

TDS Provisions under GST

Vide Notification No. 50/2018 – Central Tax dated 13th Sept-18 it is notified that the provisions of section 51 of CGST Act, 2017 would be applicable from 1st Oct-2018.

Section 51 of the CGST Act, 2017 is reproduced as under:

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.

Following persons are notified persons under the notification

(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.

As such it can be observed, that the **above “Specified categories”** of persons are required to deduct the tax on payment made or credited to the supplier of taxable goods or services or both,

- 1) Where the total value of such supply, under a contract, **exceeds two lakh and fifty thousand rupees.**
- 2) Rate of Tax to be deducted is **Two percent (1% CGST + 1% SGST)** of the amount paid / credited.
- 3) No deduction of Tax is required when the location of supplier and place of supply is different from the State of the registration of the recipient.

- **Compliance for specified Category:**

If you are covered by any of the categories as specified, you are required to deduct and pay the TDS as per above provisions. If you are liable to deduct TDS, please get in touch with our office for a deeper discussion on the matter.

- **Important points for Provider of services / goods to “specified Category”**

It is pertinent to note that even if there is outward supply of goods or services to any of the categories as specified above, TDS would be deducted by these specified categories from the payments received by you.

- 1) **Claim the Credit**

You would be **eligible to claim the credit** of the same in your return.

- 2) **TDS Certificate**

TDS credit can be claimed on the basis of **System Generated GSTR 7A – TDS Certificate**. GSTR 7A has to be provided by the deductor, on **Monthly basis** for all transactions during the month.

- 3) **Time limit for Issue of TDS Certificate**

GSTR 7A, has to be issued within 5 days from the date of deposit of tax with government. Due date for depositing the Tax is, 10 days from end of respective month. Thus, it can be said that due date for issue of GSTR 7A by “Specified category” is **15 days** from the **end of respective month**.

TCS by Electronic Commerce Operator

CBIC has notified notification no 51/2018 – Central Tax dated 13th Sept-18 & notification no 52/2018 – Central Tax dated 20th Sep-18.

It notifies that every electronic commerce operator, not being an agent, shall collect an amount calculated at a rate of **one per cent** (0.5% CGST + 0.5% SGST) Of the net value of intra-State taxable supplies made through it by other suppliers where the consideration with respect to such supplies is to be collected by the said operator.

- **Compliance for E Commerce Operator:**

If you are e commerce operator, please get in touch with us for further guidance & information.

- **Important points for Sale through E Commerce Operators:**

It is pertinent to note that if there is outward supply of goods or services through E Commerce operator, TCS would be collected by the E Commerce operator.

- 1) **Credit of TCS:** Seller would be eligible for claim the credit of TCS collected by the E Commerce operator, on Filing of respective return by E Commerce operator i.e. GSTR 8, the credit will be reflected in seller's GSTR 2A.
- 2) **Matching of sales:** It is important to note that, sale through E Commerce operator platform is to be reported by seller in **GSTR 1 Table 4C & Table 10**. As per sec 52(8), this sale needs to be matched with TCS sales reported by E Commerce operator.
- 3) **Reporting & Communication of Mismatch:** The mismatch if any, would be communicated to E Commerce operator in **GST MIS 4** and to seller in **GST MIS 3**. So far, no option has been enabled to view MIS 3 / MIS 4 on GST portal.
- 4) **Rectification of Mismatch:** The mismatch as reported has to be rectified by both E Commerce operator as well as seller. The rectification has to be carried out in the month in which the discrepancy is made available. If the correction is not carried out, the liability shall be added in the GSTR 3 of supplier. It is pertinent to note that GSTR 3 has been kept in abeyance, however it would be wiser to reconcile the difference to avoid future litigations.

Updated on 2nd Oct-18

Disclaimer:- We have made best effort to analyze the various provisions of the act but it should not be treated as professional opinion. You are advised to refer to the provisions of the act and relevant rules before structuring any transactions based on this note.

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