

TCS for E_Comm- Basics

E_Comm - Basics

Definitions

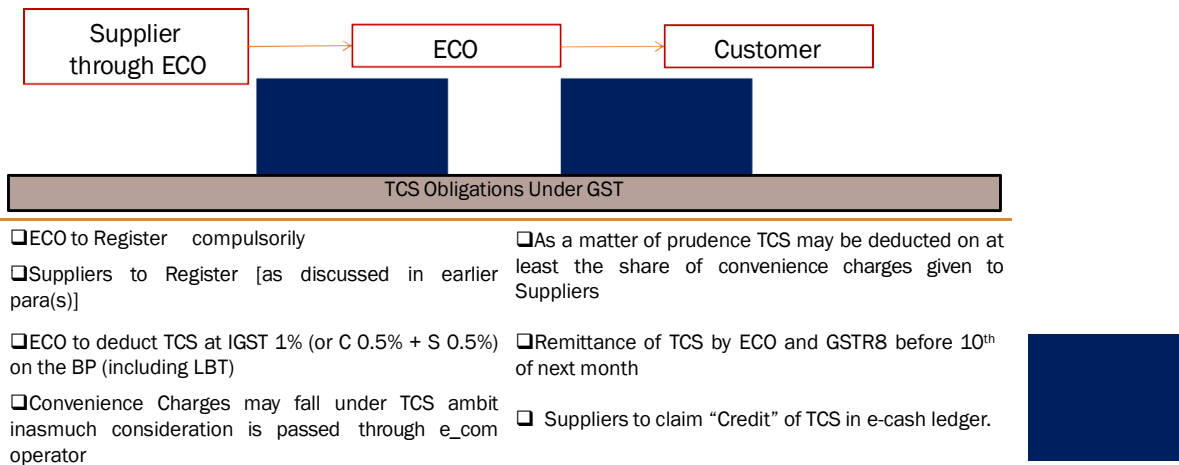
Sec. 2 (44): “Electronic Commerce” means the supply of goods or services or both, including digital products over digital or electronic network.

2. Sec. 2 (45): “Electronic Commerce Operator” means any person who owns, operates or manages digital or electronic facility or platform for electronic commerce.

E-Commerce / E-Commerce Operator

=> E-Commerce means	=> E-Commerce Operator means
=> the supply of G/S or both	=> Any person who
=> Including Digital Products	=> Owns, Operates, Manages
=> Over digital or Electronic Network.	=> Digital or electronic Facility or platform for e-commerce

Model 1 – TCS Implications



E_comm Operators – TCS

- ECO shall collect an amount calculated at such rate not exceeding 1% of the net value of taxable supplies made through it by other suppliers
- Such TCS shall be made only where the consideration with respect to such supplies is to be collected by ECO
- Such TCS to be deducted at GSTIN Level (supplier wise) *
- Rate of TCS is 0.5% each i.e under CGST and SGST Act / UTGST Act respectively and the same is 1% under the IGST Act, 2017. [Notfn No. 52/2018 – CT]
- Supplier can take credit in e_Cash Ledger

*[GST Council - Law Committee FAQ dt. 28-09-2018]

E_Comm Operators – TCS Returns etc.

The TCS to be paid to the Govt. within 10 days after the end of the month

ECO shall furnish the monthly details of outward supplies (including Sales Returns if any), and TCS collected, in Form GSTR 8*, within 10th of Next month.

The details of TCS furnished by an e-commerce operator under section 52 in FORM GSTR-8 shall be made available to the concerned person in Part C - GSTR 2A electronically

ECO to furnish annual statement in Form GSTR 9B, before the 31st Dec of Next FY.

ECO shall rectify errors if any in the statement to be furnished for the month during which such errors are noticed, subject to payment of interest, u/s 50(1)

Such rectification to be done On or before the due date for furnishing of statement for September of Next FY or the actual date of furnishing of the relevant annual statement, whichever is earlier.

Where Tcs not required

Where the consideration with respect to such supplies is not collected by ECO

Payment in respect of Non Taxable/Exempt Supplies

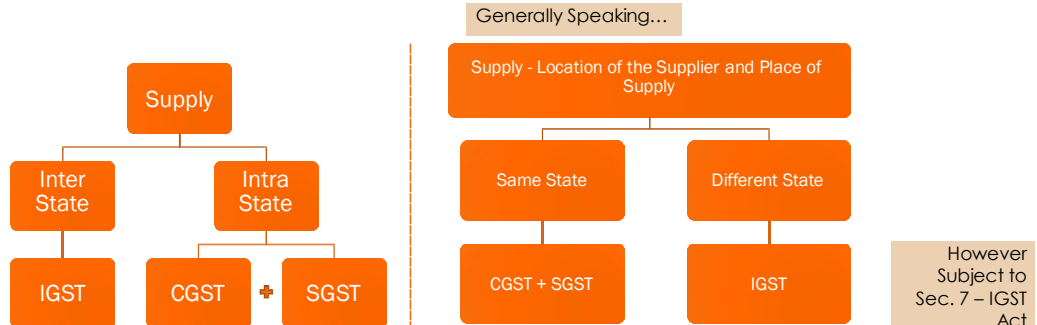
Supplies where Tax is to be paid on reverse charge basis by the Recipient [*\[Law Committee FAQ No 15\]](#)

Payment to Suppliers who are not required to be registered under GST

TCS – Nature of Tax in Different Situations

The Nature of TCS to be deducted is based on the nature of Tax for the underlying transaction for which payment is made.

Therefore, TCS can either be CGST + SGST / IGST depending on the nature of the Transaction, based on the Location of the Supplier and the Place of Supply



45

TCS – Nature of Tax in Different Situations

State X (say Tamil Nadu)			State Y	Tax Nature	Is TCS applicable?
Sit 1	ECO	Supp		CGST+SGST (State X)	Yes
		PoS*			
Sit 2	ECO	Supp	PoS*	IGST	Yes
Sit 3	ECO	PoS*	Supp	IGST	Yes
Sit 4	ECO		PoS*	CGST+SGST (State Y)	Yes (ECO to get registered for TCS in State Y)
			Supp		

ECO= E_Comm operator
Supp = Supplier
PoS = Place of Supply

Place of Supply – As per Sec. 12 of IGST Act, 2017

SPECIFIC FAQs RELATING TO TCS

Query 1: Does e- comm operator need separate Registration under GST Act for TCS?

Reply: (a) Separate Registration is reqd. for TCS in Form GST REG 07 as compared to existing GSTIN as a supplier

(b) However for Registration can be taken using the Head Office Address as the Place of Business. *[GST Council - Law Committee FAQ dt. 28-09-2018]

Query 2 : TCS amount should be collected at 2% or 1%

Reply: (a) ECO to collect an amount calculated at such rate not exceeding 1% as may be notified.

(b) Rate of TCS is 0.5% each i.e. under CGST and SGST Act / UTGST Act respectively & 1% under the IGST Act, 2017. [Not. No. 52/2018 – CT]

(c) Supplier can take credit in e_Cash Ledger.

Query 3: Is TCS Collected 1% is on Including GST /Excluding GST of the net value of Taxable Supplies?

Reply: Net value of taxable supplies shall mean the aggregate value of Taxable Supplies of goods or services or both, other than services notified u/s 9(5), made during any month by all registered persons through the operator reduced by the aggregate value of taxable Supplies returned to the suppliers during the said month.

As per Section 15(2), Net value of taxable Supplies shall include -

(a) Any taxes, duties, cesses, fees and charges levied under any law for the time being in force other than GST/ Compensation Cess to be included

Hence it follows that – (a) GST need not be considered as part of Value for TCS

(b) However any other Levies such as Entertainment Tax / LBT etc shall be considered and TCS to be made on the same

Query 4: Does TCS collected is 1% on convenience charges?

□Reply: Refer the earlier discussion on this. Convenience Charges may fall under TCS ambit inasmuch payment is passed through ECO

However a view may be taken that Since the same may not be "Service provided through e-comm Operator" u/s 52(1) & hence not TCS is attracted.

Query 5: Does e-comm operator should get registered state-wise?

Reply: Registration is required in each State / UT where deductees are located

However for Registration can be taken using the Head Office Address as the place of business. *[GST Council - Law Committee FAQ dt. 28-09-2018]

Query 6: When to deduct and remit TCS?

Reply: (a) Sec 52 specifies that TCS shall be made on the net value of taxable supplies made through it by other suppliers where the consideration w.r.t. such supplies is to be collected by the operator.

(b) Hence it follows, TCS to be made when (a) supply is made through ECO, (b) consideration is collected

*[GST Council - Law Committee FAQ 13] TCS is to be collected once supply has been made through the e-commerce operator and where the business model is that the consideration is to be collected by the e-commerce operator irrespective of the actual collection of the consideration. For example, if the supply has taken place through the e-commerce operator on 30th October, 2018 but the consideration for the same has been collected in the month of November, 2018, then TCS for such supply has to be collected and reported in the statement for the month of October, 2018.

Tax Deducted at Source

Sec 51(1): TDS - Applicability

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

(a) a **department or establishment** of the CG or SG; or

Ex: Department of Economic Affairs | Central Board of Direct Taxes | Central Board of Indirect Tax and Customs

(b) **local authority**; or (Section 2(69) defines)

Ex: Chennai Municipal Corporation | Panchayat



(c) **Governmental agencies**; or

Ex: NHAI | IB | CBI | Election Commission of India | RBI | SEBI

(d) such persons or category of persons as may be **notified** by the Government on the recommendations of the Council.

Sec 51(1): TDS - Applicability

Notification No. 33/2017-Central Tax dated 15 September 2017

- Appoints effective date (not applicable date) - 18 Sept 2017

Section 51(1)(d) – Notified Persons

(a) an **authority or a board or any other body**, -

(i) **set up by an Act of Parliament** or a State Legislature; ,

(ii) **established by any Government**,

Ex: Spices Board | Coffee Board | Rubber Board



with = >51% participation by way of **equity or control**, to carry out any function;

Sec 51(1): TDS - Applicability, Rate & Value

(b)society established by CG or SG or LA under the Societies Registration Act, 1860 (21 of 1860);

Ex: Central Government Employees Welfare Housing Organisation

(c) public sector undertakings (PSUs):

Ex: NTPC | ONGC | SAIL | BHEL | IOCL | GAIL

- to deduct **tax @ 1%**
- 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, > INR 2.5 lakhs***
- *** Value = Value of Taxable Supplies excl GST**



Sec 51(1):TDS – Applicability Summary

LoS	PoS	LoR	TDS	GST
TN	TN	TN	Applicable	CGST + TN-SGST
TN	TN	Karnataka	Not applicable	CGST + TN-SGST
TN	Karnataka	Karnataka	Applicable	IGST
TN	Kerala	Karnataka	Applicable	IGST
TN	Karnataka	TN	Applicable	IGST

TAX
DEDUCTION
AT SOURCE

Sec 51:TDS – Non Applicability

(a)When goods and/or services are supplied from a **PSU to another PSU**, whether or not a distinct person. (Notification No 61/2018 CT dt. 05.11.2018 w.e.f 01.10.2018)

(b)When supply of goods and/or services takes **place between one person to another person specified in clauses (a) to (d) of Sec.51(1)** (Notfn. No 73/2018 CT dt. 31.12.2018)

(c)All Goods / Services supplier under a Contract are **Exempted / Non-GST / Sch III Supplies**

(d) Where Tax is to be paid on a **Reverse Charge Basis**

(e)When the Location of the Supplier and the Place of Supply is in a State/ UT which is different from the State/ UT of registration of the recipient

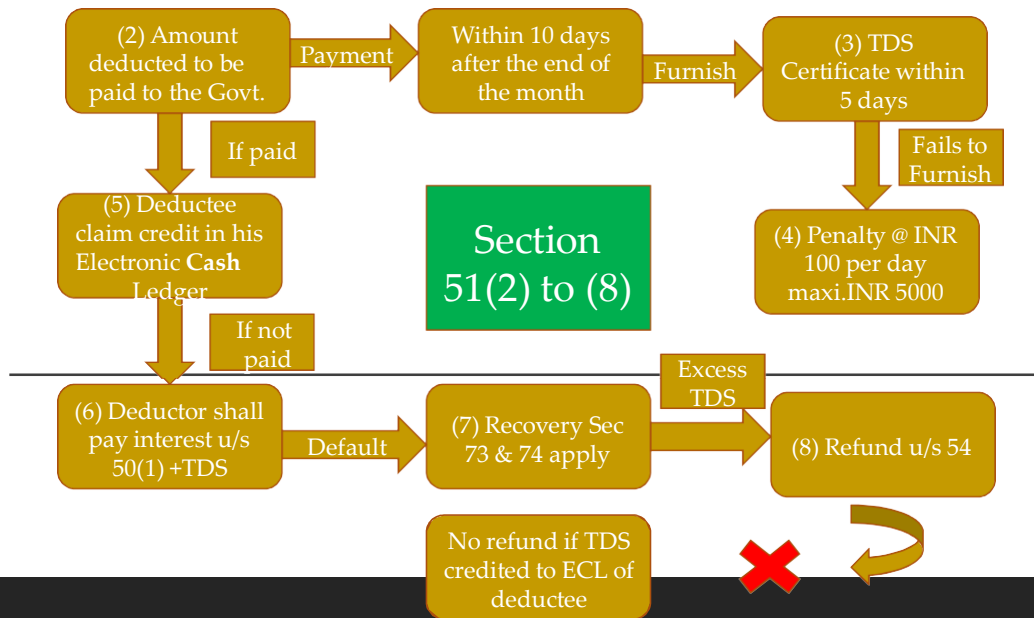
Sec 51:TDS – Case Studies

No.	Particulars	
(a)	Finance Department is making a payment of Rs.3 Lakh to a supplier of 'Printing & Stationery'	
(b)	Education Department is making payment of Rs.5L to a supplier of 'printed books and printed or illustrated post cards' where payment for books is Rs.2L and Rs.3L is for other printed or illustrated post cards	
(c)	Finance Department is making payment of Rs.1.5 Lakh to a supplier of 'car rental service'. Total value of supply under the contract excl. Tax= Rs.2 Lakhs	
(d)	Health Department executed a contract with a local supplier to supply "medical grade oxygen" of Rs.2.6 Lakh (including GST) and is making full payment	

Sec 51:TDS – Case Studies

No.	Particulars	TDS	Reond
(e)	Municipal Corporation of Kolkata purchases a heavy generator from a supplier in Delhi. Now, it is making payment of Rs.5 Lakh and IGST @18% on Rs.5 Lakh for such purchase.		
(f)	Municipality is making payment of Rs.5 Lakh to a supplier in respect of cleaning of drains where the value of supply of goods is not more than 25% of the value of composite supply		
(g)	Government school is making a payment of Rs.3 Lakh to a supplier for supply of cooked food as mid-day meal under a scheme sponsored by Central/State Government.		

Sec 51(2) to (8)- Summary



Sec 51(1): No TDS

Proviso

- Provided that
- **no deduction** shall be made
- if the **location of the supplier and PoS** is in a State or UT
- which is **different from the State** or UT of **registration of the recipient**.

Points to be Noted:

- No TDS on URP
- **For Intra state Supply** - Location of the supplier | 2. PoS | 3. Recipient's registered POB - All must be inside a State
- **For Interstate** - TDS applicable as per section 20.

