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TDS ON GST

TDS under GST had been applicable since 1st October 2018. Major Heads of Taxes under GST are CGST, SGST & IGST. In addition, as per the GST law, certain categories of registered persons will be required to deduct taxes while making payments to supplier.

Who is required to deduct TDS on GST

The following class of persons are required to deduct TDS on GST from the payment made or credited to the supplier if the Contract Value is more than Rs. 2.5 Lakhs:-

- a. A Department or Establishment of the Central Govt or State Govt
- b. Local Authority
- c. Govt Agencies
- d. Such persons or category of persons notified by the Govt.

The following category of persons have been notified by the Govt on which the provisions of TDS on GST would be applicable:-

1. An authority or board or any other body with 51% or more participation by way of equity or control
 - a. Set up by an Act of Parliament or a State Legislature; or
 - b. Established by any Govt.,
2. Society established by the Central Govt. or State Govt. or a Local Authority under the Society Regulations Act, 1860
3. Public Sector Undertakings

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.

Value for deduction of tax : CGST, SGST, IGST and Cess levied under GST has to be excluded for the purpose of determining total value. Contract Value is to taken and not Individual Invoice Wise for Determination of Deduction Of TDS.

Transitional Provisions : TDS provisions are applicable w.e.f. 01.10.2018 . Applicability of provisions on transactions prior to this date will be as follows :

\$. Supply is made before 1-10-2018 but invoice is issued after 1-10-2018, TDS provisions will apply.

\$\$ Tax invoice was issued by supplier prior to 1-10-2018 but payment is made after 1-10-2018, TDS provisions do not apply. Registration requirements for TDS deductors: A person who is liable to deduct TDS has to compulsorily register under Section 24(VI) and there is no basic exemption limit. 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 .Legal name to be indicated should be same as Income Tax

\$\$\$ A person liable to deduct tax is required to register as deductor even if he is registered separately as supplier.

\$\$\$\$ The registration form requires some personal details of DDO or deductor. If the DDO is transferred, details of new DDO should be submitted electronically on GSTN by amending registration details.

\$\$\$\$\$. The DDO (Drawing and Disbursement Officer) is supposed to be personally liable to comply with TDS provisions.

\$\$\$\$\$. Mobile number and e-mail address is required as OTP is sent on mobile and e-mail for verification.

\$\$\$\$\$. Deductor and Deductee – Person deducting GST TDS will be termed as ‘deductor’. Supplier from whose invoice tax is deducted will be termed as ‘deductee’

No TDS to be deducted if the payment is made by a person who is not mentioned in the above mentioned list.

Cases where TDS on GST is not required to be deducted

TDS on GST is only required to be deducted where the payment made or credited to the supplier is done by the above mentioned category of persons.

There are certain exceptions to this and in the following cases, TDS would not be deducted even if the payment is made by the above mentioned persons:-

1. Contract Value does not exceed Rs. 2.5 Lakhs

If the Contract Value does not exceed Rs. 2.5 Lakhs, No TDS is required to be deducted.

Eg 1: MS. Kanishka Aenters into a contract of Rs. 2 Lakhs with a Public Sector Undertaking to provide Income Tax Advisory. He also enters into a contract worth Rs. 2.4 Lakhs to provide GST Advisory.

In the above mentioned example – the total value of services provided is Rs. 4.4 Lakhs which is more than Rs. 2.5 Lakhs. However, in this case – the provisions of TDS on GST would not be applicable as the value of each contract is less than Rs. 2.5 Lakhs.

MS. Kanishka Aenters into a single contract to provide services worth Rs. 3 Lakhs. He receives Rs. 1.5 Lakhs as advance on 1st Oct 2018 and the balance Rs. 1.5 Lakhs on 1st May 2019.

The provisions of TDS on GST will get applicable as the contract value is more than Rs. 2.5 Lakhs.

Therefore, while determining the applicability of TDS on GST – it is the individual contract value which would be considered irrespective of the total no. of contracts.

2. Location of Recipient is different from Location of Supplier and Place of Supply

TDS on GST would not be applicable if the Location of Recipient is different from the Location of Supplier and the Place of Supply.

This can be explained with the help of an example.

For eg: Delhi Govt. enters into a contract worth Rs. 5 Lakhs with Radisson Haryana to rent space for the purpose of conducting an event in their hotel. In this case, Radisson hotel will levy Haryana SGST and CGST.

- Place of Supply – Haryana
- Location of Supplier – Haryana
- Location of Recipient – Delhi

The provisions of TDS would not apply in this case irrespective of the contract value as the Place of Supply and Location of Supplier is different from the Location of Recipient.

Eg 2: A vendor registered in Karnataka provides services to the Maharashtra Govt worth Rs. 3 Lakhs. In this case, IGST would be levied.

- Place of Supply – Maharashtra
- Location of Supplier – Karnataka
- Location of Recipient – Maharashtra

The provisions of TDS will apply in this case.

Therefore, while determining the applicability of TDS on GST, it is very important to determine the place of supply. The rules for determination of place of supply are mentioned here with examples:- [Rules for Determination of Place of Supply under GST Norms](#)

Deposit of GST on TDS and TDS Certificate

The amount of TDS deducted should be deposited with the govt by the deductor by the 10th of the next month in Form GSTR 7 through the online portal gst.gov.in. The deductor would be liable to pay interest if the tax deducted is not deposited within the prescribed time limit as mentioned above.

A TDS Certificate would also be required to be issued by the deductor (the person who is deducting the tax i.e. the recipient) in GSTR 7A to the deductee (the supplier whose payment is being deducted) within 5 days of depositing the TDS with the Govt.

If the TDS Certificate is not issued within 5 days from the date of deposit with the Govt., the deductor would be liable to pay late fees of Rs. 100/ day. However, the late fees levied should not be more than Rs. 5,000.

The TDS so deducted would also be visible to the suppliers in Form GSTR 2A and the supplier can include and avail the same in GSTR 2. The supplier can take this amount as [credit in his electronic cash register](#) and use the same for payment of tax or any other liability.

Penalty for not complying with provisions of TDS on GST

S. No.	Event	Consequence
1.	TDS not deducted	Interest to be paid along with the TDS amount; else the amount shall be determined and recovered as per law.
2.	TDS Certificate not issued or delayed beyond the prescribed period of 5 days	Late Fee of Rs. 100 per day subject to a maximum of Rs. 5000.
3.	TDS Deducted but not paid to the Govt. or paid later than 10 th of the succeeding month.	Interest to be paid along with the TDS amount, else the amount shall be determined and recovered as per law.
4.	Late filing of TDS Return	Late fees of Rs. 100 per day for each day for which the failure continues subject to a maximum of Rs. 5000.

Any excess or erroneous amount deducted and paid to the Govt shall be dealt for refund under Section 54. However, if the deducted amount is already credited to the electronic cash ledger of the supplier, the same shall not be refunded.