

# CHAPTER 14

## TAX DEDUCTION AT SOURCE & COLLECTION AT SOURCE

### 1. INTRODUCTION

Deduction at Source (TDS) is a system, initially introduced by the Income Tax Department. It is one of the modes/methods to collect tax, under which, certain percentage of amount is deducted by a recipient at the time of making payment to the supplier.

It facilitates sharing of responsibility of tax collection between the deductor & the tax administrator.

This concept of TDS ensures

- a) regular inflow of tax collection to the Government; and
- b) acts as a powerful instrument to prevent tax evasion and
- c) expands the tax net, as it provides for the creation of an audit trail.

Section 51 of CGST Act, 2017 provides for deduction of tax at source in certain circumstances.

TCS refers to the tax which is collected by the electronic commerce operator (ECO), when a supplier supplies some goods or services through its portal and the payment for that supply is collected by the ECO.

Section 52 of CGST Act, 2017 provides for collection of tax at source in certain circumstances.

### 2. TAX DEDUCTION AT SOURCE

[SEC 51]

<b>Deductor</b>	<p>(a) <b>Central/State Government department or establishment; being</b></p> <ul style="list-style-type: none"> <li>a) an authority or a board or any other body, -             <ul style="list-style-type: none"> <li>i) set up by an Act of Parliament or a State Legislature; or</li> <li>ii) established by any Government, with 51% or more participation by way of equity or control, to carry out any function.</li> </ul> </li> <li>b) society established by the Central Government or the State Government or a Local Authority under the Societies Registration Act, 1860;</li> <li>c) public sector undertakings:</li> </ul> <p>(b) <b>Local Authority</b></p> <p>(c) <b>Governmental Agencies</b></p> <p>(d) <b>Notified Persons/category of persons</b></p>
<b>Categories of persons not liable to deduct TDS</b>	<ul style="list-style-type: none"> <li>a) When goods and/or services are supplied from a public sector undertaking (PSU) to another PSU, whether or not a distinct person</li> <li>b) When supply of goods and/or services takes place between one person to another person specified in clauses (a), (b), (c) and (d) of section 51(1) of CGST Act.</li> </ul>

<b>Deductees</b>	Suppliers whose total value of supply of taxable goods and/or services under a contract ➤ exceeds 2,50,000 <u>exclusive</u> of tax & cess as per the invoice.									
<b>Standard Rate of deduction</b>	@ 1% of the payment made to the supplier (the deductee) of taxable goods and/or services, where the total value of such supply, <u>under a contract</u> , exceeds 2,50,000 (excluding the amount of CGST, SGST/UTGST, IGST and cess) <b>Note:</b> Individual supplies may be less than 2,50,000/-, but if total VoS under a contract is more than 2,50,000, TDS has to be deducted. The deductors have to deduct tax at the rate of 1% from the payment made or credited to the supplier of taxable goods and/or services under CGST Act, 2017.									
<b>Value of Supply</b>	Amount indicated in the invoice excluding the CGST, SGST/UTGST, IGST and cess									
<b>Deposit of TDS</b>	should be deposited to Government account by deductor by 10 <sup>th</sup> of succeeding month.									
<b>TDS Certificate</b>	A TDS certificate is required to be issued by deductor in prescribed Form GSTR 7A to the deductee containing following details: <table border="1" data-bbox="383 739 1468 963"> <tr> <td>i) TDS Certificate No.</td> <td>ii) GSTIN of deductor</td> <td>iii) Name of deductor</td> </tr> <tr> <td>iv) GSTIN of deductee</td> <td>v) Legal name &amp; Trade Name of deductee</td> <td>vi) Tax period in which tax deducted &amp; accounted for in GSTR-7</td> </tr> <tr> <td>vii) Details of supplies</td> <td>viii) Amount of tax deducted</td> <td></td> </tr> </table>	i) TDS Certificate No.	ii) GSTIN of deductor	iii) Name of deductor	iv) GSTIN of deductee	v) Legal name & Trade Name of deductee	vi) Tax period in which tax deducted & accounted for in GSTR-7	vii) Details of supplies	viii) Amount of tax deducted	
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vii) Details of supplies	viii) Amount of tax deducted									
<b>Non- remittance by the deductor</b>	If the deductor has not remitted the amount deducted as TDS to the Government within the prescribed time limit, he is liable to pay ➤ penal interest under Section 50 in addition to the amount of tax deducted.									
<b>Reflection of amount of TDS</b>	The amount of tax deducted is reflected in ➤ Electronic Cash Ledger of deductee. ➤ Return filed by deductor u/s 39(3) i.e. GSTR-7 [Refer Chapter: 15]. The deductee can claim credit of the tax deducted, in his electronic cash ledger. This provision enables the Government to cross check whether the amount deducted by the deductor is correct and that there is no mis-match between the amount reflected in the electronic cash ledger and the amount shown in the return filed by deductor.									
<b>Determination of amount in Default</b>	Any default in determination of the amount u/s 51 shall be made in the manner specified u/s 73 or section 74, as the case may be.									
<b>Refund on excess/erroneous deduction</b>	The deductor or the deductee can claim refund of excess deduction or erroneous deduction. The provisions of section 54 relating to refunds would apply in such cases.									
<b>Registration</b>	Any person required to deduct tax u/s section 51 shall electronically submit a registration application in prescribed form through the common portal. The proper officer shall, after due verification, grant registration within 3 working days from the date of the application. Also, on a request or upon an enquiry or pursuant to any other proceeding under the Act, if the proper officer is satisfied that a person is no longer liable to deduct tax at source u/s 51, then the said officer may cancel the said registration, following procedures as provided in Rule 22 of the CGST Rules for the cancellation of registration.									
<b>Example</b>	Supplier makes a supply worth 20 lakhs to a recipient and the GST at the rate of 18% is required to be paid. The recipient, while making the payment of 20 lakh to the									

	<p>supplier, shall deduct 2%. [CGST 1% + SGST 1%] viz 4 lakhs as TDS.</p> <p>The value for TDS purpose shall not include 18% GST. The TDS, so deducted, shall be deposited in the account of Government by 10<sup>th</sup> of the succeeding month.</p> <p>The TDS so deposited in the Government account shall be reflected in the electronic cash ledger of the supplier (i.e. deductee) who would be able to use the same for payment of tax or any other amount.</p>
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**No TDS** - when the location of the supplier and the place of supply is in a State/ Union territory which is different from the State/ Union territory of registration of the recipient, there will be no TDS.

Supplier, place of supply and recipient are in the same state.	It would be intra-State supply and TDS (Central plus State tax) shall be deducted. It would be possible for the supplier (i.e. the deductee) to take credit of TDS in his electronic cash ledger.
Supplier as well as the place of supply are in different states.	In such cases, Integrated tax would be levied. TDS to be deducted would be TDS (Integrated tax) and it would be possible for the supplier (i.e. the deductee) to take credit of TDS in his electronic cash ledger.
Supplier as well as the place of supply are in State A and the recipient is located in State B.	The supply would be intra-State supply and Central tax and State tax would be levied. In such case, transfer of TDS (Central tax + State tax of State B) to the cash ledger of the supplier (Central tax + State tax of State A) would be difficult. So, in such cases, TDS would not be deducted.  Thus, when both the supplier as well as the place of supply are different from that of the recipient, no tax deduction at source would be made.

**Illustrations**

Location of Supplier	Place of Supply	Registration of Recipient	TDS u/s SI
State A	State A	State A	Yes
State A	State A	State B	No
State A	State B	State B	Yes
UT 1	UT 1	UT 1	Yes
UT 1	UT 2	UT 2	Yes
UT 1	UT 1	UT 2	No

**3. TAX COLLECTION AT SOURCE**

[SEC 52]

refers to the tax which is collected by the ECO when a supplier supplies taxable goods or services through portal of ECO and the payment for that supply is collected by said ECO.

**Example**

There are many ECOs [hereinafter referred to as an Operator], like Amazon, Flipkart, Urban clap etc. operating in India. These operators display on their portal products as well as services which are actually supplied by some other person to the consumer.

The goods or services belonging to other suppliers are displayed on the portals of the operators and consumers buy such goods/services through these portals. On placing the order for a particular product/service, actual supplier supplies the selected product/service through the Operator to consumer.

The price/consideration for the product/ service is collected by the Operator from the consumer and passed on to the actual supplier after the deduction of commission and incidental expenses mutually agreed upon by the Operator.

<b>Who is liable to</b>	Every ECO, not being an agent, is required to collect tax at source (TCS) on
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<p><b>collect TCS ?</b></p>	<ul style="list-style-type: none"> <li>➤ net value of taxable supplies [net of returns] made through it by suppliers,</li> <li>➤ where the ECO collects the consideration on behalf of supplier for such supplies.</li> </ul>
<p><b>Rate of TCS</b></p>	<p>Half percent of the net value of intra-State taxable supplies. 1% of the net value of inter-State taxable supplies.</p> <p><b>Example</b></p> <p>A product is sold at 1,120 [including GST @ 12%] through an Operator by a supplier. The operator would collect tax @ 1% of the net value of 1,000 i.e. 10 in case of inter-State supplies.</p> <p>Further, the power conferred on the ECO to collect tax at source, is without prejudice to other modes of recovery from operator. The powers of ECO are restricted only to the extent of tax collection at source under circumstances specified therein and nothing more.</p>
<p><b>Deposit of TCS by ECO to Government Treasury</b></p>	<p>within 10 days after the end of the month in which the collection was made.</p> <p><b>Example</b></p> <p>If the TCS has been collected in the month of July, the amount has to be remitted into the Government Treasury on or before 10<sup>th</sup> August.</p>
<p><b>Registration</b></p>	<p>Any person required to deduct tax u/s 52 shall electronically submit a registration application in prescribed form through the common portal.</p> <p>The proper officer shall, after due verification, grant registration within 3 working days from the date of the application.</p> <p>Also, on a request or upon an enquiry or pursuant to any other proceeding under the Act, if the proper officer is satisfied that a person is no longer liable to deduct tax at source u/s 52 then the officer may cancel the said registration, following procedures as provided in Rule 22 of the CGST Rules for the cancellation of registration.</p>
<p><b>Filing of Monthly &amp; Annual Statements by ECO</b></p>	<p>An electronic statement [Form GSTR 8] has to be filed by the ECO containing details of the outward supplies of goods and/ or services effected through it, including the supplies returned through it and the amount collected by it as TCS during the month</p> <ul style="list-style-type: none"> <li>➤ within 10 days after the end of the each month in which supplies are made.</li> </ul> <p>Additionally, the ECO is also mandated to file an Annual Statement [Form GSTR 9B]</p> <ul style="list-style-type: none"> <li>➤ on or before 31<sup>st</sup> day of December following the end of the financial year.</li> </ul> <p>The Commissioner has been empowered to extend the due date for furnishing of monthly and annual statement by the person collecting tax at source.</p>
<p><b>Notice to the Operator seeking details</b></p>	<p>An officer not below the rank of Deputy Commissioner can issue notice to an operator, asking him to furnish details relating to volume of the goods/services supplied, stock of goods lying in warehouses/godowns etc.</p> <p>The operator is required to furnish such details within 15 working days.</p> <p>In case an operator fails to furnish the information, besides being liable for penal action u/s 122, it shall also be liable for penalty up to 25,000.</p>