

TDS AND TCS

Section 51. Tax deduction at source.-

- (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 one per cent. 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:

Provided that 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.

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.

- (2) 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, in such manner as may be prescribed.

¹[(3) A certificate of tax deduction at source shall be issued in such form and in such manner as may be prescribed.].

(4) ²[****]

- (5) The deductee shall claim credit, in his electronic cash ledger, of the tax deducted and reflected in the return of the deductor furnished under sub-section (3) of section 39, in such manner as may be prescribed.

(6) If any deductor fails to pay to the Government the amount deducted as tax under sub-section (1), he shall pay interest in accordance with the provisions of sub-section (1) of section 50, in addition to the amount of tax deducted.

(7) The determination of the amount in default under this section shall be made in the manner specified in section 73 or section 74.

(8) The refund to the deductor or the deductee arising on account of excess or erroneous deduction shall be dealt with in accordance with the provisions of section 54:

Provided that no refund to the deductor shall be granted, if the amount deducted has been credited to the electronic cash ledger of the deductee.

* Section 51(1) enforced w.e.f. 18-09-2017 with respect to persons special under (a), (b) and (d) of section 51(1). Provisions of sub-sections (2) to (8) of section 51 have not so far been brought into force.

1. Substituted by s. 124 of The Finance Act, 2020 (No. 12 of 2020) for -

"(3) The deductor shall furnish to the deductee a certificate mentioning therein the contract value, rate of deduction, amount deducted, amount paid to the Government and such other particulars in such manner as may be prescribed. "

-Brought into force w.e.f. 01st January, 2021 by [Notification No. 92/2020-C.T.](#), dated 22-12-2020.

2. Omitted by s. 124 by The Finance Act, 2020 (No. 12 of 2020) -

"(4) If any deductor fails to furnish to the deductee the certificate, after deducting the tax at source, within five days of crediting the amount so deducted to the Government, the deductor shall pay, by way of a late fee, a sum of one hundred rupees per day from the day after the expiry of such five days period until the failure is rectified, subject to a maximum amount of five thousand rupees. "

-Brought into force w.e.f. 01st January, 2021 vide [Notification No. 92/2020-C.T.](#), dated 22-12-2020.

Rule 12. Grant of registration to persons required to deduct tax at source or to collect tax at source.

(1) Any person required to deduct tax in accordance with the provisions of section 51 or a person required to collect tax at source in accordance with the provisions of section 52 shall electronically submit an application, duly signed or verified through electronic verification code, in FORM GST REG-07 for the grant of registration through the common portal, either directly or through a Facilitation Centre notified by the Commissioner.

¹[(1A) A person applying for registration to ²[deduct or] collect tax in accordance with the provisions of ²[section 51, or, as the case maybe,] section 52, in a State or Union territory where he does not have a physical presence, shall mention the name of the State or Union territory in PART A of the application in FORM GST REG-07 and mention the name of the State or Union territory in PART B thereof in which the principal place of business is located which may be different from the State or Union territory mentioned in PART A.]

(2) The proper officer may grant registration after due verification and issue a certificate of registration in FORM GST REG-06 within a period of three working days from the date of submission of the application.

(3) Where, ³[on a request made in writing by a person to whom a registration has been granted under sub-rule (2) or] upon an enquiry or pursuant to any other proceeding under the Act, the proper officer is satisfied that a person to whom a certificate of registration in FORM GST REG-06 has been issued is no longer liable to deduct tax at source under section 51 or collect tax at source under section 52, the said officer may cancel the registration issued under sub-rule (2) and such cancellation shall be communicated to the said person electronically in FORM GST REG-08:

Provided that the proper officer shall follow the procedure as provided in rule 22 for the cancellation of registration.

1. Inserted vide [Notification No.74/2018-CT](#) dated 31.12.2018.

2. Inserted vide [Notification No.33/2019-CT](#) dated 18.07.2019.

3. Inserted vide [Notification No. 26/2022-CT](#) dated 26.12.2022.

Rule 66. Form and manner of submission of return by a person required to deduct tax at source .-

(1) Every registered person required to deduct tax at source under section 51 (hereafter in this rule referred to as deductor) shall furnish a return in FORM GSTR-7 electronically through the common portal either directly or from a Facilitation Centre notified by the Commissioner.

(2) The details furnished by the deductor under sub-rule (1) shall be made available electronically to each of the ¹[deductees] on the common portal after ²[****] filing of FORM GSTR-7 ³[for claiming the amount of tax deducted in his electronic cash ledger after validation].

(3) The certificate referred to in sub-section (3) of section 51 shall be made available electronically to the deductee on the common portal in FORM GSTR-7A on the basis of the return furnished under sub-rule (1).

1. Substituted vide [Notification No. 31/2019 - CT dated 28.06.2019](#).

2. Omitted vide [Notification No. 31/2019 - CT dated 28.06.2019](#).

3. Inserted vide [Notification No. 31/2019 - CT dated 28.06.2019](#).

***Section 52. Collection of tax at source.-**

(1) Notwithstanding anything to the contrary contained in this Act, every electronic commerce operator (hereafter in this section referred to as the "operator"), not being an agent, shall collect an amount calculated at such rate not exceeding one per cent., as may be notified by the Government on the recommendations of the Council, of the net value of taxable supplies made through it by other suppliers where the consideration with respect to such supplies is to be collected by the operator.

Explanation.-For the purposes of this sub-section, the expression "net value of taxable supplies" shall mean the aggregate value of taxable supplies of goods or services or both, other than services notified under sub-section (5) of section 9, 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.

(2) The power to collect the amount specified in sub-section (1) shall be without prejudice to any other mode of recovery from the operator.

(3) The amount collected under sub-section (1) shall be paid to the Government by the operator within ten days after the end of the month in which such collection is made, in such manner as may be prescribed.

(4) Every operator who collects the amount specified in sub-section (1) shall furnish a statement, electronically, containing the details of outward supplies of goods or services or both effected through it, including the supplies of goods or services or both returned through it, and the amount collected under sub-section (1) during a month, in such form and manner as may be prescribed, within ten days after the end of such month:

¹[Provided that the Commissioner may, for reasons to be recorded in writing, by notification, extend the time limit for furnishing the statement for such class of registered persons as may be specified therein:

Provided further that any extension of time limit notified by the Commissioner of State tax or the Commissioner of Union territory tax shall be deemed to be notified by the Commissioner.]

²[Explanation : - For the purposes of this sub-section, it is hereby declared that the due date for furnishing the said statement for the months of October, November and December, 2018 shall be the ³[07th February, 2019].]

(5) Every operator who collects the amount specified in sub-section (1) shall furnish an annual statement, electronically, containing the details of outward supplies of goods or services or both effected through it, including the supplies of goods or services or both returned through it, and the amount collected under the said sub-section during the financial year, in such form and manner as may be prescribed, before the thirty first day of December following the end of such financial year

⁴[Provided that the Commissioner may, on the recommendations of the Council and for reasons to be recorded in writing, by notification, extend the time limit for furnishing the annual statement for such class of registered persons as may be specified therein:

Provided further that any extension of time limit notified by the Commissioner of State tax or the Commissioner of Union territory tax shall be deemed to be notified by the Commissioner.]

(6) If any operator after furnishing a statement under sub-section (4) discovers any omission or incorrect particulars therein, other than as a result of scrutiny, audit, inspection or enforcement activity by the tax authorities, he shall rectify such omission or incorrect particulars in the statement to be furnished for the month during which such omission or incorrect particulars are noticed, subject to payment of interest, as specified in sub-section (1) of section 50:

Provided that no such rectification of any omission or incorrect particulars shall be allowed after the ⁵[thirtieth day of November] following the end of the financial year or the actual date of furnishing of the relevant annual statement, whichever is earlier.

(7) The supplier who has supplied the goods or services or both through the operator shall claim credit, in his electronic cash ledger, of the amount collected and reflected in the statement of the operator furnished under sub-section (4), in such manner as may be prescribed.

(8) The details of supplies furnished by every operator under sub-section (4) shall be matched with the corresponding details of outward supplies furnished by the concerned supplier registered under this Act in such manner and within such time as may be prescribed.

(9) Where the details of outward supplies furnished by the operator under sub-section (4) do not match with the corresponding details furnished by the supplier under ⁶[section 37 or section 39], the discrepancy shall be communicated to both persons in such manner and within such time as may be prescribed.

(10) The amount in respect of which any discrepancy is communicated under sub-section (9) and which is not rectified by the supplier in his valid return or the operator in his statement for the month in which discrepancy is communicated, shall be added to the output tax liability of the said supplier, where the value of outward supplies furnished by the operator is more than the value of outward supplies furnished by the supplier, in his return for the month succeeding the month in which the discrepancy is communicated in such manner as may be prescribed.

(11) The concerned supplier, in whose output tax liability any amount has been added under sub-section (10), shall pay the tax payable in respect of such supply along with interest, at the rate specified under sub-section (1) of section 50 on the amount so added from the date such tax was due till the date of its payment.

(12) Any authority not below the rank of Deputy Commissioner may serve a notice, either before or during the course of any proceedings under this Act, requiring the operator to furnish such details relating to-

- (a) supplies of goods or services or both effected through such operator during any period; or
 - (b) stock of goods held by the suppliers making supplies through such operator in the godowns or warehouses, by whatever name called, managed by such operator and declared as additional places of business by such suppliers,
- as may be specified in the notice.

(13) Every operator on whom a notice has been served under sub-section (12) shall furnish the required information within fifteen working days of the date of service of such notice.

(14) Any person who fails to furnish the information required by the notice served under sub-section (12) shall, without prejudice to any action that may be taken under section 122, be liable to a penalty which may extend to twenty-five thousand rupees.

Explanation.-For the purposes of this section, the expression "concerned supplier" shall mean the supplier of goods or services or both making supplies through the operator.

7[(15) The operator shall not be allowed to furnish a statement under sub-section (4) after the expiry of a period of three years from the due date of furnishing the said statement:

Provided that the Government may, on the recommendations of the Council, by notification, subject to such conditions and restrictions as may be specified therein, allow an operator or a class of operators to furnish a statement under sub-section (4), even after the expiry of the said period of three years from the due date of furnishing the said statement].

* Enforced w.e.f. 22nd June, 2017.

1. Inserted by s. 101 of The Finance (No. 2) Act, 2019 (No. 23 of 2019) - Brought into force w.e.f. 01st January, 2020 vide [Notification No. 1/2020-C.T.](#), dated 01-01-2020.

2. Inserted by CGST (Fourth Removal of Difficulties) Order, 2018, issued under C.B.I. & C. Order No. 4/2018-C.T., dated 31-12-2018.

3. Substituted by CGST (Second Removal of Difficulties) Order, 2019 for "31st January, 2019", issued under C.B.I. & C. Order No. 2/2019-C.T., dated 1-2-2019.

4. Inserted by s. 101 of The Finance (No. 2) Act, 2019 (No. 23 of 2019) - Brought into force w.e.f. 01st January, 2020 vide [Notification No. 1/2020-C.T.](#), dated 1-1-2020.

5. Substituted (w.e.f. 1st October, 2022 vide [Notification No. 18/2022 - CT](#) dated 28.09.2022) by s. 112 of The Finance Act 2022 (No. 06 of 2022) for "due date for furnishing of statement for the month of September".

6. Substituted (w.e.f. 1-2-2019) by s. 22 of the CGST (Amendment) Act, 2018 (31 of 2018).

7. Inserted (w.e.f. 1st October, 2023 vide [Notification No. 28/2023-C.T.](#), dated 31st July, 2023.) by s. 145 of The Finance Act 2023 (No. 8 of 2023).

Rule 67. Form and manner of submission of statement of supplies through an e-commerce operator.-

(1) Every electronic commerce operator required to collect tax at source under section 52 shall furnish a statement in FORM GSTR-8 electronically on the common portal, either directly or from a Facilitation Centre notified by the Commissioner, containing details of supplies effected through such operator and the amount of tax collected as required under sub-section (1) of section 52.

(2) ³[The details of tax collected at source under sub-section (1) of section 52 furnished by the operator under sub-rule (1) shall be made available electronically to each of the registered suppliers] ¹[****] on the common portal after ¹[****] filing of FORM GSTR-8 ²[for claiming the amount of tax collected in his electronic cash ledger after validation].

1. Omitted vide [Notification No. 31/2019 - CT dated 28.06.2019](#).

2. Inserted vide [Notification No. 31/2019 - CT dated 28.06.2019](#).

3. Substituted vide [Notification No. 38/2023 - CT dated 04.08.2023](#).

FAQs on TDS and TCS

1. Is there any threshold limit for deduction of tax at source?

- Yes, tax shall be deducted at source if value of the supply of taxable goods or services or both, under a contract, exceeds Rs. 2,50,000/-. Value shall exclude central tax, state tax, UT tax and IGST and cess indicated in the invoice.

2. Municipal Corporation of Delhi has ordered supply of taxable goods to a supplier registered in Chandigarh for supply in Chandigarh itself. Is this transaction liable for deduction of tax at source?

- No tax shall be deducted when the location of supplier and place of supply is in a State/UT which is different from the State/UT of the registration of the recipient. Here, the location of the supplier is in Chandigarh and the place of supply is in Chandigarh and the recipient is registered in Delhi. No tax shall be deducted.

3. What is the rate of tax deduction at source?

- 2% on inter-state supply and 1% of CGST & SGST/UT each on intrastate supply shall be deducted at source from the payment made or credited to the supplier for supply of taxable goods or services or both.

4. What is the time limit for deposit of tax deducted?

- The amount deducted shall be deposited within 10 days from the end of the month in which such deduction is made.

5. What is the procedure of depositing the tax deducted at source?

- Deductor will furnish Form GSTR – 7 and deposit tax online within 10 days from the end of the month in which deduction was made.

6. Is GST Registration mandatory for the deductor?

- Yes, it is mandatory for the deductor to take GST registration.

7. What is the nature of certificate to be furnished by the deductor to the deductee and what is the time limit?

- Ans. The Deductor shall furnish a certificate in Form GSTR-7A mentioning therein the contract value, rate of deduction, amount deducted, TDS deposited with the Government and such particulars as may be prescribed in this behalf, to the deductee. This certificate is to be issued within 5 days of depositing the TDS with the Government, failing which, the deductor would be liable to pay late fee of Rs. 100 per day during which the failure continues but subject to Maximum of Rs. 5000/-.

8. Can the deductee claim credit of the Tax deducted at source by the Deductor?

- Yes, the deductee can claim credit of the tax deducted. Deductor will furnish the return and deductee will accept the credit reflecting in his GST portal. Amount will be credited to his electronic cash ledger.

9. Can tax, once deducted, be claimed as a refund? Who can claim refund?

- Yes, it is possible to claim refund arising out of excess or erroneous deduction, as per the provisions of Section 54 of the CGST Act. Such refund may be claimed either by the deductor or the deductee, but not both. Further, deductor cannot claim refund once the amount deducted has been credited to the electronic cash ledger of the deductee.
10. **What is the effective date of applicability of TDS provisions?**
 - October 01, 2018 is the effective date for applicability of TDS provisions.
 11. **Can a Composition Dealer take tax credit of Tax deducted at source?**
 - Yes, Composition dealer can also take credit and adjust this amount against his output tax liability, as this amount is not an input tax credit.
 12. **Will tax be deductible on supplies received from outside India?**
 - No, as this sort of transaction is covered under reverse charge.
 13. **Whether tax will be deductible on payment made or credited to an unregistered person?**
 - Ans. No.
 14. **What is the rate of TCS?**
 - Rate of TCS is 0.25% under each of CGST and SGST/UT Acts respectively. It is 0.5% under the IGST Act, 2017.
 15. **Is it mandatory for e-commerce operator to obtain registration?**
 - Yes. As per section 24(x) of the CGST Act, 2017, every electronic commerce operator has to obtain compulsory registration irrespective of the value of supply made by him.
 16. **Whether an e-Commerce operator is required to obtain registration in every State/UT in which suppliers listed on their ecommerce platform are located?**
 - Registration for TCS would be required in each State/ UT as the obligation for collecting TCS would be there for every intra-State or inter-State supply. In order to facilitate the obtaining of registration in each State/ UT, the e-commerce operator may declare the Head Office as its place of business for obtaining registration in that State/ UT where it does not have physical presence.
 17. **Foreign e-commerce operator do not have place of business in India. But their supplier and customers are located in India. In this scenario will the TCS provisions be applicable and if yes, how will foreign e-commerce operator obtain registration?**
 - Where the registered supplier is supplying goods or services through a foreign e-commerce operator to a customer in India, such foreign ecommerce operator would be liable to collect TCS on such supply and would be required to obtain registration in each State/ UT. If the foreign e-commerce operator does not have physical presence in a particular State/ UT, he may appoint an agent on his behalf.
 18. **Is it necessary for e-Commerce operators who are already registered under GST and have GSTIN, to have separate registration for TCS as well?**
 - E-Commerce operator has to obtain separate registration for TCS irrespective of the fact whether such operator is already registered under GST as a supplier or otherwise and has GSTIN.
 19. **What is meant by “net value of taxable supplies”?**
 - “Net value of taxable supplies” means the aggregate value of taxable supplies of goods or services or both, other than the services on which entire tax is payable by the e-commerce operator, made during any month by a registered supplier through such operator reduced by the aggregate value of taxable supplies returned to such supplier during the said month.
 20. **Whether the value of net taxable supplies should be calculated at gross level or at GSTIN level?**
 - The value of net taxable supplies is calculated at GSTIN level.
 21. **Is every e-commerce operator required to collect tax on behalf of actual supplier?**

- Yes, every e-commerce operator is required to collect tax where the supplier is supplying goods or services through e-commerce operator and consideration with respect to the supply is to be collected by the said e-commerce operator.

22. Whether TCS to be collected on exempt supplies?

- No, TCS is not required to be collected on exempt supplies.

23. Whether TCS to be collected on supplies on which the recipient is required to pay tax on reverse charge basis?

- No, TCS is not required to be collected on supplies on which the recipient is required to pay tax on reverse charge basis.

24. Whether TCS is to be collected in respect of supplies made by the composition taxpayer?

- Ans. As per section 10(2)(d) of the CGST Act, 2017, a composition taxpayer cannot make supplies through e-commerce operator. Thus, the question of collecting TCS in respect of supplies made by the composition taxpayer does not arise.

25. Whether tax is to be collected at source on import of goods or services or both?

- Tax is not liable to be collected at source on any supplies on which the recipient is required to pay tax on reverse charge basis. Hence, tax is not liable to be collected on import of goods or services.