



TDS UNDER GST

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GST Notification No. 50/2018 – regarding TDS & TCS:

The time for gearing up has arrived with the notifications with regard to TDS, GST Audit and TCS. We need not get confused with TDS and TCS under Income Tax. GST Acts also contains the provisions relating to TDS and TCS. The extract has been give below with regard to TDS notification.

Notification No. 50/2018 – Central Tax_ Dated 13.09.2018:

The Central Government appoints the 1st day of October, 2018, as the date on which the provisions of section 51 of the said Act shall come into force. Section 51 of CGST Act, 2017 confers the powers to central government to specify the persons who are liable deduct tax at the rate of one per cent, from the payment made or credited to the supplier of taxable goods or services or both, **where the total value of such supply, under a contract, exceeds two lakh and fifty thousand rupees.**

The Central government, by this notification, notified the following persons who are liable to deduct TDS at the rate one percent from 1st October 2018 as per section 51:

(a) 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;

(b) Society established by the Central Government or the State Government or a Local Authority under the Societies Registration Act, 1860 (21 of 1860);

(c) public sector undertakings

The organisations dealing with PSUs/Government departments etc need to be more cautious now. The PSUs also need to be geared up to ensure the compliance of TDS regime under GST. For the sake of convenience and ready reference, the extract of section 51 has been given below:

GST APPLICABILITY UNDER SECTION 51 OF CGST ACT,

51. (1) notwithstanding anything to the contrary contained in this Act, the Government may mandate,—

- a) a department or establishment of the Central Government or State Government; or
- b) local authority; or
- c) Governmental agencies; or
- d) such persons or category of persons as may be notified by the Government on the recommendations of the Council, (hereafter in this section referred to as “the deductor”), to deduct tax at the rate of 1% CGST and 1% SGST or 2% IGST from the payment made or credited to the supplier (hereafter in this section referred to as “the deductee”) of taxable goods or services or both, where the total value of such supply, under a contract, exceeds two lakh and fifty thousand rupees:

Non-applicability of TDS Under GST:

Provided that no deduction shall be made if the location of the supplier (LOS) and the place of supply (POS) 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 (LOR).

We are presenting the following matrix for your understanding:

Particulars	Situation (a)	Situation (b)	Situation (c)
LOS (Location of Supply)	Jharkhand	Rajasthan	New Delhi
POS (Place of Supply)	Jharkhand	Jharkhand	New Delhi
LOR (Location of Supply)	Jharkhand	Jharkhand	Jharkhand
TDS Applicability	Yes (CGST+SGCT)	Yes (IGST)	No

Explanation.—For the purpose of deduction of tax specified above, the value of supply shall be taken as the amount excluding the central tax, State tax, Union territory tax, integrated tax and cess indicated in the invoice.

Registration of Tax Deductor under GST:

It is compulsory to obtain Tax Deductor -GST registration for the person who are liable to deduct TDS as per the provisions of section 51 of CGST Act, 2017. Threshold exemption limit is not applicable to such persons. Unique feature of GST registration, for person liable to deduct TDS, is that PAN is not mandatory while obtaining TDS- GST registration; however, GST registration can be obtained on the basis of existing Tax Deduction and Collection Account Number (TAN).

The registration application for Tax Deductor can be filed electronically by submitting a duly signed application in Form GST REG-07.

The documents required while getting registered as Tax Deductor include:

- Applicant has valid TAN.
- Applicant has valid PAN.
- Address Proof of Registered Office.
- Applicant must have a valid mobile number.
- Applicant must have valid E-mail ID.
- Copy of MOA & AOA with incorporation certificate.
- Copy of Applicant PAN-DDO
- Copy of Applicant Aadhar-DDO
- Photo of DDO.
- Copy of place of business of the applicant.
- Copy of authorised signatory of the applicant with the valid details.

Payment of GST TDS:

The deductor of Tax Deducted at Source is required to deposit the amount so deducted to the Government by the **10th day of the succeeding month** in which the tax is so deducted. The payment of TDS should be made to the respective Government i.e. IGST and CGST should be deposited to Central Government, whereas, SGST should be deposited to State Government.

GST TDS Certificate:

TDS certificate in **FORM GSTR-7A** is to be issued by the deductor to the deductee **within a period of 5 days of crediting the amount to the Government**. In case the deductor fails in issuing the certificate in required time limit, he would be liable to pay a late fee of INR 100/- per day from the expiry of the 5th day till the date certificate has been issued. Maximum amount of late fee payable would be INR 5,000/- i.e. late fee payable amount will not be more than INR 5,000/-.

GST-TDS Return Filing:

The person deducting TDS (i.e. deductor) is liable to file GST return in FORM GSTR-7 within a period of 10 days from the end of the month.