
TDS UNDER GST

1. PERSONS LIABLE TO DEDUCT TDS UNDER GST LAWS:-

- A department or establishment of the Central Government or State Government
- Local authority
- Governmental agencies
- 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 percent or more participation by way of equity or control, to carry out any function
- A society established by the Central Government or the State Government or a Local Authority under the Societies Registration Act, 1860 (21 of 1860)
- Public sector undertakings

2. When tax deduction is required to be made in GST:-

Tax is required to be deducted from the payment made / credited to a supplier, if the total value of supply under a contract in respect of supply of **taxable goods or services or both**, exceeds Rs. 2,50,000/- (Rupees two lakh and fifty thousand).

This value shall exclude the taxes leviable under GST (i.e. 'Central tax', 'State tax', 'UT tax', 'Integrated tax' & Cess).

3. Nature of TDS & Its Rate:-

Nature of Supply	Name of TDS	Rate of Tax
Location of the Supplier & Place of supply is in the same State /UT without any legislature	CGST SGST/UGST	1% 1%
Location of the Supplier & Place of supply are in the different States	IGST	2%

4. When tax deduction is not required to be made under GST:

Tax deduction is not required in following situations:

- Total value of taxable supply \leq Rs. 2.5 Lakh under a contract.
- Contract value $>$ Rs. 2.5 Lakh for both taxable supply and exempted supply, but the value of taxable supply under the said contract \leq Rs. 2.5 Lakh.
- Receipt of services which are exempted. For example services exempted under notification No. 12/2017 – Central Tax (Rate) dated 28.06.2017 as amended from time to time.
- Receipt of goods which are exempted. For example goods exempted under notification No. 2/2017 – Central Tax (Rate) dated 28.06.2017 as amended from time to time.

- e) Goods on which GST is not leviable. For example petrol, diesel, petroleum crude, natural gas, aviation turbine fuel (ATF) and alcohol for human consumption.
- f) Where a supplier had issued an invoice for any sale of goods in respect of which tax was required to be deducted at source under the VAT Law before 01.07.2017, but where payment for such sale is made on or after 01.07.2017 [Section 142(13) refers].
- g) Where the location of the supplier and place of supply is in a State(s)/UT(s) which is different from the State / UT where the deductor is registered.
- h) All activities or transactions specified in Schedule III of the CGST/SGST Acts 2017, irrespective of the value.
- i) Where the payment relates to a tax invoice that has been issued before 01.10.2018.
- j) Where any amount was paid in advance prior to 01.10.2018 and the tax invoice has been issued on or after 01.10.18, to the extent of advance payment made before 01.10.2018.
- k) Where the tax is to be paid on reverse charge by the recipient i.e. the deductee.
- l) Where the payment is made to an unregistered supplier.
- m) Where the payment relates to “Cess” component.

5. TDS RETURNS:-

The filing the TDS Return in **FORM GSTR-7** can be done both through the online mode in the GST portal as well as by using the offline tool.

6. TDS return submission procedure:

In the offline method, the deductor would be required to fill up the designated .xl file and upload the said file with signature validation.

Every registered TDS deductor is required to file a Return in FORM GSTR 7 electronically within 10th of the month succeeding the month in which deductions have been made to avoid payment of any late fee, interest. [Section 39(3) of the CGST Act, 2017 read with Rule 66 of the CGST Rules, 2017 refers]

Tax deposited by challan would get credited in the electronic cash ledger of the deductor. **The liability of a deductor in FORM GSTR 7 has to be paid by him by debiting his electronic cash ledger.**

The deductor shall furnish to the deductee a system generated **certificate in FORM GSTR 7A** mentioning therein the contract value, rate of deduction, amount deducted, amount paid to the Government and other related particulars. The said certificate is to be furnished within five days of crediting the amount so deducted to the Government i.e. within five days of furnishing return in **FORM GSTR-7**.

The entire exercise has to be completed through **www.gst.gov.in**.

The deductee (i.e. the supplier) shall claim the credit of such deduction in his electronic cash ledger.

7. Time limit for filing the TDS Returns under GST:

The **FORM GSTR-7** for a particular month has to be filed online within 10th of the month succeeding to the month in which deductions have been made.

8. Benefit of TDS to deductee and TDS certificate:

With the deduction of tax and submission of return in **FORM GSTR 7** the amount deducted would be available in **FORM GSTR 2A/4A** of the registered

deductee and the same would be credited in his electronic cash ledger. The deductee would be able to utilize this amount for discharging his tax liabilities.

9. Late fee, Interest and Penalty:

Provision for late fees for late filing of TDS Returns in GST

- If the deductor fails to furnish the return in **FORM GSTR-7** (under Section 39(3)) by the due date (i.e. within 10 days of the month succeeding the month in which deduction was made) he shall pay a late fee of Rs. 100/- per day under CGST Act & SGST/UTGST Act separately during which such failure continues subject to a maximum amount of Rs. 5000/- each under CGST Act & SGST/UTGST Act.
- If any deductor fails to furnish the certificate of TDS deduction to the deductee [i.e. the supplier] within 5 days of crediting the amount so deducted to the Government (i.e. furnishing return in **FORM GSTR-7**), the deductor shall pay a late fee of Rs. 100/- per day under CGST Act & SGST/UTGST Act separately from the day after the expiry of five day period until the failure is rectified, subject to a maximum amount of Rs.5000/- each under CGST Act & SGST/UTGST Act.

10. Acceptance of TDS Credits for availing GST credit by suppliers

If you are supplying goods or services on which TDS is being deducted under GST*

Many TDS Registrants have complained that they are not able to view TDS certificate (Form GSTR-7A) after the return for TDS, Form GSTR-7 has been filed by them. It is brought to your notice that TDS certificate generation is dependent upon the deductee (Supplier to the department), accepting the tax deduction (made by a bonafide TDS Deductor) under "TDS and TCS Credit received" tab in Returns dashboard.

Since Form GSTR-7 has been implemented for the first time, it is visualized that in some cases, TDS deduction may be prone to errors. An intermediate step of either accepting or rejecting the amount, by deductee, will ensure that valid credit is credited to deductees' cash ledger. Any inadvertent errors or inconsistencies can be rectified post rejection by the TDS deductee.

It is therefore brought to your notice that, if you are supplying goods or services on which TDS is being deducted under GST, please either accept or reject the credit, in return dashboard as stated above. If you accept the credit then the amount will be credited to your cash ledger and after this acceptance by you, the certificate will be generated and will be made available to TDS Deductors. If the credit is rejected by you, then it will flow back to TDS Deductor for correction.

Please feel free to write to pratik@apmh.in / meghana@apmh.in for any further queries on the above blog.