

GST COURSE

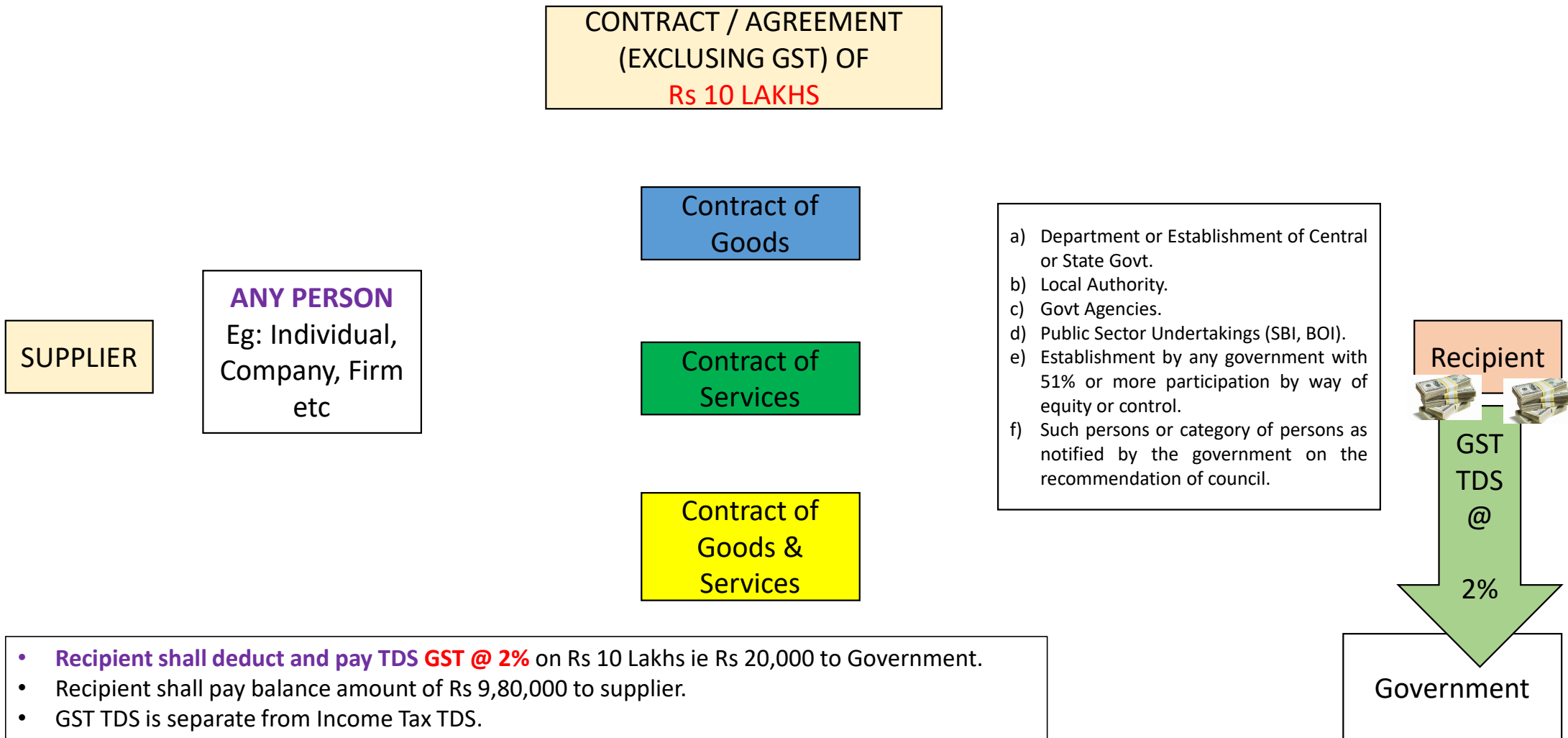
Section 51 of CGST Act 2017 – TDS IN GST LAW.

Why Concept of TDS
was required?

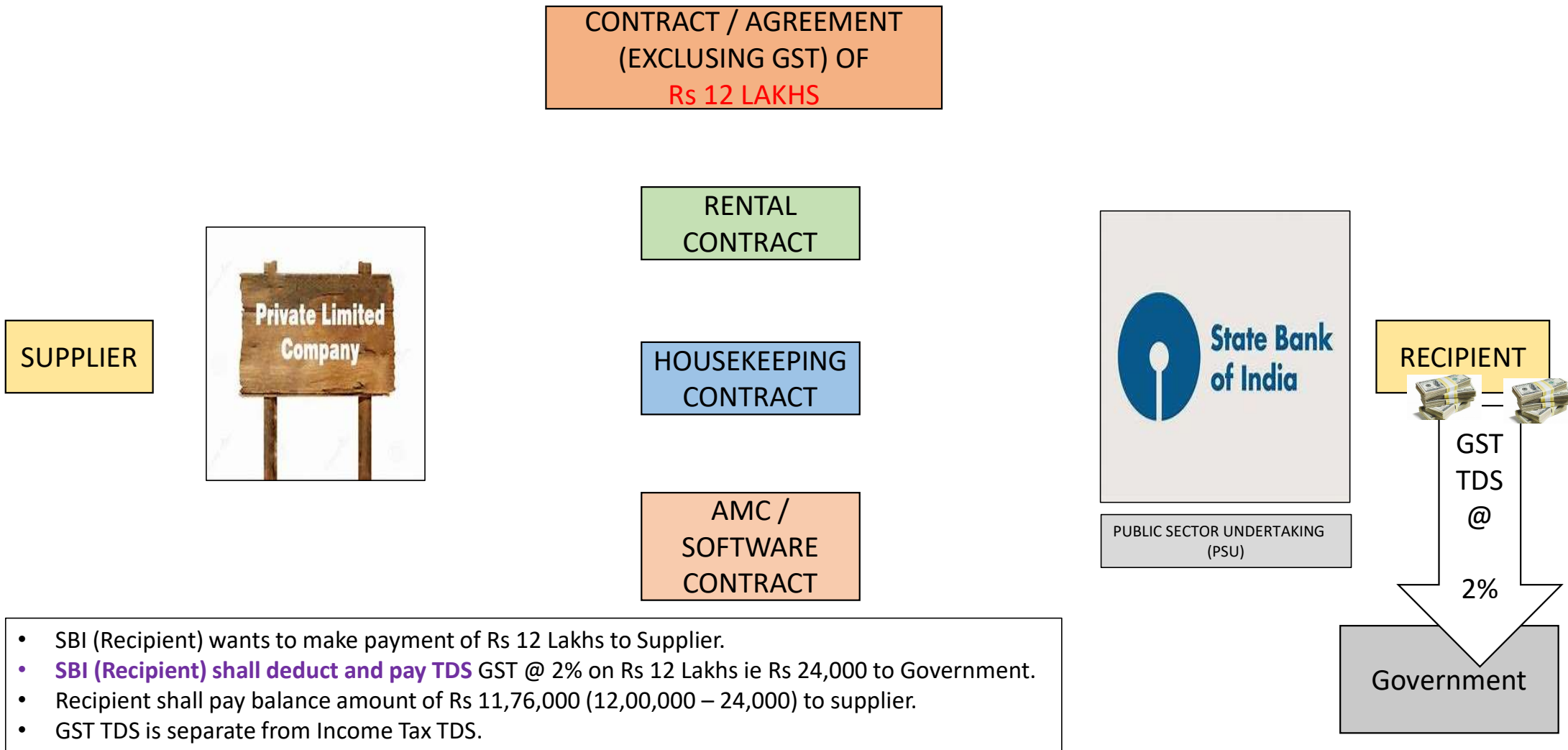
FAQ and Case Studies

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Section 51 of CGST Act – Tax Deducted at Source in GST Law.



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Section 51 of CGST Act – Tax Deducted at Source in GST Law.



- Govt, you are so smart.
- Aap ne Section 51 (TDS) introduce kar ke apna revenue 2% se badha liya na.
- Suppose 3 Lakhs ka contract hain then uspe 2% TDS aap kha jaoge.**
- Supplier ko Rs 2,94,000 hi milega.
- Bichare suppliers ko 2% nuksaan ho gaya sir.



- Boss, koi nuksaan nahi hua hain of suppliers.
- Recipient jo TDS mujhe pay kar raha hain, it shall be credited (refunded) **to Suppliers.**



- Refund de doge, mein kuch samja nahi?

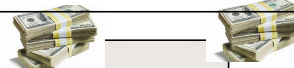


- Wait I shall explain through an example.
- Pvt Ltd enters into contract with SBI and gives **services of Rs 3 Lakhs to State Bank of India.**
- State Bank of India shall deduct TDS @ 2% on Rs 3 Lakhs ie **Rs 6,000 to government.**
- SBI shall pay balance of Rs 2,94,000 to Supplier (Pvt Ltd Co).**
- TDS GST of Rs 6,000 (3L * 2%) shall be credited (refunded) in **“ELECTRONIC CASH LEDGER”** of **SUPPLIERS.**



Services of Rs 3 Lakhs

Contract



Electronic Cash Ledger

Section 51 of CGST Act – Tax Deducted at Source in GST Law.



- Government, you have mentioned 2% TDS right?
- Is it 2% per act ie 2% CGST and 2% SGST or 4% IGST?**



- Boss as per section 51 of CGST Act, Recipient is required to deduct 2% TDS on payment made to suppliers.
- Rate is 1% CGST and 1% SGST or 2% IGST.**



- Ok government, now I have understood that Total Rate is 2%.
- But if we deduct TDS than kab tak pay karna hain govt ko.**
- Suppose May month mein GST TDS cut kiya suppliers ka than mujhe kab tak pay karna hain?



- You need to make payment of GST TDS **on 10th of subsequent month.**
- So suppose if you have deducted **GST TDS in May 2020**, then you are required to pay GST TDS to government by **10th June 2020.**
- Similarly suppose if you have deducted GST TDS in **August 2020**, then you are required to pay GST TDS to government by **10th September 2020.**



- Ok government, I got it that GST TDS is to be paid by **10th of subsequent month.**
- But govt ek baat bata that suppose mera 2 ya 3 contracts hain with different suppliers.
- Sabka meine TDS cut kiya hain in May 2020.**
- I make total payment of GST - TDS of Rs 10,000 (5+3+2) by 10th June 2020.
- You are going to refund amount in **“Electronic Cash Ledgers” of suppliers.**
- Aapko kaise pata chalega meine kiska kitna pay kiya hain, meine to ek single challan se sabka payment kiya hain.**

Company A (GST TDS – Rs 5,000)

LLP PQR (GST TDS – Rs 3,000)

Mr. XYZ (GST TDS – Rs 2,000)



- Boss payment ke sath sath, you need to file GST Return also.
- Form is GSTR – 7.**
- Ye return bhi aapko 10th of subsequent month bharna hain.**
- In this return, you shall mention that Company A ka **GST number kya hain** and **uska kitna TDS deduct kiya hain.** Similarly for LLP PQR and Mr. XYZ.
- On basis of your GSTR -7, I shall refund amount to “Electronic Cash Ledger” of Co. A, LLP PQR and Mr. XYZ



Section 51 of CGST Act – Tax Deducted at Source in GST Law.



- Government, **is there any threshold limit for deduction of GST TDS?**
- Ye Re1 bhi hua to fir TDS cut karna padega?



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- Yes, you are required to deduct TDS only if **Taxable Contract Value exceeds Rs 2,50,000.**
- If Taxable Contract Value is upto Rs 2,50,000, you are not required to deduct and pay TDS.



- But govt, **when I say contract value of 2.5 lakh, is it including GST or excluding GST?**
- Suppose Contract Value is Rs 2,40,000 + 12% GST (28,800).
- Hence Total Contract Value is greater than Rs 2,50,000 **(2,68,800).** Am I required to deduct TDS?



- No Sir, as per section 51 of CGST Act, Recipient is required to deduct and pay TDS @ 2% only if **“VALUE OF SUPPLY UNDER A CONTRACT” exceeds Rs 2,50,000.**
- Value of supply means “EXCLUDING GST” figure.**
- So aapka Total Contract Value is Rs 2,68,800 but **“VALUE OF SUPPLY OF CONTRACT” is Rs 2,40,000** only, then you are not required to deduct and pay TDS.



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- Govt, suppose I make a contract with Company A.
- Contract is of Exempt supply, Non GST Supply, Non Taxable Supply (Sch III).**
- Contract value is Rs 3 Lakhs.
- Now supply is exempt, but still I need to deduct and pay 2% TDS?**
- Chor ho govt aap, galat hain ye.

Company A.

Exempt Supply

NON GST
Supply

Non Taxable Supply (SCH III)



- Where supply of goods or supply of services under contract are fully exempt than you are not required to deduct and pay GST-TDS.**
- You are receiving Exempt Supply, Non GST Supply or Non Taxable Supplies (SCH III) from Company A right?
- So in-spite of fact that aapka contract value is exceeding Rs 2,50,000 with Company A, **still you are not required to deduct and pay TDS.**



Section 51 of CGST Act – Tax Deducted at Source in GST Law.



- Govt, suppose I make 1 Contract with Company A.
- Contract is of Taxable Supply as well as Exempt Supply.
- Contract value is Rs 5 Lakhs.
- Taxable Supply (Excl GST) in contract is Rs 2 Lakhs and Exempt Supply is Rs 3 Lakhs**
- Am I required to deduct TDS on entire Rs 5 Lakhs?**

Company A.

Taxable Supply is Rs 2 Lakhs.

Exempt Supply is Rs 3 Lakhs



- Sir, as per section 51, where **“TAXABLE VALUE OF SUPPLY IN CONTRACT” exceeds Rs 2.5 Lakhs** than only you are required to deduct and pay TDS.
- I agree that your total contract value (excluding GST) is Rs 5 Lakhs ie greater than Rs 2.5 lakhs.**
- But **“TAXABLE VALUE OF SUPPLY”** in contract is only Rs 2 Lakhs (below Rs 2.5 lakhs).
- Hence there is no need to deduct and pay GST-TDS in this case.



- Govt, suppose I make 1 Contract with Company A.
- Contract is of Taxable Supply as well as Exempt Supply.
- Contract value is Rs 5 Lakhs.
- Taxable Supply (Excl GST) in contract is Rs 3 Lakhs and Exempt Supply is Rs 2 Lakhs**
- Am I required to deduct TDS on entire Rs 5 Lakhs?**

Company A.

Taxable Supply is Rs 3 Lakhs.

Exempt Supply is Rs 2 Lakhs



- Madam, as per section 51, where **“TAXABLE VALUE OF SUPPLY IN CONTRACT” exceeds Rs 2.5 Lakhs** than only you are required to deduct and pay TDS.
- In your case, **“TAXABLE VALUE OF SUPPLY” in contract is only Rs 3 Lakhs** (greater than Rs 2.5 lakhs).
- Hence GST-TDS shall be applicable.
- But as mentioned earlier, **GST-TDS shall not be applicable for Exempt Supply/NON GST/NON Taxable Supplies.**
- I agree that your contract value is Rs 5 Lakhs.
- But GST - TDS shall be applicable on only **“TAXABLE VALUE OF SUPPLY IN CONTRACT” ie Rs 3 Lakhs.**
- GST-TDS shall be applicable on only Rs 3 lakhs.



Section 51 of CGST Act – Tax Deducted at Source in GST Law.



- Govt, suppose recipient raises invoice on me **on 31st May 2020**.
- I am required to make payment to him on **1st June 2020**.
- I actually make payment to him on **1st August 2020**.
- What shall be Time of Supply for GST-TDS.**
- When am I required to deduct and pay GST-TDS @ 2%**

Tax Invoice – 31st May 2020

Due Date of Payment – 1st June 2020

Actual payment – 1st August 2020



- Sir, as per section 51 of CGST Act 2017, Liability to deduct GST-TDS arises when
- THE PAYMENT IS MADE TO THE SUPPLIER.**
- So even though Tax Invoice is raised on 31st May 2020 and you are required to pay by 1st June 2020.
- Still Time of Supply for GST TDS shall be “DATE OF PAYMENT” ie 1st August 2020.**
- You are required to pay GST-TDS by 10th September 2020.**



- Government, suppose I make 1 single contract of Rs 3 Lakhs (excluding GST) with Co.
- Now suppose if he raises two invoices ie 1st Invoice of 1 Lakh, 2nd Invoice of 2 Lakhs.
- Now both Invoices are below Rs 2.5 Lakhs.
- Bach gaye ne govt GST-TDS se.**
- Isiliye bola tha mujhe law banana do, aap mat banao.**

Contract Value (Excl GST) is 3 Lakhs

1st Invoice – 1 Lakh.

2nd Invoice – 2 Lakhs



- Sir, as per section 51, where **“TAXABLE VALUE OF SUPPLY IN CONTRACT” exceeds Rs 2.5 Lakhs** than only you are required to deduct and pay TDS.
- Sir have I used word Invoice Value or Contract Value?**
- Section 51 uses word “CONTRACT”.**
- So I agree that your each invoice value is below Rs 2.5 Lakhs, still your total contract value is exceeding Rs 2.5 Lakhs, **hence you shall be required to deduct and pay GST-TDS.**
- Eg: In Rental Contract, Housekeeping Contract, we make contracts for 12 months say Rs 6 Lakhs (excluding GST).
- But Invoice is raised monthly of Rs 50,000(excluding GST).
- GST-TDS shall be applicable as ‘CONTRACT VALUE (Excluding GST)’ is exceeding Rs 2.5Lakhs.
- It is immaterial that each invoice value is below Rs 2.5Lakhs.



Section 51 of CGST Act – Tax Deducted at Source in GST Law.



- Govt, suppose I deduct GST-TDS of Rs 5,000 of Company A.
- Income Tax mein Form 16, Form 16A ye sab hota hain.
- For GST-TDS, Do I need to give him any certificate or acknowledgment?**



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Company A – GST TDS of Rs 5,000.



- Yes sir, as per section 51(3) of CGST Act, person deducting GST – TDS shall furnish a certificate to Deductee (Supplier of Goods or Services or both).
- Certificate shall be in FORM GSTR 7A.**
- Certificate must contain following details:
 - Contract Value.**
 - Rate of Deduction.**
 - Amount Deducted.**
 - Amount paid to government.**
 - Such other particulars as may be prescribed.**



- In how many days am I required to issue such certificate?**



- As soon as you file GSTR -7, TDS Credit shall be auto populated in Suppliers GSTR Number.**
- He needs to accept such credit.**
- Certificate is required to be given within 5 days of such acceptance by supplier.**



Presentation



- What if I forgot to issue certificate?**



- Late fees of Rs 100 per day per act.**
- Yes but penalty shall not exceed Rs 5,000 per act.**



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Section 51 of CGST Act – Tax Deducted at Source in GST Law.



- Govt, what is supplier is PSU and Recipient is also PSU?
- Is Recipient (BOI) still required to deduct and pay TDS?

Supplier is SBI

Recipient is BOI



- No Sir, there is Proviso to Section 51 of CGST Act 2017.
- When Supply is made from One PSU to another PSU, then TDS is not required to be deducted.**
- Similarly if supply is made by PSU to government then also TDS is not required to be deducted.**
- Refer Notification No 61/2018-CT dated 05-11-2018.**



- Sir, ye TDS aaya hain from 1st October 2018 right.
- Also you have mentioned that Invoice, Due date kuch bhi nahi dekhna hain.
- GST-TDS attract hota hain jab payment karte hain.
- Suppose meine payment kiya hain before 1st October 2018 and Invoice and goods/services completion are after 1st October 2018.**
- Now GST-TDS kaise karenge?**

Payment prior to 1st October 2018

Services completed on or after 01/10/18

Invoice raised on or after 01/10/18



- Sir, GST – TDS is not required to be deducted and paid for any amount which is paid in advance prior to 1st October 2018.**
- Even though goods/services are supplied/completed and Tax Invoice are issued after 1st October 2018.
- If you have part payment prior to 1st October 2018 (Eg - 3 Lakhs) and balance (Eg - Rs 5 Lakhs), than to the extent of advances, you are not required to deduct and pay TDS.**
- Hence GST-TDS shall not be required to be deducted and paid on Advance of Rs 3 Lakhs.
- GST-TDS shall be required to be deducted and paid on only Rs 5 Lakhs ie amount paid on or after 1st October 2018.

Section 51 of CGST Act – Tax Deducted at Source in GST Law.



- Government, Are TDS deductors compulsorily required to get registered under GST?
- **Iske liye kuch limit hain like Rs 20 Lakhs or Rs 2.5 Lakhs?**



- TDS Deductors are compulsorily required to get registered in GST.
- Section 24 of CGST Act 2017.



- Ok government, suppose we have not done any transactions during the month ie we have not deducted TDS of any suppliers.
- **Still we are required to file TDS Return ie GSTR 7?**
- When there is no TDS, there should be no question of TDS.



- Even if you have NIL Transactions, **still you are required to file GSTR – 7.**
- GSTR – 7 is to be filed by 10th of subsequent month even if it is NIL.



- Government, I deducted TDS of Mr. A in April 2020.
- While filing GSTR TDS Return of April 2020, **by-mistake** I wrote GST number of Mr. B
- Mistake ho gayi.

Mr. A

Mr. B



- Don't worry, there is TAB of Amendment in GSTR 7.
- You can amend such error / mistakes / omission in subsequent months GST Returns.
- Financial Year is 2020-21
- So you can amend error / mistakes / omissions **within 6 months from end of financial year.**
- Such errors / mistakes / omissions can be rectified **till due date of filing of GSTR – 7 of September 2021** ie due date of GSTR – 7 of 6 months from end of financial year.



Section 51 of CGST Act – Tax Deducted at Source in GST Law.

- TDS is to be deducted when “**TAXABLE VALUE OF SUPPLY**” in Contract exceeds Rs **2.5 lakhs**.

Person deducting TDS shall be

- a) Department or Establishment of Central or State Govt.
- b) Local Authority.
- c) Govt Agencies.
- d) Public Sector Undertakings (SBI, BOI).
- e) Establishment by any government with 51% or more participation by way of equity or control.
- f) Such persons or category of persons as notified by the government on the recommendation of council.

- TDS is to be deducted on “**Pre-GST Figure**”. TDS is not to be deducted on GST Component.

- TDS is to be deducted on **TAXABLE VALUE** only. Hence TDS is **not to be deducted for “EXEMPT SUPPLY”**.

- If in same Contract, there is Taxable as well as Exempt Supply then TDS is required to be deducted on **only Taxable Supply provided Taxable Supply (excluding GST) exceeds Rs 2.5 Lakhs**.

- TDS is to be deducted on “**PAYMENT**”. It is not on Invoice or Due Date.

- TDS is to be paid by **10th of subsequent month**.

- Recipient (Person Deducting TDS) is required to file **GSTR – 7 by 10th of subsequent month**.

- Issue Certificate in Form **GSTR-7A within 5 Days**.

- If not issued then penalty of Rs **100 per day per act subject to maximum penalty of Rs 5,000 per act**.

- TDS Rate is **2% ie 1% CGST and 1% SGST or 2% IGST**.