



# SECTION 51. TAX DEDUCTION AT SOURCE

**CMA Rajendra Rathi**  
General Manager  
Indirect Taxation, Reliance Industries Limited

## SECTION 51. Tax deduction at source.

**I**n terms of Section 51 of CGST Act, 2017 read with Notification No. 50/2018- Central Tax dated 13.09.2018, w.e.f. 01.10.2018 the following category of persons are liable to deduct GST @ 2% (CGST @1% & SGST @1%) on supplies made under a contract that exceeds Rs.2.5 lakh.

- a) A department or establishment of the Central Government or State Government; or
- b) Local authority; or
- c) Governmental agencies; or
- d) An authority or a board or any other body, -
  - i. set up by an Act of Parliament or a State Legislature; or
  - ii. established by any Government, with fifty-one per cent or more participation by way of equity or control, to carry out any function;
- e) Society established by the Central Government or the State Government or a Local Authority under the Societies Registration Act, 1860 (21 of 1860);
- f) Public sector undertakings.

The Deductee can avail credit of the deducted TDS amount subject to the following:-

- 1. The amount deducted as tax under this section shall be paid to the Government by the deductor within ten days after the end of the month in which such deduction is made
- 2. The deductor shall furnish to the deductee a certificate mentioning therein the contract value, rate of deduction, amount deducted, amount paid to the Government
- 3. The details shall be made available electronically to deductees on the common portal filing of FORM GSTR-7 for claiming the amount of tax deducted in his electronic cash ledger after validation.
- 4. The certificate (as referred to in sub-section (3) of section 51) shall be made available electronically (within 5 days of crediting the amount so deducted to the Government) to the deductee on the common portal in FORM GSTR-7A on the basis of the return furnished.
- 5. As far as Deductee is concerned, the deductee need to **Accept/ Reject** the TDS Credit on the GSTIN portal by filing TDS tab online.

As per Section 24(1) (vi) of the CGST Act the person who is required to deduct GST at source is liable to get GST registration irrespective of turnover. Even in the case of existing GST registrants a separate registration is mandatorily required under Section 51.

If location of supplier and place of supply is in a State different from the state of registration of the recipient then TDS provisions are not applicable.

However, no deduction shall be made if the location of the supplier and the place of supply is in a State or Union territory which is different from the State, or as the case may be, Union territory of registration of the recipient. This can be explained in the following situations.

- a. 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.
- b. Supplier as well as 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.
- c. Supplier as well as place of supply are in State A and 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 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 place of supply are different from that of recipient, no tax deduction at source would be made.

Failure to comply the provisions of Section 51 will attract a penalty of rupees ten thousand or the tax evaded or the tax not deducted. Also delay in depositing the tax deducted attracts interest payment.