

TDS under GST

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Provisions of TDS

Section 51 of CGST Act, 2017 provides for Tax Deduction at Source (TDS) by the specified category of persons (herein after referred to as 'the Deductor') from the payment made or credited to the supplier of taxable goods or services or both (herein after referred to as 'the Deductee') at a prescribed rate.

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, (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.

EFFECTIVE DATE OF APPLICABILITY:

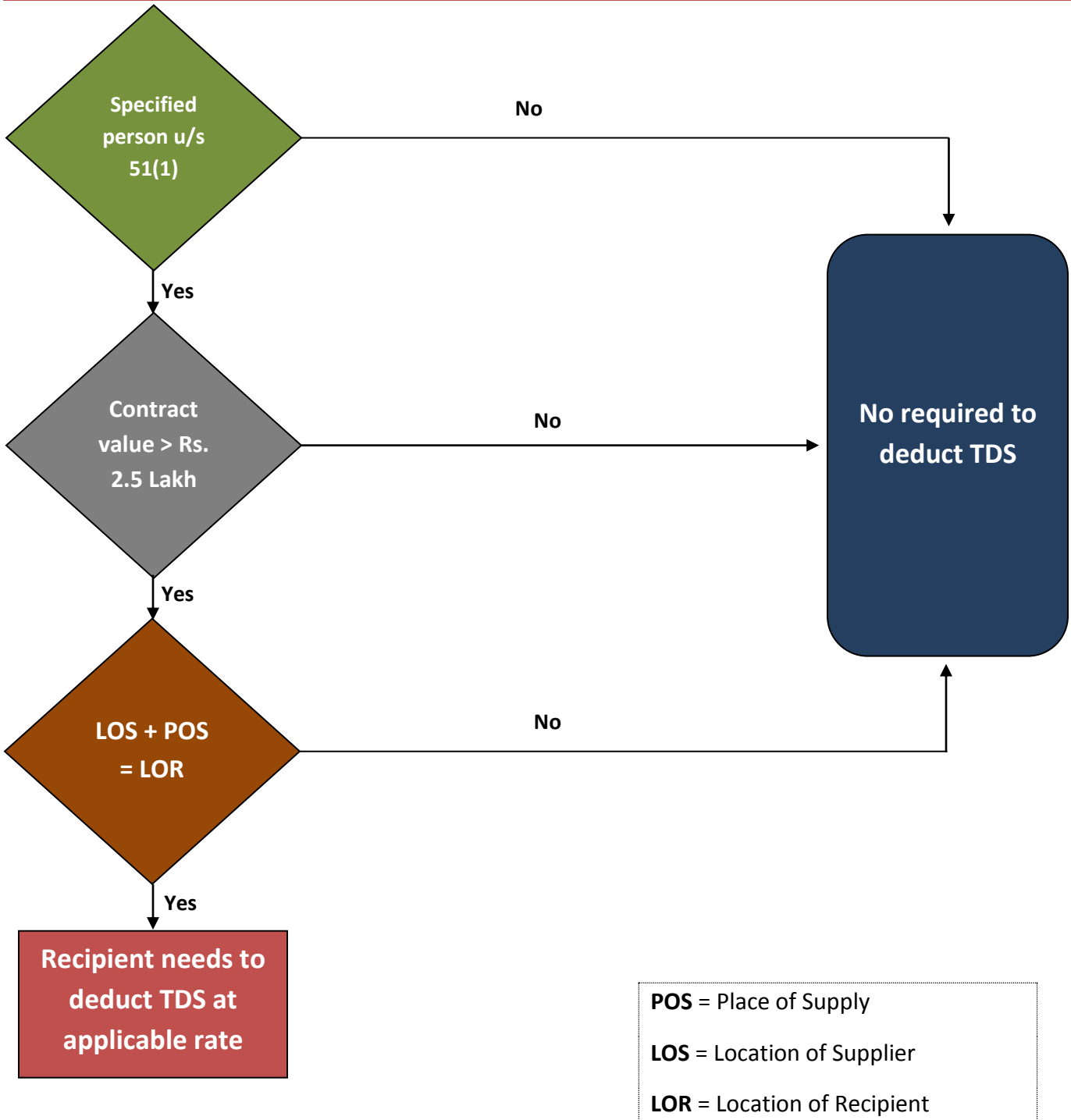
Notification No. 33/2017 – Central Tax dated 15.09.2017 was issued by the CBIC to enable registration of tax deductor. However, Government suspended the applicability of TDS till 30.09.2018. Now, vide Notification No. 50/2018 – Central Tax dated 13.09.2018, TDS provisions are made operative with effect from **01.10.2018**.

APPLICABLE RATE:

For Intra State supply – CGST @ 1 % and SGST @ 1%

For Inter State Supply – IGST @ 2%

Requirement of TDS



Person liable to deduct TDS [Section 51(1)]

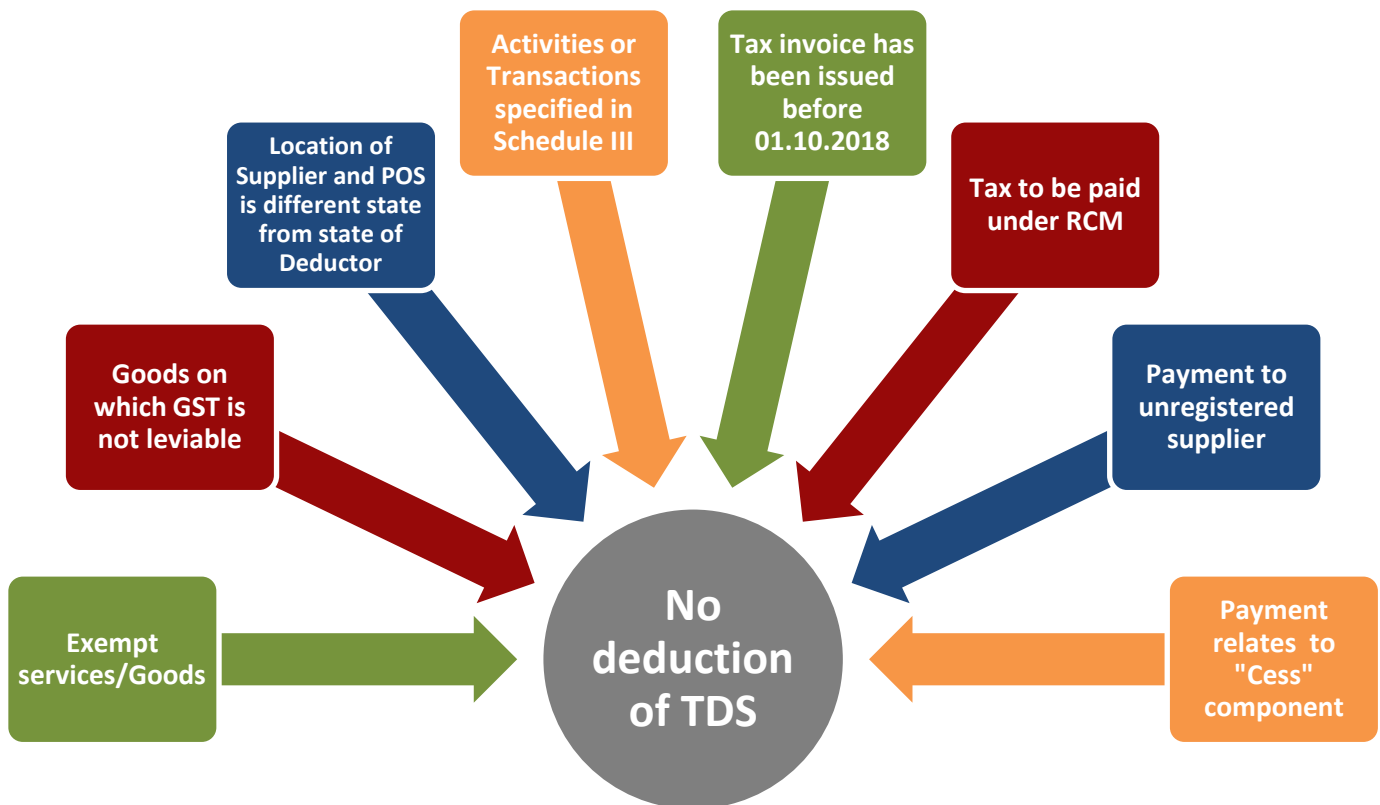
The following persons are mandatorily required to deduct TDS:-

- a. A department or establishment of the Central/ 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.

Apart from above persons, Notification no 50/2018 notifies following class of persons under clause (d) of Section 51(1):-

- 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 51% or more participation by way of equity or control, to carry out any function;
- b. Society established by the Central/ State Government or a Local Authority under the Societies Registration Act,1860;
- c. Public sector undertaking.

Person not liable to deduct TDS



Registration of Deductor of TDS

- The existing deductors of TDS/ TCS under VAT Act will not be automatically migrated to GST.
- Section 24(vi) of the CGST Act, 2017 provides for compulsory liability for registration for the deductor of TDS.
- A deductor in GST will be required to get itself registered and obtain a GSTIN (GST Identification Number) as a TDS deductor even if he is separately registered as a supplier by filing application Form in GST REG 07.
- A deductor has to get himself registered through the portal www.gst.gov.in by using their PAN/TAN.
- The entire registration process is online.

Payment of TDS

VALUE ON WHICH TDS TO BE PAID:

For purpose of calculating TDS, the value of supply is to be taken as the amount excluding the Tax indicated on the face of invoice. It means TDS shall not be deducted on the CGST, SGST or IGST component of invoice.

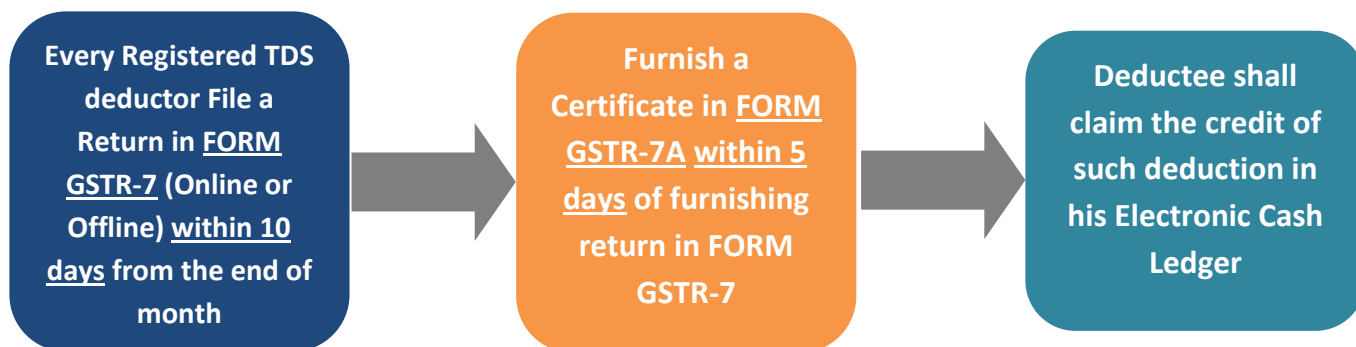
TIME-LIMIT FOR DEPOSITING TDS:

TDS shall be deposited with Government within 10 days from the end of the month in which Tax is deducted by deductor.

By nature, the method of depositing TDS under GST is very much similar with the method followed for VAT payment VAT Regime. In GST, there is a single portal www.gst.gov.in for registration, payment and filing of Returns.

The deductor has to generate a challan in the portal at www.gst.gov.in and deposit the Tax so deducted through e-payment mode [Net Banking/Debit-Credit card/NEFT-RTGS] or OTC Mode [Cash/Cheque/DD].

Process of TDS return and TDS certificate



Provision for late fees for late filing of GSTR-7

Particulars	Fail to furnish Form GSTR 7 (TDS Return)	Fail to furnish Form GSTR 7A (TDS certificate)
Responsible	Deductor	Deductor
Period	Within 10 days from the end of a month	Within 5 days from furnishing return in FORM GSTR 7
Late Fees	Rs. 100/- per day under CGST and SGST each head from the expiry of period subject to Maximum of Rs. 5,000/- under CGST and SGST each head	Rs. 100/- per day under CGST and SGST each head from the expiry of period subject to Maximum of Rs. 5,000/- under CGST and SGST each head

Mr X has deducted Rs 1 lakh of TDS in Nov'18. He deposits Rs 70,000/- on 10.12.2018 & the rest of Rs 30,000 on 30.01.2019. He submits the return in FORM GSTR 7 on 28.02.2019. Has he incurred any liability to pay late fee or interest? Is he liable to pay any penalty?

Electronic Cash Ledger of the DDO is credited on 10.12.2018 and 30.01.2019 with Rs. 70,000/- and Rs. 30,000/- respectively on account of deposit of TDS of Rs 70,000/- on 10.12.2018 & Rs 30,000 on 30.01.2019. Since return in FORM GSTR 7 for the month of November, 2018 is filed on 28.02.2019, late fee of 80 days (11.12.2018 to 28.02.2019) have to be paid under CGST and SGST. The amount of late fee will be restricted to Rs. 5,000/- (upper limit provided in the Act). Interest has also to be paid for the delay. Penalty is also payable by a DDO if he fails to deduct the tax in accordance with the provisions of sub-section (1) of section 51, or deducts an amount which is less than the amount required to be deducted under the said sub-section, or where he fails to pay to the Government under sub-section (2) of section 51 [section 122(v) refers]. He is liable to penalty of Rs.1,00,000/-.

Certain Examples requiring deduction of Tax

Situations	Deduction Required	Remarks
Finance Department is making a payment of Rs.5 Lakh to a Supplier of 'Printing & Stationery'.	Yes	Value of Taxable Supply is more than Rs. 2.5 Lakh
Education Department is making payment of Rs. 3 Lakh for Books and Rs. 4 Lakh for other printed or illustrated post cards	Yes, deduction is only required for Rs. 4 Lakh i.e. for payment in respect of Taxable Supply	Books are exempted therefore no deduction is required
Finance Department is making payment of Rs. 1.5 Lakh to a Supplier of 'Car Rental Service'.	No	Value of Supply under a contract is < Rs. 2.5 Lakh, mandatory only exceeding Rs. 2.5 Lakh irrespective of Amount paid
Health Department executed a contract with a Local supplier to supply "medical grade oxygen" of Rs.2.6 Lakh (incl GST) and is making full payment (Tax Rate 12%)	No	Taxable value of Supply (excl GST) stands at $Rs.2.6 * 100 / 112 = Rs.2.32$ Lakh < Rs.2.5 Lakh.
Municipal Corporation of Kolkata purchases a heavy generator from a Supplier in Delhi and making payment of Rs. 5 Lakh	Yes, deduction is required @ 2%	Deduction is required in case of Inter-State supply
Fisheries Department is making a payment of Rs. 10 Lakh to a contractor for supplying labour for digging a pond for the purpose of Fisheries	No	This supply of Service is exempt as per Notification No.12/2017-CT(Rate) and hence deduction is not required.
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	No	This supply of service is exempt as per Notification No.12/2017-CT(Rate) as amended and hence deduction is not required.
Health Department is making payment of Rs.10 Lakh to a supplier for supply of Hearing Aids	No	This supply of service is exempt as per Notification No.2/2017-CT(Rate) as amended and hence deduction is not required.

Different situations where TDS applicable or not

Location of Supplier	Place of Supply	Location of Recipient	Type of Supply	TDS applicable	GST
Gujarat	Gujarat	Gujarat	Intra State	Yes	CGST+SGST
Gujarat	Maharashtra	Gujarat	Inter State	Yes	IGST
Delhi	Punjab	Punjab	Inter State	Yes	IGST
Maharashtra	Maharashtra	Maharashtra	Intra State	Yes	CGST+SGST
Maharashtra	Gujarat	Gujarat	Inter State	Yes	IGST
Maharashtra	Gujarat	Maharashtra	Inter State	Yes	IGST
Gujarat	Rajasthan	Maharashtra	Inter State	Yes	IGST
Maharashtra	Maharashtra	Gujarat	Intra-State	No	-
Gujarat	Gujarat	Maharashtra	Intra-State	No	-

Practical Issues

Supplier X makes taxable supply worth Rs. 10,000/- to a Municipality where contract for supply is for Rs.15,00,000/-. The rate of GST is 18%. Supplier and the deductor are in the same State. Following payment is being made by this Municipality to X: Rs. 10,000 (value of supply) + 1,800 (Central + State Tax).

Value of Supply = Rs. 10,000/-

Tax to be deducted from payment:

CGST = 1% of 10,000 = Rs.100/- and SGST = 1% of 10,000 = Rs.100/-

Payment due to X after TDS = Rs. 11,600/-

Supplier Z is a person registered under the composition scheme in Jharkhand who makes taxable supply worth Rs. 10,000/- to a Local Authority of Jharkhand where value of taxable supply under the contract is for Rs. 2,55,000/-. Rs.10,000/- payment is being made by the Local Authority of Jharkhand to Z. Whether TDS shall be deducted or not?

Value of Taxable supply under the contract is more than Rs. 2.5 Lakh and hence deduction of Tax is required.

Mr. A has entered into a contract worth Rs. 10 Lakh with a supplier XYZ prior to 01.10.2018. He has made a payment of Rs.3 Lakhs to him prior to 01.10.2018. Now, he is making payment of the balance amount of Rs.7 Lakh after 01.10.2018. On what amount should he deduct tax?

Tax cannot be deducted for any payment made prior to 01.10.2018. So, deduction will be made only in respect of Rs.7 Lakhs which is made after 01.10.2018.

Mr. A. Roy, a DDO has purchased goods during May, 2018. He could not make payment for such purchase due to shortage of allotment. He is expected to receive allotment only in October, 2018. Is he liable to deduct TDS while making payment in the month of October considering that the purchase was made before October?

The tax payer is required to adjust the TDS amount to his liability relating to such invoices in the month in which goods are supplied. Therefore, TDS cannot be made for the amount paid in October, but goods or services supplied before 30.09.2018.

How can one discharge his TDS liability?

TDS liability can be discharged by debiting of electronic cash ledger only at the time of filing return in FORM GSTR 7.

Payment is made in respect of a single contract whose value of taxable supply is Rs. 3.5 Lakh. Two bills amounting to Rs 1.5 lakh & Rs. 2 lakhs respectively are passed for such payment. Since in respect of both the bills the amount paid does not exceed Rs. 2.5 lakh, Whether TDS is required to be deducted in such case?

Yes. Here the payments are being made against a single contract value of taxable supply exceeding Rs.2.5 Lakh. Here, the value of taxable supply in the contract is Rs.3.5 lakhs. So, the deductor should deduct TDS on each payment to the supplier in respect of the aforesaid contract.

Can the deductee take action on the TDS credit declared by me?

After filing of return by deductor (DDOs) in FORM GSTR-7, the amount so deducted will be auto-populated in 'TDS/TCS credit receipt' table of respective suppliers. The supplier (deductee) has to accept or reject the amount so auto-populated in the table after logging on the portal. The accepted amount will be credited to Electronic cash ledger while rejected amount will be auto-populated in Amendment table of next month's FORM GSTR-7 of the deductor.

Stay connected

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