

## **FAQs on TAX DEDUCTED AT SOURCE (TDS) under GST**

### **(1) What is TDS?**

Ans. TDS stands for Tax Deducted at Source (TDS). As per section 51, this provision is meant for Government and Government undertakings and other notified entities making contractual payments where total value of such supply under contract exceeds Rs. 2.5 Lakhs to suppliers. While making any payments under such contracts, the concerned Government/authority shall deduct 2% of the total payment made (1% under each Act and 2% in case of IGST) and remit it into the appropriate GST account.

### **(2) Who is liable for Registration as TAX DEDUCTOR under GST Act?**

Ans: As per section 51 of the CGST Act, 2017, (a) a department or establishment of the Central Government or State Government; or (b) local authority; or (c) Governmental agencies; or (d) (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 is liable for Registration as Tax Deductor under GST Act.

### **(3) Deductor means?**

Ans: The one who deducts tax at the prescribed rate from the payment made or credited to the supplier of taxable goods or services or both.

### **(4) Whether separate GSTN would be allotted to a registered person for deducting TDS?**

Ans: Yes. Government entity/public sector undertaking etc., engaged in commercial activity is supposed to get registered as "TAX DEDUCTOR" even though registered already as TAX PAYER.

### **(5) Whether a Government Department, required to deduct tax at source, is liable to take registration as a normal taxpayer?**

**Ans:** The Government Department is required to take registration as a normal taxpayer only if engaged in commercial activities and make regular business as defined under section 2(17) of the KGST Act, and in such cases, the registration

shall be obtained on the basis of PAN but Bank account is not mandatory. However, if it is not making any taxable supply of goods and/or services, it is required to register only as a deductor of tax at source on the basis of TAN/PAN.

**(6) What shall be the rate of tax to be deducted?**

Ans. As per Section 51(1) of the KGST/CGST Act, 2017 following are the prescribed rate of tax:

1%	CGST/SGST
2%	IGST

**(7) What shall be the threshold limit over which tax has to be deducted?**

**Ans:** Where the value of taxable supply of goods or services or both exceeds under a contract Rs. 2.5lakhs

**(8) What is the position in respect of exempted supply of goods or services?**

**Ans:** No need to deduct tax

**(9) What is the value on which tax is required to be deducted?**

**Ans:** Excluding the amount of CGST /SGST/IGST/Cess components indicated in the bill.

**(10) What if the location of the supplier and the place of supply is in a state which is different from the state of the recipient?**

**Ans:** No need to deduct tax

**(11) Whether the deductee can claim the input tax credit on the deduction of tax at source amount?**

Ans: No. The tax deducted at source is not input tax credit. However, the amount deducted shall be credited to the electronic cash ledger (upon being accepted by the deductee in his Form GSTR-2A) of the deductee and can be utilized for payment of output tax.

**(12) Whether TDS provisions applicable for both Intra State as well as Inter State Supplies?**

Ans. : Proviso to Section 51 (1) states that NO deduction of tax shall be made if the location of the supplier and place of supply are in two different states.

- TDS is not required to be made in respect of interstate supplies where IGST is chargeable.
- Therefore supplies in the course of Interstate trade, Exports, SEZ where the goods are cleared with payment of tax shall not attract TDS provisions.

**(13) What is the value on which TDS shall be made by the specified recipients of goods or services or both?**

As per the Explanation to Section 51 (1) – the value on which TDS shall be made by the recipient shall be the value excluding the CGST, SGST or UTGST. Therefore the TDS shall be made on a value excluding GST amount as indicated in the invoice or other document.

**(14) Is a person required to deduct tax at source under section 51 required to obtain separate registration in addition to his regular registration as a supplier of goods or services?**

Yes, he is required to take additional registration as Tax Deductor by filing FORM GST RGE-07 and RC will be issued in FORM GST REG-06.

**(15) What shall be the threshold limit, over which tax has to be deducted at the prescribed rate of tax?**

Ans. as per Section 51(1) of the KGST/CGST Act, 2017, If the **total value of supply** of taxable goods of services or both exceeds **two lakh and fifty thousand rupees**, then tax shall be deducted at prescribed rate. Hence the threshold limit is Rs. 2,50,000.

**(16) Who shall be paid the deducted tax?**

Ans. As per Section 51(2) of the KGST/CGST Act, 2017, the amount deducted as tax shall be paid to the **Government** by the deductor.

**(17) What are the provisions relating to TDS Registration under GST law?**

Ans. As per Section 24 (vi) of the KGST/CGST 2017 (Compulsory registration), the persons who are required to deduct tax under section 51, whether or not separately registered under this Act, liable to be registered as TDS deductor.

**(18) Whether a separate GSTIN would be allotted to a registered person for deducting TDS (he has PAN and TAN as well)?**

Ans: Separate registration as tax deductor is required.

**(19) What is the process of registration as Tax deductor?**

Ans. As per Rule 12 of KGST/CGST Rules, 2017, every TDS deductor is required to register under GST irrespective of their threshold limit. Following are the steps of registration:

**(a) Submission of application-** The eligible person/ category of persons 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.

**(b) Grant of Registration & issuance of certificate of registration-** 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.

**(c) Cancellation of Registration-** If 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.

**(20) What shall be the time period within which the amount of deducted tax has to be deposited to Government?**

Ans. As per Section 51(2) of the KGST/CGST Act, 2017, the amount deducted as tax shall be paid to the Government by **within ten days** after the end of the month in which such deduction is made.

**(21) How the deductee will claim credit of TDS made by deductor?**

Once GSTR 7 has been filed by the deductor, the details of tax deduction will be auto populated in Part C of GSTR 2A of the deductee and accordingly he can set off this amount against his output tax liability.

**(22) What are the consequences of non-compliances under TDS?**

Ans. Following are the list of non compliances under GST:

<b>Sl. No.</b>	<b>Event</b>	<b>Consequence</b>
1.	TDS not deducted	As per Section 50(1) of the KGST/CGST Act, 2017, Interest to be paid along with the TDS amount; else the amount shall be determined and recovered as per the law
2.	TDS certificate not issued or delayed beyond the prescribed period of five days	As per Section 51(4) of the KGST/CGST Act, 2017, late fee of Rs. 100/- per day subject to a maximum of Rs. 5000/
3.	TDS deducted but not paid to the Government or paid later than 10th of the succeeding month	As per Section 50(1) of the KGST/CGST Act, 2017, Interest to be paid along with the TDS amount; else the amount shall be determined and recovered as per the law
4.	Late filing of TDS returns	As per Section 47 of the KGST/CGST Act, 2017, Late fee of Rs. 100/- for every day during which such failure continues, subject to a maximum amount of five thousand rupees

**(23) Is there any document which the deductor is required to furnish to the deductee, if yes, then what is the time limit for furnishing the same?**

Ans. Yes, as per Section 51(3) of the KGST/CGST Act, 2017a **Certificate** has to be furnished by the Deductor to the Deductee **within five days** of crediting the amount so deducted to the Government in the prescribed manner\*.

**(24) What are the consequences if deductor fails to furnish the certificate to the deductee within the prescribed time limit?**

Ans. As per Section 51(4) of the KGST/CGST Act, 2017, If deductor fails to furnish to the deductee the certificate, after deducting the tax at source within prescribed time limit, 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**.

**(25) Can deductee claim the credit for the tax deducted at source?**

Ans. 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 the prescribed manner.

**(26) How will the Supplier account for this TDS? While filing his return?**

Ans. Any amount shown as TDS will be reflected in the electronic cash ledger of the concerned supplier. He can utilize this amount towards discharging his liability towards tax, interest fees and any other amount.

**(27) How will the TDS Deductor account for such TDS?**

Ans. TDS Deductor will account for such TDS in the following ways:

1. Such deductors needs to get compulsorily registered under section 24 of the CGST/SGST Act.
2. They need to remit such TDS collected by the 10th day of the month succeeding the month in which TDS was collected and reported in GSTR 7.
3. The amount deposited as TDS will be reflected in the electronic cash ledger of the supplier.
4. They need to issue certificate of such TDS to the deductee within 5 days of crediting the TDS to the Government account, failing which fees of Rs. 100 per day subject to maximum of Rs. 5000/- will be payable by such deductor.

**(28) How does a taxpayer get the credit of the tax deducted at source on his behalf? Does he need to produce TDS certificate from the deductee to get the credit?**

Ans. Under GST, the deductor will be submitting the deductee-wise details of all the deductions made by him in his return in Form GSTR-7 to be filed by 10th of the month next to the month in which deductions were made. The details of the deductions as uploaded by the deductor shall be auto populated in the GSTR-2 of the deductee. The taxpayer shall be required to confirm these details in his GSTR-2 to avail the credit for deductions made on his behalf. To avail this credit, he does not require to produce any certificate in physical or electronic form. The certificate will only be for record keeping of the tax payer and can be downloaded from the Common Portal.

**(29) How the amount in default shall be determined?**

Ans. The determination of the amount in default shall be made in the manner specified in section 73 or section 74 of **KGST/ CGST Act, 2017**

**(30) Is there any remedy for excess or erroneous amount deducted and paid?**

Ans. Yes, there is remedy. Any excess or erroneous amount deducted and paid to the Government account shall be dealt for refund under section 54 of the CGST Act, 2017. However, if the deducted amount is already credited to the electronic cash ledger of the supplier, the same shall not be refunded.

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