

GST Alert **17/2017-18**
Date **20.09.2017**

TDS Provisions and Compliances under GST

Government has come out with new Notification No. 33/2017-Central Tax dated 15.09.2017 notifying Section 51 of CGST Act, 2017 relating Tax Deduction at Source (TDS).

Provisions of TDS shall be applicable to persons notified by the Central Government on all transaction involving supply of goods and services.

The effective date of implementation of TDS provision shall be **18.09.2017**.

It may however be noted that with this notification only registration of persons liable to deduct TDS shall start. One would be liable to deduct tax from the payment made or credited to the supplier of taxable goods or services with effect from a date to be notified separately. Therefore no deduction has to be made from any payments right now.

Salient features of TDS Provisions are as under:

1. Following Persons are liable to comply with TDS Provisions under GST:

- a. A department or establishment of the Central Government or State Government
- b. Local authority
- c. Authority or Board
 - i. Set by an Act or Parliament or State Legislature; OR
 - ii. Established by any Government

And

having 51% or more Equity and Control

- d. Society established by Central or State Government or local authority under the Societies Registration Act, 1860
- e. Public Sector Undertaking

It may be noted that transaction between 2 Private companies or organisations will not be liable to TDS provisions.

2. Nature of Transactions covered:

Supply of any goods or services provided to the persons specified above shall be liable to TDS in the following situations:

- a. Location of Supplier, place of supply and location of recipient are in the same state. It would be intra-State supply and TDS (CGST 1% + SGST 1%) shall be deducted.
- b. Location of Supplier as well as the place of supply are in different states. In such cases, Integrated tax would be levied. TDS to be deducted would be TDS (IGST – 2%).
- c. Supplier as well as the place of supply are in one State and the recipient is located in another State. **In such cases, TDS would not be deducted.**

In the first 2 cases where TDS is deducted, the supplier (i.e. the deductee) shall get credit of TDS so deducted in his electronic cash ledger. After deductor files return in form GSTR 7 (TDS Return), details thereof shall reflect in Part C of Form GSTR-2A and he can take credit thereof in his GSTR 2.

3. Other key provisions are as under

- A. TDS deduction is to be done if the total value of such supply, under a contract, exceeds Rs. 2.50 lacs. Thus, individual supplies may be less than Rs. 2,50,000/-, but if contract value is more than Rs. 2,50,000/-, TDS will have to be deducted.
- B. TDS is to be deducted at following rates:

CGST – 1%
SGST – 1%
Total – 2%
- C. Value on which TDS is to be deducted shall be excluding CGST, SGST, IGST or Cess, if any.
- D. TDS so deducted must be paid to Government within 10 days from the end of the month in which deduction is made.
- E. Any excess payment or erroneous deduction shall be eligible to deductor or deductee as per Refund provisions under CGST Act, 2017.
- F. Refund shall not be granted to deductor, if the amount has already been credited to electronic cash ledger of deductee.

4. Procedural aspects regarding TDS

- A. Person liable to deduct TDS is required to take separate registration vide form GST REG-07
- B. A TDS deductor has to compulsorily register without any threshold limit. The deductor has can obtain registration under GST without requiring PAN. He can obtain registration using his Tax Deduction and Collection Account Number (TAN) issued under the Income Tax Act.
- C. The proper officer may grant registration after due verification and issue a certificate of registration in FORM GST REG-06 within a period of 3 working days from the date of submission of the application
- D. Person liable to deduct TDS will have to file Return in form GSTR 7
- E. The deductor (Government body) shall be required to give a TDS certificate in form GSTR 7A within 5 days of crediting the said amount to government containing following details:
 - a. Contract Value
 - b. Rate of Deduction
 - c. Amount Deducted
 - d. Amount paid to Government
 - e. Any other particulars as may be prescribed by the Government
- F. If the certificate is not furnished within the time limit as prescribed then the deductor shall be liable for late fee of Rs. 200 per day from the expiry of such 5 days maximum to Rs. 10000.
- G. Penalty for late filing of TDS return is also Rs. 200 per day maximum to Rs. 10000/-.

Formulated by:

N J Jain & Associates

Chartered Accountants

CA Nitesh Jain

Managing Partner

CA Praveen Maheshwari

Partner

CA Gaurav Khetan

Partner

CA Jay Dalwadi

Partner

Disclaimer

This GST Alert is only for the purpose of information and does not constitute or purport to be an advise or opinion in any manner. The information provided is not intended to create advisor-client relationship and is not for advertising or soliciting. N J Jain & Associates do not intend in any manner to solicit work through this Tax Alert. The Tax Alert is only to share information based on recent developments and regulatory changes. N J Jain & Associates is not responsible for any error or mistake or omission in this Tax Alert or for any action taken or not taken based on the contents of this Tax Alert. Business decisions are best taken in close consultation with the advisors.