

## Tax Deducted at Source & Tax Collected at Source

(TDS & TCS in GST)

### What is TDS as a Concept

Tax deduction at Source (TDS) is a situation where the Recipient of SOSB (i.e. the payer), while making payment to the supplier shall deduct a certain % from such amount and shall pay such deducted amount to the Government mentioning the ESTIN of the supplier.

It is not a new concept. The basic activities in relation to a supply shall continue to operate.

i.e. the supplier will continue to raise Invoice charging GST on it & supplier is required to pay GST to the Government.

To understand the CASH FLOW of TDS better, let us take an example & understand it using Journal Entries

## Tax DEDUCTION AT SOURCE (TDS)

Section 51 of CGST Act'2017 prescribes the authority and procedure for TDS.

### ① WHO ARE REQUIRED TO DEDUCT TDS

a) C.G / S.G Department or C.G / S.G Establishment  
(Eg:

b) Local Authority

c) Government Agencies

d) Other persons as notified. Following persons are notified

→ an Authority / a Board / any other body

(i) Setup by a Act of Parliament

or

(ii) established by Government

} with  $\geq 51\%$  participation of C.G / S.G by way of - equity or - control. to carry out any function

→ Society established by C.G / S.G / LA under the Society Registered Act, 1860

→ Public Sector Undertaking (P.S.U)

## Exception to the above Cist

Tax is not liable to be deducted at source in the following cases:- (PSU) to (PSU)

- (i) When goods and/or services are supplied from a public sector undertaking (PSU) to another PSU, whether or not a distinct person

[Notification No. 61/2018 CT dated 05.11.2018]

- (ii) 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 the CGST Act.

[Notification No. 73/2018 CT dated 31.12.2018]

among all the categories when TDS applicable

(2)

When is this provision applicable

under a contract  
Applicable when Total value of goods/services (excluding GST) > 250000/-

(3)

Rate of TDS

TDS is required to be deducted @ 2% of value of supply per Invoice. (CGST @ 1% + SGST @ 1% OR 1% GST @ 2%)

(4)

Situation when TDS provision are NOT Applicable

If Supplier + Place of supply are in State A.

&

Recipient is in State B.

then TDS is not required to be deducted.

For Eg,

Location of Supplier	Place of Supply	Registration of Recipient	TDS u/s 51
State A	State A	State A	Yes
State A	State A	State B	No
State A	State B	State B	Yes
UT1	UT1	UT1	Yes
UT1	UT2	UT2	Yes
UT1	UT1	UT2	No

⑤ Procedure to be undertaken by Deductor (Buyer)

→ The amount of TDS deducted by the Recipient (Buyer) shall be deposited to the Government by the 10<sup>th</sup> of next month. in Form STR-7

→ The Deductor shall issue a TDS certificate to the Deductee (Supplier) in Form STR 7A

→ In case TDS Amount is not deposited by the 10<sup>th</sup>, then Int @ 18% shall be payable u/s 50.

## ⑥ Procedure to be undertaken by Deductee (Supplier)

The Deductor (Buyer) shall deduct TDS (from the amount payable to supplier) and shall deposit it to Government, which shall be reflected in the GST Portal of Deductee (Supplier).

The supplier, shall Accept such amount and such amount shall be reflected in E-cash ledger of the Deductee.

Such amount can be used by the Deductee for making payment of GST.

## ⑦ Refund of Excess

The Deductor / Deductee can claim Refund of

- Excess deduction (OR)
- Erroneous deduction.

## ⑧ Responsibility of Deductor to obtain Registration

Section 24 makes it mandatory for the Deductor (Buyer) to obtain GST No. for this specific purpose.

↓

After application is made by the Deductor, the Proper officer (P.O) shall after due verification grant Registration within 3 Working days from the date of application.

⑨

### Cancellation of GST No. of Deductor

The Proper officer, if satisfied that a person is NO LONGER LIABLE to deduct TDS, can cancel the said Registration.

He can do so. on

- Request by the deductor OR
- upon an enquiry or
- pursuant to any other proceeding under the Act.

## TAX COLLECTION AT SOURCE (TCS)

Section 52 of C.G.S.T Act, 2017 prescribes the authority & procedure relating to TCS.

### ① Who is required to collect TCS

Every E-commerce operator shall collect TCS when a supplier supplies taxable goods/services through portal of E-commerce operator (ECO) + amount is also collected by said ECO

For Eg:



(2) There are many e-Commerce operators [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, the actual supplier supplies the selected product/service through the Operator to the 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.

Imp. Note: It is to be noted that in case a trader is selling goods online from its own website, then the TCS provisions are not applicable.

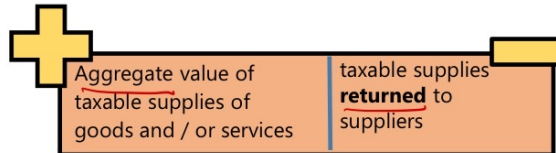
### ② Rate of TCS

TCS is to be collected @ 1% on NET VALUE OF TAXABLE SUPPLIES.

( C.G.S.T @ 0.5% + SGST @ 0.5% [OR] IGST @ 1% )



## Imp. Note: Meaning of NET VALUE OF TAXABLE SUPPLIES



other than notified services under section 9(5) by all registered persons supplied through operator

Currently, services notified under section 9(5) of CGST Act, 2017 vide Notification No. 17/2017 CT (R) dated 28.06.2017 / **Notification No. 14/2017 IT (R) dated 28.06.2017** as amended are given as below<sup>9</sup>:

- (a) services by way of transportation of passengers by a radio-taxi, motorcab, maxicab, motor cycle, **omnibus or any other motor vehicle**; *ola, uber*
- (b) services by way of providing accommodation in hotels, inns, guest houses, clubs, campsites or other commercial places meant for residential or lodging purposes, except where the person supplying such service through electronic commerce operator is liable for registration under section 22(1) of the CGST Act. *(ojo, triago)*
- (c) services by way of house-keeping, such as plumbing, carpentering etc, except where the person supplying such service through electronic commerce operator is liable for registration under sub-section 22(1) of the CGST Act. *(urban claf)*
- (d) **supply of restaurant service other than the services supplied by restaurant, eating joints etc. located at specified premises.** *(swiggy, zomato)*

### ③ Procedure to be opted by the collector (E-com operator)

→ The amount so collected shall be deposited by the collector to the government by the 10<sup>th</sup> of next month in form GSTR-8.



#### ④ Responsibility of Collector to obtain Registration

Section 24 makes it mandatory for the Collector to obtain GST No. for this specific purpose.

↓

After application is made by the collector, the Proper officer (P.O) shall after due verification grant Registration within 3 Working days from the date of application.

#### ⑤ Cancellation of GST No. of Deductor

The Proper officer, if satisfied that a person is NO LONGER LIABLE to deduct TDS, can cancel the said Registration.

He can do so. on

- Request by the deductor or
- upon an enquiry or
- pursuant to any other proceeding under the Act

#### ⑥ Annual Return

Every E-com operator is required to file Annual Return in Form GSTR-9B by 31<sup>st</sup> December. from the end of the F.Y.

⑦

## Power of P.O to ask for Details from E-com operator

- ✓ 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. → ①
- ✓ The operator is required to furnish such details within 15 working days. → ②
- ✓ In case an operator fails to furnish the information, besides being liable for penal action under section 122<sup>12</sup>, it shall also be liable for penalty up to ₹ 25,000.