Tax Deducted at Source (TDS) under Goods and Service Tax

SEC 51 OF CGST ACT, 2017
INTRODUCTION

TDS under GST will be applicable Under the GST regime we have the basic 3 kinds of taxes. – CGST, SGST and IGST. In addition, as per the GST law, certain categories of registered persons will be required to deduct taxes while making payments to supplier i.e TDS and deposit it with the government. Let’s try to understand TDS related procedures under GST from 1st October 2018.
What is TDS under GST?

Tax Deducted at Source (TDS) is one of the ways to collect tax based on certain percentages on the amount payable by the receiver on goods/services. The collected tax is a revenue for the government.
Who could be liable to deduct TDS under GST law?

- A department or an establishment of the Central Government or State Government; or
- Local authority; or (MPHIDB)
- Governmental agencies; or
- Such persons or category of persons as may be notified by the Government.

As per the latest Notification dated 13th September 2018, the following entities also need to deduct TDS:

- An authority or a board or any other body which has been set up by Parliament or a State Legislature or by a government, with 51% equity (control) owned by the government.
- A society established by the Central or any State Government or a Local Authority and the society is registered under the Societies Registration Act, 1860.
- Public sector undertakings.
When will the liability to deduct TDS be attracted? What is the rate of TDS?

TDS is to be deducted at the rate of 2 percent on payments made to the supplier of taxable goods and/or services, where the total value of such supply, under an individual contract, exceeds Two Lakh Fifty Thousand Rupees. No deduction of Tax is required when the location of supplier and place of supply is different from the State of the registration of the recipient.
No TDS Required

- Place of Supplier: Maharashtra
- Place of Supply: Maharashtra
- Place of Recipient: Madhya Pradesh
TDS Required : IGST@2%

- Place of Supplier: Maharashtra
- Place of Supply: Madhya Pradesh
- Place of Recipient: Madhya Pradesh
TDS Required: SGST@1% & CGST@1%

- Place of Supplier: Madhya Pradesh
- Place of Supply: Madhya Pradesh
- Place of Recipient: Madhya Pradesh
Registration requirements of Deductor?

A person who is liable to deduct TDS has to compulsorily register and there is no threshold limit for this. The registration under GST can be obtained without PAN and by using the existing Tax Deduction and Collection Account Number (TAN) issued under the Income Tax Act. Thus it can be said having TAN is mandatory.
When and to whom should the TDS be paid?

TDS shall be paid **within 10 days** from the end of the month in which tax is deducted. The payment shall be made to the appropriate government which means:

- The Central Government in case of the **IGST and the CGST**
- The State government in case of the SGST
What are the provisions relating to the issue of TDS certificates under the GST law?

As in Income Tax Law, here also the person deducting tax has to issue the TDS certificate in form **GSTR-7A** to the concerned person **within 5 days** of depositing the tax to the government. Failure to do so will make the person liable to pay a late fee of **Rs. 100 per day up to a maximum of Rs. 5000**.
Amount on which GST TDS to be deducted?

- **Amount excluding GST**

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Basic Amount</td>
<td>Rs. 100000</td>
</tr>
<tr>
<td>CSGT Charged</td>
<td>Rs. 9000</td>
</tr>
<tr>
<td>SGST Charged</td>
<td>Rs. 9000</td>
</tr>
<tr>
<td>Total Bill Amount</td>
<td>Rs. 118000</td>
</tr>
</tbody>
</table>

Hence GST TDS to be deducted **on Rs. 100000** and **not on Rs. 118000**.
Which form is required to file the TDS return?

The person deducting tax is required to file a TDS return in form **GSTR-7 within 10 days** from the **end of the month**. When GSTIN of the unregistered supplier is not available, their name can be mentioned. The robustness of the system reflects these filled-in details in the electronic ledger of the supplier.
What is the benefit of TDS to the deductee (Supplier)?

- Automatic reflection in the electronic ledger of the deductee (supplier)
- Deductee can claim credit in his electronic cash ledger of this tax deducted and use it for payments of other taxes.
How is Refund of TDS possible under GST?

- If any excess amount is deducted and paid to the government, a refund can be claimed as this is not the tax amount that the government has a right on.
- However, if the deducted amount is already added to the electronic cash ledger of the supplier, the amount so added cannot be got back as a refund by the deductor. Deductee can claim a refund of tax subject to refund provisions of the act.
Accounting Heads to be Operated

At the Time of Deduction
Credit HOA

- 83 24 04- CGST
- 83 24 05- SGST
- 83 24 06- IGST

At the time of Payment of Tax to Government
Debit HOA

- 83 24 04- CGST
- 83 24 05- SGST
- 83 24 06- IGST
Summary of Provision

- **Relevant Section**
  - Sec. 51 (CGST Act & SGST Act); Sec. 20 (IGST Act).

- **When to Deduct?**
  - The specified class of person* shall be required to deduct tax at source on the payment made or credited to the supplier, where the total value of supply under a contract exceed Rs.2,50,000/- excluding GST.

- **Rate at which Deducted?**
  - Intra State: 2% (CGST 1% + SGST 1%) or Inter State: 2% IGST

- **Form or Return to be Furnished?**
  - Form GSTR – 7
Due date to file Return?

- Within 10th of succeeding month.

Due Date to Deposit TDS Under GST with the Government?

- Within 10th of succeeding month in which TDS deducted.

Who is required to issue TDS Certificate?

- Deductor (the person who is deducting tax).

Form?

- Form GSTR-7A
Due Date to Issue Certificate?

- Within 5 days of crediting the amount to the Government.

Late fees if not issued within Time??

- Within 10\textsuperscript{th} of succeeding month in which TDS deducted.

Who is required to issue TDS Certificate?

- Rs.200 per day (Rs.100 CGST + Rs.100 SGST) from the expiry of the 5th day till the certificate is issued.

When TDS not to be Deducted?

- When both the place of supplier as well as the place of supply are different from that of the place of recipient.