

TDS provisions have recently come in to force w.e.f. 1st October 2018 as before this, the provisions were kept in abeyance till June 30, which were later deferred till September 30, 2018. The concept of TDS was already prevalent in the Income Tax Act and the introduction of the same in the GST is almost with the similar objective of enabling the government to keep a check on the transactions and to monitor the compliance and regulate the evasion of tax.

Tax Deducted at Source (TDS) is when tax is collected based on certain percentage on the amount payable by the recipient of the goods or services. The tax which is collected is a revenue for the government. A person who is liable to deduct TDS must compulsorily register as there is no threshold limit exemption applicable on the deductor.

As per this concept, the following specified persons are required to deduct tax at source: -

1. A department or an establishment of the Central Government or State Government; or
2. Local authority; or
3. Governmental agencies; or
4. Persons or category of persons as notified by the Government vide Notification No. 50/2018 – Central Tax dated 13th September 2018, the following entities also need to deduct TDS-
 - An authority or a board or any other body which has been set up by Parliament or a State Legislature or by a government, with 51% equity (control) owned by the government.
 - A society established by the Central or any State Government or a Local Authority and the society is registered under the Societies Registration Act, 1860.
 - Public sector undertakings.

TDS is deducted at the rate of 2% (1% CGST + 1% SGST or 2% IGST) on payments made to the supplier of taxable goods or services, where the total value of such supply, under an individual contract, exceeds Rs. 2,50,000. However, tax is not required to be deducted when the location of supplier and place of supply is different from the state of the registration of the recipient.

The tax deducted should be paid to the government within 10 days from the end of the month in which tax is deducted in FORM GSTR 7. The person deducting tax is also required to issue the TDS certificate in form GSTR-7A to the concerned person within 5 days of depositing the tax to the government. If the same is not complied with, the person will be liable to pay a late fee of Rs. 100 per day up to a maximum of Rs. 5000.

Conditions for Tax Deduction -

Tax is required to be deducted if the following conditions are met: -

- a) When the total value of taxable supply is more than Rs.2.5 Lakh under a single contract. This value excludes taxes & cess leviable under GST.
- b) If the contract is made for both taxable supply and exempted supply, deduction is required to be made if the total value of taxable supply in the contract is more than Rs.2.5 Lakh. This value excludes taxes & cess leviable under GST.
- c) When the supply is intra-state i.e. the location of supplier and the place of supply are in the same State/UT, TDS @ 1% each under CGST Act and SGST/UTGST Act is to be deducted if the deductor is registered in that State or UT.
- d) When the supply is inter-state i.e. the location of the supplier is in State 'A' and the place of supply is in State / UT – 'B', TDS @ 2% under IGST Act is to be deducted if the deductor is registered in State or UT – 'B'.
- e) When the supply is inter-state i.e. the location of the supplier is in State 'A' and the place of supply is in State / UT – 'B', TDS @ 2% under IGST Act is to be deducted if the deductor is registered in State or UT – 'A'
- f) If advance is paid to a supplier on or after 1st October 2018 for supply of taxable goods or services.

Tax deduction is not required in following cases:

- a) When the total value of taxable supply is equal to or less than Rs. 2.5 Lakh under a contract.
- b) When the contract value is more than Rs. 2.5 Lakh for both taxable supply and exempted supply, but the value of taxable supply under the said contract is equal to or less than Rs. 2.5 Lakh.
- c) Receipt of services which are exempted i.e. services exempted under notification No. 12/2017 – Central Tax (Rate).
- d) Receipt of goods which are exempted i.e. goods exempted under notification No. 2/2017 – Central Tax (Rate).
- e) Goods on which GST is not leviable i.e. petrol, diesel, petroleum crude, natural gas, aviation turbine fuel (ATF) and alcohol for human consumption.
- f) Where the supplier had issued an invoice for sale of goods in respect of which tax was required to be deducted at source under the VAT Law before 1st July 2017, but where payment for such sale is made on or after 1st July 2017.
- g) When the location of the supplier and place of supply is in a State/UT 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.
- i) When payment relates to a tax invoice that has been issued before 1st October 2018.
- j) Where any amount was paid in advance before 1st October 2018 and the tax invoice has been issued on or after 1st October 2018, to the extent of advance payment made before 1st October 2018.
- k) When 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.

The TDS provisions have been introduced to help monitor the transactions with the Government involving substantial consideration and also to ensure GST compliance therein.