10(2)(d)
 4. On Import of goods or services or both as it is covered under RCM

Exceptions to services notified u/s 9(S) where TCS provisions are applicable to ECO :-

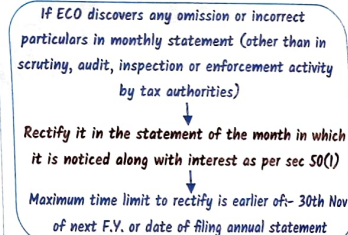
- a) Renting of accommodation by hotel who is liable to register U/s 22(1)
- b) Housekeeping services by supplier who is liable to register U/s 22(1)
- c) Restaurant services at specified premises where declared tariff is >= ₹7500 per unit per day

Some other provisions relating to TCS:-

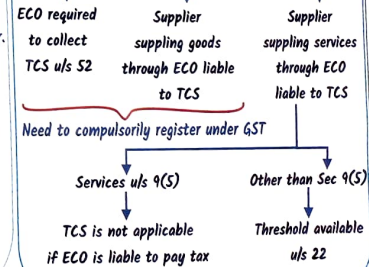
1. Foreign ECO not having place of business in India would be liable to TCS where supplier & customers are in India & shall register in each State / UT.
2. ECO has to obtain separate registration for TCS though already registered under GST.
3. Cir. No. 194/06/2023.-If multiple ECOs are involved in a single transaction of supply, then who is liable for compliances u/s 52 including TCS collection in following cases:-
 - i) Supplier-side ECO himself is not the supplier- Supplier-side ECO who finally releases the payment to supplier.
 - ii) Supplier-side ECO is himself the supplier- Buyer-side ECO while making payment to supplier.
4. ECO is required to register for TCS in each State/ UT in which suppliers listed on their platform are located
5. TCS is not required to be collected when a supplier is selling through his own website
 - his own product
 - goods purchased from different vendors & then sold under own billing
6. Services notified u/s 9(S)

- 1) Commissioner may notify extended time limit by recording the reason in writing
- 2) Extension by Commissioner of State tax or UT tax shall be deemed to be notified by Commissioner

After filing of GSTR - 8 by ECO, supplier can claim TCS in their E-cash ledger



Registration



IGST Act, 2017 (Place of Supply)



Section 7 : Inter-State Supply

1) Inter-State SOG (within India)-Subject to Sec 10, supply of goods, where the Location Of The Supplier (LOS) and the Place Of Supply (POS) are in

- two different States
- two different Union territories; or
- a State and a Union territory,

shall be treated as a supply of goods in the course of inter-State trade or commerce.

2) Inter-State SOS (within India):-Subject to Sec12, supply of services, where the Location Of The Supplier(LOS) and the Place Of Supply(POS) are in

- two different States
- two different Union territories; or
- a State and a Union territory,

shall be treated as a supply of services in the course of inter-State trade or commerce.

3)Inter-State Supply(SOG or SOS outside India):- Supply of goods or services or both,

- when the supplier is located in India and the POS is outside India
- to or by a SEZ developer or a SEZ unit
- in the taxable territory, not being an intra-State supply and not covered elsewhere in this section.

Section 8 : Intra-State Supply

1) Intra State SOG:- Subject to the Sec 10, supply of goods where the LOS & POS of goods are in

- the same State or
- same Union territory

shall be treated as intra-State supply

2) Intra State SOS:- Subject to the Sec 12, supply of services where the LOS & POS of services are in

- the same State or
- same Union territory

shall be treated as intra-State supply

Section 9 : Supply in Territorial Water

Notwithstanding anything contained in this Act,

- Where the location of the supplier is in the territorial waters,
- Where the place of supply is in the territorial waters,

LOS (for clause (a) & POS (for clause(b)) shall be deemed to be in the coastal State or UT where the nearest point of the appropriate baseline is located.

POS for supply of Goods

Sec 10 :- Place of Supply of Goods other than imported or export goods

S.No	Nature of Supply	Parties Involved	Place of Supply
a)	Involves Movement of Goods	Supplier Recipient Any other person	Location of the goods when the movement of goods terminates for delivery to the recipient
b)	Bill-to-Ship-to Sale	Supplier Recipient (Shipping address) Third Person (Billing Address)	Principal place of Business of Third person,
c)	Does not involve Movement of Goods	Supplier Recipient	Location of goods at the time of delivery to the recipient
d)	Installation and Assembly of Goods at Site	-	Place of Installation or assembly of Goods
e)	Goods are supplied on board a conveyance, including a vessel, an aircraft, a train or a motor vehicle	-	Location at which such goods are taken on board.

Case Study 1: Mr A of Pune supplied goods to Mr. B of Nagpur for ₹ 1,00,000. Determine nature of supply and POS of Mr. A delivered the goods at the place of Mr. B. In given case, LOS is Pune Maharashtra and movement terminates in Nagpur. Hence, POS is therefore, transaction is Intra-state supply.

Case Study 2: What will be your ans is above case, if Mr. B has taken the delivery on Ex-factory basis (i.e. at factory gate) and move the goods from MH to MP. In given case, movement of goods made by Recipient Mr. B to his place in MP, movement of goods terminated in MP. Hence, POS is MP.

Note : Where the place of supply of goods cannot be determined, the POS shall be determined as per the prescribed Sec 10(2)

Sec 12 (1) - Pos where LOS and LOR of Services in India

Sec	Description of Service	Place of Supply
		Supply to unregistered person
		Supply to RP
12(2)	General rule for all services except covered in 12(3) to 12(14)	(i) Address in records exists POS= LOR (ii) Address in records does not exists- POS=LOS
12(5)	Training and performance appraisal	POS = Place of performance
12(7)	Organisation of events including ancillary services, sponsorship	Place where event is actually held & If held outside India - POS = LOR
	Rule 5 prescribed for supply of services attributable to different States or Union territories, of Sec 12(7)	Basis of apportionment
	In case of service	services are supplied to a person other than a RP, the event is held in India in more than one ST/UT and a consolidated amount is charged absence of any contract or agreement for separately collecting
12(8)	transportation of goods, mail or courier	POS= Place where goods are handed over for their transportation if transportation is outside India, the POS = destination of such goods
12(9)	Passenger transport service	POS= Place where person embarks on the conveyance for continuous Journey Exception : Right to passage for future & embarkation-not known - POS as per 12(2)
12(13)	Insurance service	POS= LOR of service in records of insurance Co.
12(3)	Service directly related to immovable property including agents, experts, lodging in hotels, inn, accommodation for functions & ancillary services	POS = Place where immovable property is located or intended to be located if immovable property located outside India - POS=LOR
	Rule 4:- The supply of services attributable to different States or Union territories, under section 12(3)	Basis of apportionment & Value of services
	In case of service	
	(i) By way of lodging accommodation by a hotel, inn, guest house, club or campsite, and services ancillary to such services (except cover in (ii))	number of nights stayed in such property
	(ii) a single property located in two or more contiguous States or Union territories or both, and services ancillary to such services	area of the immovable property lying in each State or Union territory
	(ii) In all other services in relation to immovable property including any immovable property for organising any marriage or reception etc.	time spent by the boat or vessel in each such State or Union territory,
	(ii) lodging accommodation by a house boat or any other vessel and services ancillary to such services	
12(4)	Restaurant catering, personal grooming fitness, beauty treatment, health services including plastic surgery	POS=Place where service is actually performed.
12(6)	Admission to events or amusement park & ancillary Services	POS=Place where event actually held or park is located.
12(10)	Service on board a conveyance	POS= Location of 1st scheduled point of departure of that conveyance for the journey.
12(11)	Supply of telecom services including data transfer, broadcast, cable or DTH	(a) POS=Location of installation (b) Billing Address exists- POS= LOR Billing address do not exists - POS=LOS
	(a) Fixed lease or cable line	
	(b) Postpaid mobile, internet, DTH	
	(c) Prepaid mobile, internet, DTH	(c) Supply through agent/distributor - POS=Address of agent/distributor supply to final consumer - POS=Location of payment recvd. or voucher sold.
	(d) In all other cases	(d) POS=LOR if address available otherwise POS= LOS
	Proviso - Prepaid - electronic payment	POS=LOR
	Rule 6 is prescribed supply of services attributable to different ST/NT, under sub section (1) of section 12 of the said Act,	Basis of apportionment
	In case of service	the leased circuit is installed in more than one ST/NT and a consolidated amount is charged, in proportion to the number of the absence of any contract or agreement for separately collecting Liability on Intermediary points lying in the ST or UT
12(12)	Banking & Financial Sector including stock broking	POS=LOR if address available in records of supplier else, POS=LOS
12(14)	Advertisement services to Govt. or Local authority	POS=Each of such ST/NT where advertisements broadcasted, run, played



CA Vishal Bhattar

Registered Person

General

Special Cases

Sec 35 (1): Books of Accounts

- Books of accounts to be kept & maintained at -
 - Principal Place of business
 - Additional place of business
- Books found at unregistered premises - deemed to belong to registered person

Sec 35 (1): Accounts and Records

Accounts [Sec 35(1)]

- Production of goods
- Inward/outward supply of G/S
- Stock of goods
- Output tax payable/paid Not required for composition Scheme
- ITC availed
- Other particulars
- Goods kept at other than declared location - deemed as supply & tax payable thereon

Records & Documents [CGST Rules]

- Goods/services imported or exported
- Supplies attracting payment of tax on RCM along with relevant documents like invoices, Challan, Credit & Debit Note & Vouchers etc.
- Advances received, paid and adjusted
- Required to keep particulars of name & complete address of supplier, recipient & premises where goods are stored

Sec 35(2) read with Rule 58 Warehouse Owner and Transporter

Owner/Operator of Godown/ Warehouse

Transporter

Registered

Unregistered

Obtain unique enrollment number

Sec 35(2): shall maintain records of the consignor, consignee and other relevant details of the goods in such manner as may be prescribed

Rule 58(4): maintain books of accounts
 with respect to the period for which particular goods remain in the warehouse,
 particulars relating to dispatch, movement, receipt and disposal of such goods

Rule 58(5): store the goods in such manner that they can be identified item-wise and owner-wise and shall facilitate any physical verification or inspection by the proper officer on demand

Registered

Unregistered

Obtain unique enrollment number

Sec 35(2): shall maintain records of the consignor, consignee and other relevant details of the goods in such manner as may be prescribed

Rule 58(4): shall maintain records of
 Goods transported, delivered and goods stored in transit by him alongwith the
 GSTIN of the registered consignor and consignee for each of his branches.

Rule 58(1A): IF transporter is Registered in more than one State/ UT- May apply for unique common enrollment number for EWB

Rule 56(11) : Records to be maintained by Agent

P=every principal

- Particulars of Authorization received from each principal to receive or supply of G/S
- Description value & Quantity of G/S received on behalf of P
- Description value & Quantity of G/S supplied on behalf of P
- Details of accounts furnished to P
- Tax paid on receipts/ supply of goods on behalf of P

Rule 56(12) : Records to be maintained by Manufacturer

- Monthly production accounts showing quantity of RM/ service used in the manufacture
- Quantitative details of goods manufactured, waste and by products

Rule 56(13) : Records to be maintained by Supplier of Services

- Quantitative details of goods used in provision of service
- Details of input service
- Details of services supplied

Rule 56(14) : Records to be maintained by Works Contractor

- Names & Address of person on whose behalf the works contract is executed
- Description, value & Qty. of G/S received for each W.C.
- Description, value & Qty. of G/S utilized for each W.C.
- Details of payment received for each W.C.
- Name and address of suppliers

Rule 56(17) : Records to be maintained by C&F Agent

- Maintain true & correct records of goods handled on behalf of registered person
- Produce details as required by proper officer

Procedure for maintenance of A/C

- Records may be in electronic form
- Proper backup of electronic Records
- Records to be produced to officer on demand along with files and passwords
- No Entry to be erased/ over written
- Manual Records- serially numbered

Sec 35(6) - Consequences for failure to maintain books of accounts

- Non accounted G/S - regarded as deemed supply & tax payable thereon
- Provisions of Section 73 and 74 shall apply

Sec 36- Retention of Accounts

- Till the expiry of 72 months from due date furnishing of annual return
- IF subject matter is for appeal/ revision - retention shall be later of :-
 - 1 year after its final disposal of appeal/ revision
 - 72 months from due date of furnishing AR