

TAX DEDUCTION AT SOURCE AND COLLECTION OF TAX AT SOURCE

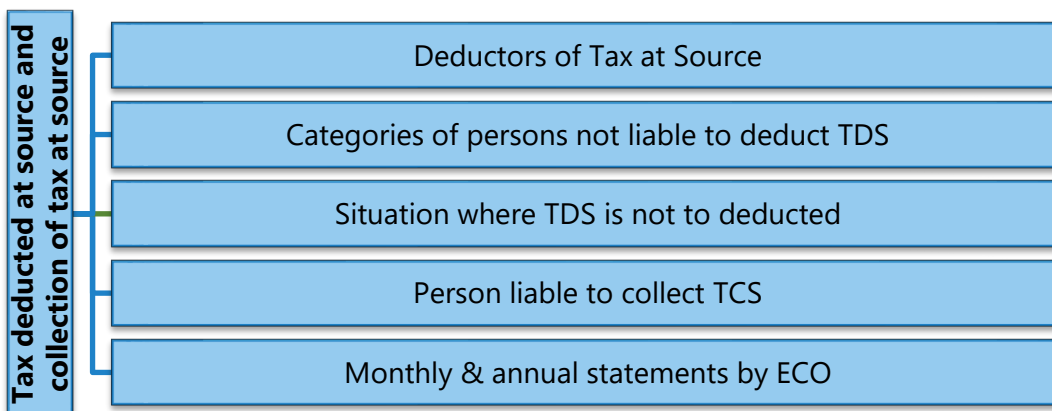


The section numbers referred to in the Chapter pertain to the CGST Act, 2017, unless otherwise specified. Examples/Illustrations/Questions and Answers given in the Chapter are based on the position of GST law existing as on 30.04.2026.

LEARNING OUTCOMES

After studying this chapter, you will be able to –

- ☐ understand and analyse the provisions relating to TDS, i.e. tax deduction at source including the list of deductors, standard rate of deduction, value of supply.
- ☐ explain the remittance period and the time within which the TDS certificate is to be issued.
- ☐ describe and analyse the TCS i.e. tax collection at source provisions relating to collection, payment and reporting of tax by electronic commerce operator.

CHAPTER OVERVIEW

1. INTRODUCTION

TDS stands for Tax Deduction at Source (TDS). Tax Deduction at Source (TDS) is a system, initially introduced by the Income Tax Department. It is one of the modes/methods to collect tax, under which, certain percentage of amount is deducted by a recipient at the time of making payment to the supplier. It facilitates

TDS sharing of responsibility of tax collection between the deductor and the tax administrator. This concept of TDS ensures regular inflow of tax collection to the Government. This mechanism acts as a powerful instrument to prevent tax evasion and expands the tax net, as it provides for the creation of an audit trail. Also, with the integration of data furnished by the Supplier and Buyer on the GST common portal, there exists an audit trail to ensure for harmony of taxes paid by the supplier.

Section 51¹ of CGST Act, 2017 provides for deduction of tax at source in certain circumstances. This Section specifically lists out the deductor's who are mandated by the Central Government to deduct tax at source, the rate of tax deduction and the procedure for remittance of the tax deducted.

On the other hand, Tax Collection at Source (TCS) has similarities with TDS, as well as a few distinctive features. TDS refers to the tax which is deducted when the recipient of goods or services make payment to or credits a supplier's account under a contract etc., while TCS refers to the tax which is collected by the electronic commerce operator, when a supplier supplies some goods or services through its portal and the payment for that supply is collected by the electronic commerce operator.

TCS

Section 52² of CGST Act, 2017 provides for collection of tax at source in certain circumstances. The Section specifically lists out the tax collecting persons who are mandated by the Central Government to collect tax at source, the rate of tax collection and the procedure for remittance of the tax collected.

The amount of tax deducted/collected is reflected in the Electronic Cash Ledger of the deductee/supplier respectively.

Provisions of TDS and TCS under CGST Act have also been made applicable to IGST Act vide section 20 of the IGST Act.



2. RELEVANT DEFINITIONS



Local authority means

- (a) a "Panchayat" as defined in clause (d) of article 243 of the Constitution;
- (b) a "Municipality" as defined in clause (e) of article 243P of the Constitution;

¹ Students may refer "Standard Operating Procedure on TDS" issued by CBIC from CBIC website.

² Students may refer "Frequently Asked Questions on TCS" issued by CBIC from CBIC website.

- (c) a Municipal Committee, a Zilla Parishad, a District Board, and any other authority legally entitled to, or entrusted by the Central Government or any State Government with the control or management of a municipal or local fund;
 - (d) a Cantonment Board as defined in section 3 of the Cantonments Act, 2006;
 - (e) a Regional Council or a District Council constituted under the Sixth Schedule to the Constitution;
 - (f) a Development Board constituted under article 371 and article 371J of the Constitution; or
 - (g) a Regional Council constituted under article 371A of the Constitution; [Section 2(69)]
- ❖ **Cess** shall have the same meaning as assigned to it in the Goods and Services Tax (Compensation to States) Act [Section 2(22)].
 - ❖ **Electronic Commerce** means the supply of goods or services or both, including digital products over digital or electronic network [Section 2(44)].
 - ❖ **Electronic Commerce Operator** means any person who owns, operates or manages digital or electronic facility or platform for electronic commerce [Section 2(45)].
 - ❖ **Taxable supply** means a supply of goods or services or both which is leviable to tax under this Act [Section 2(108)].
 - ❖ **Supplier** in relation to any goods or services or both, shall mean the person supplying the said goods or services or both and shall include an agent acting as such on behalf of such supplier in relation to the goods or services or both supplied; [Section 2((105)]
 - ❖ **Notification** means a notification published in the official gazette and the expressions "notify" and "notified" shall be constructed accordingly.



3. TAX DEDUCTION AT SOURCE [SECTION 51 OF CGST ACT]

	STATUTORY PROVISIONS	
Section 51	Tax deduction at source	
Sub-Section	Clause	Particulars
(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.	

(2)	<i>The amount deducted as tax under this section shall be paid to the Government by the deductor within ten days after the end of the month in which such deduction is made, in such manner as may be prescribed.</i>
(3)	<i>A certificate of tax deduction at source shall be issued in such form and in such manner as may be prescribed.</i>
(5)	<i>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 such manner as may be prescribed.</i>
(6)	<i>If any deductor fails to pay to the Government the amount deducted as tax under sub-section (1), he shall pay interest in accordance with the provisions of sub-section (1) of section 50, in addition to the amount of tax deducted.</i>
(7)	<i>The determination of the amount in default under this section shall be made in the manner specified in section 73 or section 74 or section 74A ³.</i>
(8)	<i>The refund to the deductor or the deductee arising on account of excess or erroneous deduction shall be dealt with in accordance with the provisions of section 54⁴ :</i>
	<i>Provided that no refund to the deductor shall be granted, if the amount deducted has been credited to the electronic cash ledger of the deductee.</i>

³ The provisions of section 74A contain provisions relating to determination of tax not paid/short paid or erroneously refunded or ITC wrongly availed/utilized for any reason pertaining to Financial Year 2024-25 onward. Detailed provisions of section 74A will be discussed at the Final level. The provisions of sections 73 and 74 are applicable for tax determination relating to the past period up to the Financial Year 2023-24.

⁴ The provisions relating to section 54 will be discussed in detail at Final level.



ANALYSIS

❑ Deductors of Tax at Source

Under the GST regime, section 51 of the CGST Act, 2017 prescribes the authority and procedure for 'tax deduction at source'. The TDS provisions empower the Central Government to make it mandatory for the following persons (the deductor) to deduct tax at source from payments made to the suppliers of taxable goods and/or services.

**Central/State Government
department or establishment
[Section 51(1)(a)]**

Local Authority [Section 51(1)(b)]

**Governmental Agencies
[Section 51(1)(c)]**

**Notified Persons/category of
persons [Section 51(1)(d)]**

With respect to deductors under section 51(1)(a), provisions of TDS are applicable to certain prescribed authorities of Ministry of Defence, remaining authorities under the Ministry of Defence are exempt. Detailed list has been specified under *Notification 57/2018 CT dated 23.10.2018*.

The following persons have been notified under clause (d) of sub-section (1) of section 51 of the CGST Act by the Central Government⁵:

- (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;

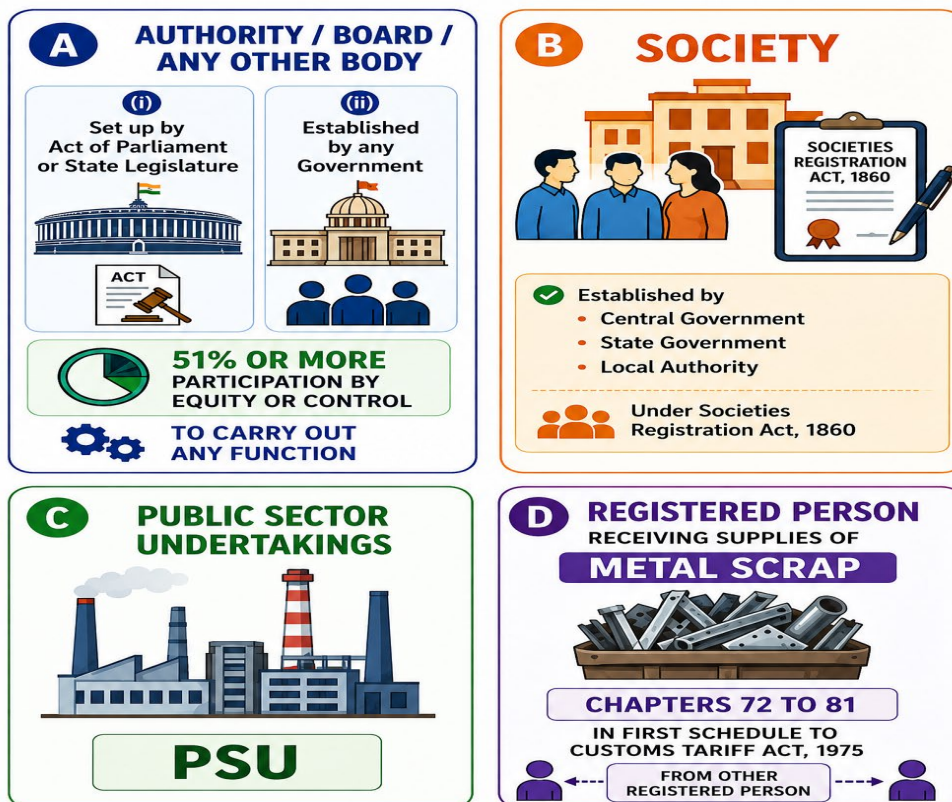
It has been clarified vide *Circular No. 76/50/2018 GST dated 31.12.2018* that the rider of 51% or more participation by way of equity or control

⁵ *Notification No. 50/2018 CT dated 13.09.2018*

is applicable to both the items (i) and (ii). Thus, the provisions of section 51 of the CGST Act are applicable only to such authority or a board or any other body set up by an Act of parliament or a State legislature or established by any Government in which 51% or more participation by way of equity or control is with the Government.

- (b) society established by the Central Government or the State Government or a Local Authority under the Societies Registration Act, 1860;
- (c) public sector undertakings
- (d) any registered person receiving supplies of metal scrap falling under Chapters 72 to 81 in the First Schedule to the Customs Tariff Act, 1975, from other registered person

PERSONS NOTIFIED UNDER SECTION 51(1)(d) OF CGST ACT



❑ **Categories of persons not liable to deduct TDS**

Tax is not liable to be deducted at source in the following cases:-

- (i) When goods and/or services are supplied from a public sector undertaking (PSU) to another PSU, whether or not a distinct person
- (ii) When supply of goods and/or services takes place between one person to another person specified under clauses (a), (b), (c) and (d) of sub-section (1) of Section 51 of the said Act, except the person referred to in clause (d) of Notification No. 50/2018 CT dated 13.09.2018 (i.e. a registered person receiving supplies of metal scrap).

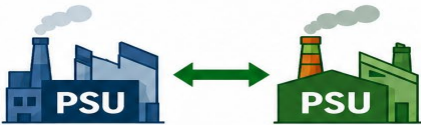
❑ **Deductees**

The deductees are the suppliers whose total value of supply of taxable goods and/or services under a contract exceeds ₹ 2,50,000 exclusive of tax & cess as per the invoice.

CATEGORIES OF PERSONS NOT LIABLE TO DEDUCT TDS

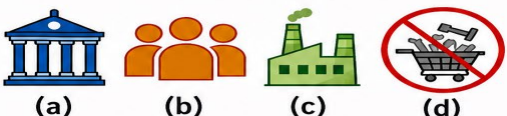
! TAX IS NOT LIABLE TO BE DEDUCTED AT SOURCE IN THE FOLLOWING CASES:-

1 SUPPLY BETWEEN PSU TO ANOTHER PSU



WHETHER OR NOT A DISTINCT PERSON

2 SUPPLY BETWEEN PERSONS SPECIFIED UNDER CLAUSES (a), (b), (c) AND (d) OF SECTION 51(1)



EXCEPT PERSON REFERRED TO IN CLAUSE (d) – METAL SCRAP RECEIVER (NOTIFICATION NO. 50/2018 CT DATED 13.09.2018)

DEDUCTEEES



SUPPLIER (DEDUCTEE)



INVOICE

SUPPLIERS WHOSE TOTAL VALUE OF SUPPLY OF TAXABLE GOODS AND/OR SERVICES UNDER A CONTRACT EXCEEDS

₹ 2,50,000

EXCLUSIVE OF TAX & CESS AS PER THE INVOICE



CONTRACT

❑ Standard Rate of deduction

The tax would be deducted @ 1% under CGST Act, 2017 of the payment made to the supplier (the deductee) of taxable goods and/or services, where the total value of such supply, under a contract, exceeds ₹ 2,50,000 (excluding the amount of Central tax, State tax, Union Territory tax, Integrated tax and cess indicated in the invoice). Thus, individual supplies may be less than ₹ 2,50,000/-, but if total value of supplies under a contract is more than ₹ 2,50,000/-, TDS has to be deducted.

TDS-1% + 1% [CGST + SGST] on net value of taxable supplies

The deductors have to deduct tax at the rate of 1% from the payment made or credited to the supplier of taxable goods and/or services under CGST Act, 2017.



It may be noted that Section 20 of IGST Act provides that in the case of tax deducted at source, the deductor shall deduct tax at the rate of 2% from the payment made or credited to the supplier.



(1) The National Highways Authority of India (NHAI), set up by an Act of Parliament, awards a road construction contract worth ₹ 50 lakh to a private contractor. Since NHAI is a body established by an Act of Parliament with 100% Government control, it qualifies as a deductor and must deduct TDS on payments to the contractor.

(2) Bharat Heavy Electricals Ltd (BHEL), a PSU, supplies turbines worth ₹ 30 lakh to NTPC Ltd, another PSU, for a power plant project. Even though both are notified deductors, since the supply is from one PSU to another PSU, TDS is not liable to be deducted in this transaction.

(3) Mohan Enterprises, a registered person, purchases metal scrap falling under Chapter 74 of the Customs Tariff Act from another registered supplier, 'Kiran Metals', for ₹4,00,000 under a single contract. Mohan Enterprises must deduct TDS on the payment made to Kiran Metals, since registered persons receiving supplies of metal scrap from other registered persons are specifically notified as deductors under clause (d) of section 51(1), and this category is not exempt even when the transaction is between two persons.

(4) Ravi Authority, a body established by the Central Government under clause (a) of section 51(1), procures taxable goods worth ₹ 3,50,000 from Suresh Society, a society established by a State Government and covered under clause (b) of section 51(1). Ravi Authority is not liable to deduct TDS on this payment, since the supply takes place between two persons both specified under clauses (a) to (d) of section 51(1) (other than the metal scrap category).

(5) A State Government department enters into a single annual maintenance contract with a vendor for ₹ 3,00,000 (excluding GST), to be billed through four quarterly invoices of ₹ 75,000 each. Although each individual invoice is below ₹ 2,50,000, the total contract value exceeds ₹ 2,50,000. Hence, TDS @1% (CGST) + 1% (SGST) must be deducted on each payment made under the contract.

❑ NO TDS

The Proviso to Section 51(1) lays down that when the location of the supplier and the place of supply is in a State/ Union territory which is different from the State/ Union territory of registration of the recipient, there will be no TDS.

The above statement can be explained in the following situations:

(a) Supplier, place of supply and recipient are in the same state.

It would be intra-State supply and TDS (Central plus State tax) shall be deducted. It would be possible for the supplier (i.e. the deductee) to take credit of TDS in his electronic cash ledger.

(b) 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 (Integrated tax) and it would be possible for the supplier (i.e. the deductee) to take credit of TDS in his electronic cash ledger.

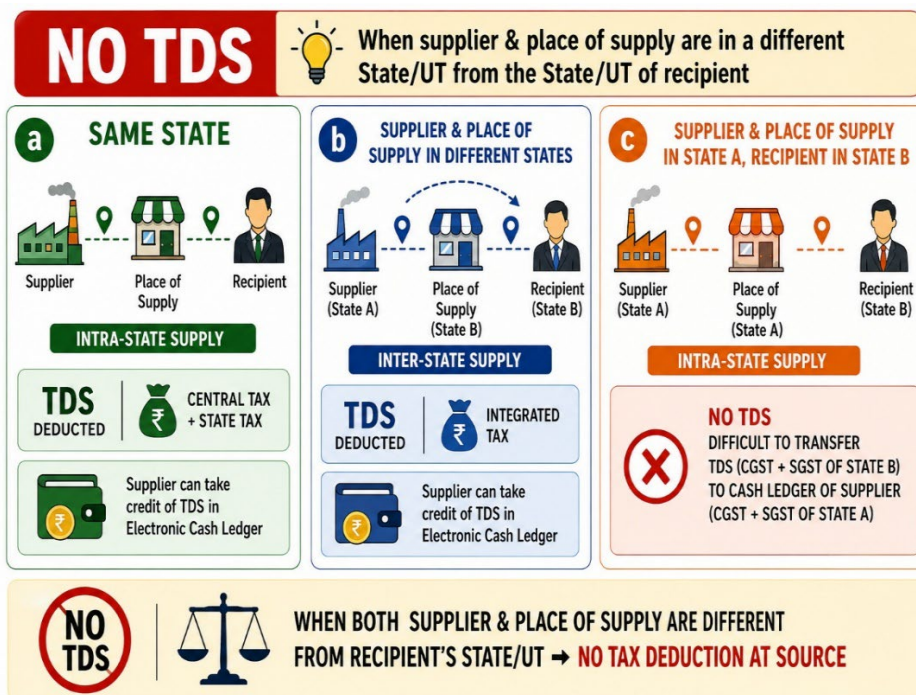
(c) Supplier as well as the place of supply are in State A and the recipient is located in State B.

The supply would be intra-State supply and Central tax and State tax would be levied. In such case, transfer of TDS (Central tax + State tax of State B) to the cash ledger of the supplier (Central tax + State tax of

State A) would be difficult. So, in such cases, TDS would not be deducted.

Thus, when both the supplier as well as the place of supply are different from that of the recipient, no tax deduction at source would be made.

Location of Supplier	Place of Supply	Registration of Recipient	TDS u/s 51
State A	State A	State A	Yes
State A	State A	State B	No
State A	State B	State B	Yes
UT1	UT1	UT1	Yes
UT1	UT2	UT2	Yes
UT1	UT1	UT2	No





(6) A Government Department registered in Maharashtra procures office furniture through a supplier located in Maharashtra. The furniture is delivered within Maharashtra.

The supply is an intra-State supply. TDS under CGST and SGST is deductible (subject to the prescribed conditions).

(7) A Government Department registered in Maharashtra procures laptops from a supplier located in Karnataka, and the laptops are delivered in Maharashtra.

The supply is an inter-State supply. TDS under IGST is deductible (subject to the prescribed conditions).

(8) A Government Department is registered in Delhi. It procures stationery from a supplier located in Haryana, and the stationery is delivered in Haryana.

The supply is an intra-State supply in Haryana. Since both the supplier and the place of supply are in Haryana, whereas the recipient is registered in Delhi, no TDS is deductible under the proviso to section 51(1).

(9) A Government department registered in Rajasthan awards a contract worth ₹4,00,000 to a supplier also registered in Rajasthan, and the goods are delivered within Rajasthan (place of supply being Rajasthan). Since the supplier, place of supply, and recipient are all in the same State, it is an intra-State supply. TDS (CGST + SGST) is deducted, and the supplier can claim credit of this TDS in his electronic cash ledger.

(10) A PSU registered in Karnataka procures machinery from a supplier registered in Tamil Nadu, with the place of supply being Karnataka (recipient's location). Here, the supplier (Tamil Nadu) and place of supply (Karnataka) are in different States, so it is an inter-State supply attracting Integrated tax. TDS is deducted as IGST @2%, and the supplier can claim credit in his electronic cash ledger.

(11) A local authority registered in Punjab (State B) engages a contractor for construction work to be executed in Haryana (State A), where the supplier is also registered in Haryana. Since the supplier and place of supply are both in Haryana (State A) but the recipient is registered in Punjab (State B), the supply is intra-State (Haryana CGST + Haryana SGST). However, transferring this TDS to the recipient's cash ledger (which needs Punjab SGST) is not possible. Hence, no TDS is deducted in this case.

❑ Value of Supply

The amount indicated in the invoice excluding the Central tax, State tax, Union territory tax, Integrated tax and cess element, is the value of supply for the purpose of TDS under Section 51 of CGST Act, 2017.

**Value of supply
shall exclude
tax & cess**

❑ Deposit of TDS with the Government

The amount of tax deducted at source should be deposited to the Government account by deductor by 10th of the succeeding month.

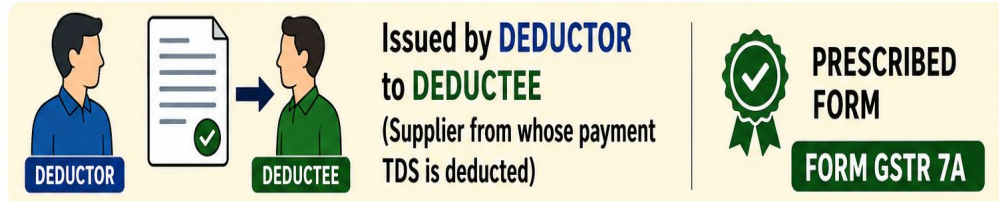
❑ TDS Certificate

A TDS certificate is required to be issued by deductor (the person who is deducting tax) in prescribed form to the deductee (the supplier from whose payment TDS is deducted).

The content of Form GSTR 7A (TDS Certificate) are given below:

1. TDS Certificate No.
2. GSTIN of deductor
3. Name of deductor
4. GSTIN of deductee
5. (a) Legal name of the deductee
(b) Trade name, if any
6. Tax period in which tax deducted and accounted for in GSTR-7
7. Details of supplies
8. Amount of tax deducted

TDS CERTIFICATE



CONTENTS OF FORM GSTR 7A (TDS CERTIFICATE)



❑ Non-remittance by the deductor

If the deductor has not remitted the amount deducted as TDS to the Government within the prescribed time limit, he is liable to pay penal interest under Section 50 in addition to the amount of tax deducted.

❑ Reflection of amount of TDS

The amount of tax deducted is reflected in

- Electronic Cash Ledger of deductee.
- Return filed by deductor under section 39(3). [GSTR-7] [Refer Chapter:15 Returns for detailed discussion on GSTR-7].

The deductee can claim credit of the tax deducted, in his electronic cash ledger. This provision enables the Government to cross check whether the amount deducted by the deductor is correct and that there is no mis-match between the amount reflected in the electronic cash ledger and the amount shown in the return filed by deductor.

This is similar to existing practice in income tax relating to E-TDS returns filed by deductor and 26AS statement available for viewing the TDS remitted in respect of transactions by deductee.

❑ **Determination of amount in Default**

Any default in determination of the amount under section 51 shall be made in the manner specified in section 73 or section 74 or section 74A,⁶ as the case may be.

❑ **Refund on excess/erroneous deduction**

The deductor or the deductee can claim refund of excess deduction or erroneous deduction. The provisions of section 54⁷ relating to refunds would apply in such cases.

❑ **Registration⁸ [Rule 12 of CGST Rules, 2017]**

Any person required to deduct tax in accordance with the provisions of section 51 shall electronically submit a registration application in prescribed form through the common portal. The proper officer shall, after due verification, grant registration within 3 working days from the date of the application. Also, on a request or upon an enquiry or pursuant to any other proceeding under the Act, if the proper officer is satisfied that a person is no longer liable to deduct tax at source under section 51, then the said officer may cancel the said registration, following procedures as provided in Rule 22 of the CGST Rules for the cancellation of registration.

⁶ The provisions of section 74A contain provisions relating to determination of tax not paid/short paid or erroneously refunded or ITC wrongly availed/utilized for any reason pertaining to Financial Year 2024-25 onward. Detailed provisions of section 74A will be discussed at the Final level. The provisions of sections 73 and 74 are applicable for tax determination relating to the past period up to the Financial Year 2023-24.

⁷ The provisions relating to section 54 will be discussed in detail at Final level.

⁸ The provisions relating to registration have already been discussed in Chapter-9 of this Module.



(12) Supplier makes a supply worth ₹ 20 lakh to a recipient and the GST at the rate of 18% is required to be paid. The recipient, while making the payment of ₹ 20 lakh to the supplier, shall deduct 2% [CGST 1% + SGST 1%] viz ₹ 40,000 as TDS.

The value for TDS purpose shall not include 18% GST. The TDS, so deducted, shall be deposited in the account of Government by 10th of the succeeding month.

The TDS so deposited in the Government account shall be reflected in the electronic cash ledger of the supplier (i.e. deductee) who would be able to use the same for payment of tax or any other amount.



4. COLLECTION OF TAX AT SOURCE [SECTION 52 OF CGST ACT]

	STATUTORY PROVISIONS	
Section 52	Collection of tax at source	
Sub-Section	Clause	Particulars
(1)		<i>Notwithstanding anything to the contrary contained in this Act, every electronic commerce operator (hereafter in this section referred to as the "operator"), not being an agent, shall collect an amount calculated at such rate not exceeding one per cent., as may be notified by the Government on the recommendations of the Council, of the net value of taxable supplies made through it by other suppliers where the consideration with respect to such supplies is to be collected by the operator.</i>
Explanation		<i>For the purposes of this sub-section, the expression "net value of taxable supplies" shall mean the aggregate value of taxable supplies of goods or services or both, other than services notified under sub-section (5) of section 9, made during any month by all registered</i>

	<i>persons through the operator reduced by the aggregate value of taxable supplies returned to the suppliers during the said month.</i>
(2)	<i>The power to collect the amount specified in sub-section (1) shall be without prejudice to any other mode of recovery from the operator.</i>
(3)	<i>The amount collected under sub-section (1) shall be paid to the Government by the operator within ten days after the end of the month in which such collection is made, in such manner as may be prescribed.</i>
(4)	<i>Every operator who collects the amount specified in sub-section (1) shall furnish a statement, electronically, containing the details of outward supplies of goods or services or both effected through it, including the supplies of goods or services or both returned through it, and the amount collected under sub-section (1) during a month, in such form and manner as may be prescribed, within ten days after the end of such month</i>
	<i>Provided that the Commissioner may, for reasons to be recorded in writing, by notification, extend the time limit for furnishing the statement for such class of registered persons as may be specified therein:</i>
	<i>Provided further that any extension of time limit notified by the Commissioner of State tax or the Commissioner of Union territory tax shall be deemed to be notified by the Commissioner</i>
(5)	<i>Every operator who collects the amount specified in sub-section (1) shall furnish an annual statement, electronically, containing the details of outward supplies of goods or services or both effected through it, including the supplies of goods or services or both returned through it, and the amount collected under the said sub-section during the financial year, in such form and manner as may be prescribed, before the thirty first day of December following the end of such financial year</i>

	<i>Provided that the Commissioner may, on the recommendations of the Council and for reasons to be recorded in writing, by notification, extend the time limit for furnishing the annual statement for such class of registered persons as may be specified therein:</i>	
	<i>Provided further that any extension of time limit notified by the Commissioner of State tax or the Commissioner of Union territory tax shall be deemed to be notified by the Commissioner</i>	
(6)	<i>If any operator after furnishing a statement under sub-section (4) discovers any omission or incorrect particulars therein, other than as a result of scrutiny, audit, inspection or enforcement activity by the tax authorities, he shall rectify such omission or incorrect particulars in the statement to be furnished for the month during which such omission or incorrect particulars are noticed, subject to payment of interest, as specified in sub-section (1) of section 50:</i>	
	<i>Provided that no such rectification of any omission or incorrect particulars shall be allowed after the thirtieth day of November following the end of the financial year or the actual date of furnishing of the relevant annual statement, whichever is earlier.</i>	
(7)	<i>The supplier who has supplied the goods or services or both through the operator shall claim credit, in his electronic cash ledger, of the amount collected and reflected in the statement of the operator furnished under sub-section (4), in such manner as may be prescribed.</i>	
(12)	<i>Any authority not below the rank of Deputy Commissioner may serve a notice, either before or during the course of any proceedings under this Act, requiring the operator to furnish such details relating to —</i>	
	(a)	<i>supplies of goods or services or both effected through such operator during any period; or</i>

	(b)	stock of goods held by the suppliers making supplies through such operator in the godowns or warehouses, by whatever name called, managed by such operator and declared as additional places of business by such suppliers,
		as may be specified in the notice.
(13)		Every operator on whom a notice has been served under sub-section (12) shall furnish the required information within fifteen working days of the date of service of such notice.
(14)		Any person who fails to furnish the information required by the notice served under sub-section (12) shall, without prejudice to any action that may be taken under section 122 ⁹ , be liable to a penalty which may extend to twenty-five thousand rupees.
Explanation		For the purposes of this section, the expression "concerned supplier" shall mean the supplier of goods or services or both making supplies through the operator.



ANALYSIS

Overview of TCS

TCS refers to the tax which is collected by the electronic commerce operator when a supplier supplies taxable goods or services through portal of e-commerce operator and the payment for that supply is collected by said electronic commerce operator. The nature of working of electronic commerce operator can be better understood with the following example.



(13) There are many e-Commerce operators [hereinafter referred to as an Operator], like Amazon, Flipkart, Urban clap etc. operating in India. These operators display on their portal products as well as services which are actually supplied by some other person to the consumer.

⁹ The provisions relating to section 122 will be discussed in detail at Final level.

The goods or services belonging to other suppliers are displayed on the portals of the operators and consumers buy such goods/services through these portals. On placing the order for a particular product/service, the actual supplier supplies the selected product/service through the Operator to the consumer.

The price/consideration for the product/ service is collected by the Operator from the consumer and passed on to the actual supplier after the deduction of commission and incidental expenses mutually agreed upon by the Operator.

Let us now have a look at the statutory provisions relating to TCS.

❑ Who is liable to collect TCS ?

Every Electronic Commerce Operator (ECO), not being an agent, has been mandated to collect tax at source (TCS) on the net value of taxable supplies [supplies net of returns if any] made through it by suppliers, where the ECO collects the consideration on behalf of the supplier for such supplies.

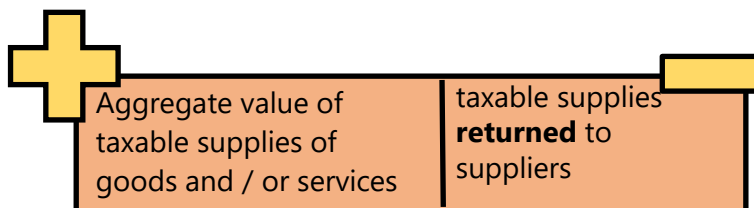
❑ Rate of TCS

0.25% of the net value of intra-State taxable supplies. 0.5% of the net value of inter-State taxable supplies.



(14) Suppose a certain product is sold at ₹ 1,180 [including GST @18%] through an Operator by a supplier. The operator would collect tax @ 0.5% of the net value of ₹ 1,000 i.e. ₹ 5 in case of inter-State supplies.

Net Value of Taxable Supplies



other than notified services under section 9(5) by all registered persons supplied through operator

WHO IS LIABLE TO COLLECT TCS ?

Every **Electronic Commerce Operator (ECO)**, **not being an agent**, has been mandated to collect tax at source (TCS) on the **net value of taxable supplies** [supplies net of returns if any] made through it by suppliers, where the ECO **collects the consideration on behalf of the supplier** for such supplies.



HOW IT WORKS



Currently, services notified under section 9(5) of CGST Act, 2017 vide *Notification No. 17/2017 CT (R) dated 28.06.2017/ Notification No. 14/2017 IT (R) dated 28.06.2017* as amended are given as below¹⁰:

- (a) services by way of transportation of passengers by a radio-taxi, motorcab, maxicab, motor cycle, or any other motor vehicle except omnibus;
- (b) Services by way of transportation of passengers by an omnibus except where the person supplying such service through ECO is a company.
- (c) services by way of providing accommodation in hotels, inns, guest houses, clubs, campsites or other commercial places meant for residential or lodging purposes, except where the person supplying such service through electronic commerce operator is liable for registration under section 22(1) of the CGST Act.
- (d) services by way of house-keeping, such as plumbing, carpentering etc, except where the person supplying such service through electronic commerce operator is liable for registration under sub-section 22(1) of the CGST Act.
- (e) supply of restaurant service other than the services supplied by restaurant, eating joints etc. located at specified premises.
- (f) *services by way of local delivery except where the person supplying such services through electronic commerce operator is liable for registration under sub section (1) of section 22 of the CGST Act, 2017.***

¹⁰ The provisions relating to section 54 will be discussed in detail at Final level.

SERVICES NOTIFIED UNDER SECTION 9(5) OF CGST ACT, 2017

a TRANSPORTATION OF PASSENGERS  RADIO-TAXI MOTORCAB MAXICAB MOTOR CYCLE OTHER MOTOR VEHICLE  EXCEPT OMNIBUS	b TRANSPORTATION OF PASSENGERS   BY OMNIBUS EXCEPT WHEN SUPPLIER THROUGH ECO IS A COMPANY	c ACCOMMODATION SERVICES  HOTELS INNS GUEST HOUSES CLUBS CAMPSITES OTHER COMMERCIAL PLACES  EXCEPT WHEN SUPPLIER THROUGH ECO IS LIABLE FOR REGISTRATION U/S 22(1) OF CGST ACT
d HOUSE-KEEPING SERVICES  PLUMBING CARPENTERING ETC.  EXCEPT WHEN SUPPLIER THROUGH ECO IS LIABLE FOR REGISTRATION U/S 22(1) OF CGST ACT	e RESTAURANT SERVICE   OTHER THAN SERVICES SUPPLIED BY RESTAURANT, EATING JOINTS ETC. LOCATED AT SPECIFIED PREMISES	f LOCAL DELIVERY SERVICE   EXCEPT WHEN SUPPLIER THROUGH ECO IS LIABLE FOR REGISTRATION U/S 22(1) OF CGST ACT



It may be noted that Section 20 of IGST Act provides that in case of tax collected at source, the operator shall collect tax at such rate not exceeding two per cent, as may be notified on the recommendations of the Council, of the net value of taxable supplies. The rate has been notified as 0.5% for tax collection at source under IGST.

Further, the power conferred on the e-commerce operator to collect tax at source, is without prejudice to other modes of recovery from operator. The powers of e-commerce operator are restricted only to the extent of tax collection at source under circumstances specified therein and nothing more.



(15) ShopKart, an e-commerce operator, facilitates sale of mobile phones worth ₹50,00,000 by various registered sellers through its platform in a month (intra-State supply), and ShopKart collects the consideration from customers on behalf of these sellers. ShopKart must collect TCS @0.5% (0.25% CGST + 0.25% SGST) of ₹50,00,000, i.e., ₹25,000, and deposit it with the Government.

(16) Through BuyBazaar's platform, registered seller Ravi Traders makes inter-State taxable supplies of ₹10,00,000 during the month of July, but goods worth ₹1,50,000 are returned by customers within the same month. The net value of taxable supplies is ₹ 8,50,000 (₹10,00,000 – ₹1,50,000). Since it is an inter-State supply, TCS @0.5% (IGST) is collected on ₹ 8,50,000, i.e., ₹ 4,250.

(17) An ECO platform called QuickMart facilitates both sale of electronic goods (₹ 5,00,000, intra-State) and radio-taxi services (₹ 2,00,000, notified under section 9(5)) in a month. Since radio-taxi services fall under section 9(5) where the ECO itself is liable to pay tax as if it is the supplier, this ₹ 2,00,000 is excluded while computing "net value of taxable supplies" for TCS purposes. TCS @ 0.5% (0.25% CGST + 0.25% SGST) is collected only on ₹ 5,00,000, i.e., ₹2,500.

(18) Ride Ease, through its app, facilitates cab rides for unregistered individual drivers amounting to ₹ 8,00,000 in a month. Since transportation of passengers by radio-taxi/motorcab is a notified service under section 9(5), Ride Ease itself is liable to pay GST on the entire ₹ 8,00,000 as if it were the supplier; no TCS is collected on this amount.

(19) Mr. Deepak, an unregistered person running a small guest house, lists his rooms on StayEasy and earns ₹ 3,00,000 in bookings during the month. Since Mr. Deepak is not required to register under section 22(1) (being below threshold) and supplies accommodation service through the ECO, StayEasy is liable to pay GST on this ₹ 3,00,000 under section 9(5); no TCS applies here.

(20) Hotel Sunrise Palace, a registered taxpayer already liable for registration under section 22(1), lists its rooms on TripNest and earns intra-State bookings worth ₹ 6,00,000 in a month. Since the hotel itself is liable to be registered under section 22(1), the exception under section 9(5)(c) applies, meaning the hotel (not the ECO) pays GST normally, and TripNest instead collects TCS @0.5% (0.25% CGST + 0.25% SGST) on the net value of ₹ 6,00,000, i.e., ₹ 3,000.

❑ Deposit of TCS by ECO to Government

The TCS amount collected by the ECO has to be remitted to the Government Treasury within 10 days after the end of the month in which the collection was made.



(21) If the TCS has been collected in the month of July, the amount has to be remitted into the Government Treasury on or before 10th August.

ILLUSTRATION 1

Mr. X is a supplier selling his own products through a web site hosted by him. Does he fall under the definition of an “electronic commerce operator”? Whether he is required to collect TCS on such supplies?

ANSWER

As per the definitions in Section 2(44) and 2(45) of the CGST Act, 2017, Mr. X will come under the definition of an “electronic commerce operator”. However, according to Section 52 of the Act *ibid*, TCS is required to be collected on the net value of taxable supplies made through it by other suppliers where the consideration is to be collected by the ECO. In cases, where someone is selling their own products through a website, there is no requirement to collect tax at source as per the provisions of this Section. These transactions will be liable to GST at the prevailing rates.

ILLUSTRATION 2

If Mr. A purchase goods from different vendors and in turn Mr. A, is selling them on his own website under his own billing, Is TCS required to be collected on such supplies?

ANSWER

No. According to Section 52 of the CGST Act, 2017, TCS is required to be collected on the net value of taxable supplies made through E-commerce operator by other suppliers where the consideration is to be collected by the ECO. In this case, there are two transactions - Mr. A purchase the goods from the vendors, and those goods are sold through his own website. For the first

transaction, GST is leviable, and will need to be paid to vendor, on which credit is available to Mr. A. The second transaction is a supply on own account of Mr. A, and not by other suppliers and there is no requirement to collect tax at source. The transaction will attract GST at the prevailing rates.

❑ Registration¹¹ [Rule 12 of CGST Rules, 2017]

Any person required to collect tax in accordance with the provisions of section 52 shall electronically submit a registration application in prescribed form through the common portal. The proper officer shall, after due verification, grant registration within 3 working days from the date of the application.

Also, on a request or upon an enquiry or pursuant to any other proceeding under the Act, if the proper officer is satisfied that a person is no longer liable to deduct tax at source under section 52 then the said officer may cancel the said registration, following procedures as provided in Rule 22 of the CGST Rules for the cancellation of registration.

❑ Filing of Monthly & Annual Statements by ECO¹²

- ✓ An **electronic statement [Form GSTR 8]** has to be filed by the ECO containing details of the outward supplies of goods and/ or services effected through it, including the supplies returned through it and the amount collected by it as TCS during the month within 10 days after the end of the each month in which supplies are made.
- ✓ The details of tax collected at source furnished by the ECO shall be made available electronically to each of the registered suppliers on the common portal after filing of FORM GSTR-8 for claiming the amount of tax collected in his electronic cash ledger after validation.
- ✓ Additionally, the ECO is also mandated to file an **Annual Statement [Form GSTR 9B]** on or before 31st day of December following the end of the financial year.

¹¹ The provisions relating to registration have already been discussed in Chapter-9 of this Module.

¹² The detailed provisions of monthly and annual statements have been discussed in Chapter 15: Returns.

- ✓ The Commissioner has been empowered to extend the due date for furnishing of monthly and annual statement by the person collecting tax at source.

FILING OF MONTHLY & ANNUAL STATEMENTS BY ECO



**ELECTRONIC
STATEMENT
FORM GSTR 8**

**WITHIN 10 DAYS AFTER
THE END OF EACH MONTH**

-  DETAILS OF OUTWARD SUPPLIES OF GOODS AND/OR SERVICES
-  INCLUDING SUPPLIES RETURNED THROUGH IT
-  AMOUNT COLLECTED BY IT AS TCS

✓ **DETAILS MADE AVAILABLE TO SUPPLIERS**



ON COMMON PORTAL | CLAIM TCS IN ELECTRONIC CASH LEDGER

✓ **ANNUAL STATEMENT FORM GSTR 9B**



ON OR BEFORE 31ST DECEMBER FOLLOWING THE END OF THE FINANCIAL YEAR

✓ **POWER TO EXTEND DUE DATE**



COMMISSIONER CAN EXTEND DUE DATE

□ Notice to the Operator seeking details

- ✓ An officer not below the rank of Deputy Commissioner can issue notice to an operator, asking him to furnish details relating to volume of the goods/services supplied, stock of goods lying in warehouses/godowns etc.
- ✓ The operator is required to furnish such details within 15 working days.
- ✓ In case an operator fails to furnish the information, besides being liable for penal action under section 122¹³, it shall also be liable for penalty up to ₹ 25,000.

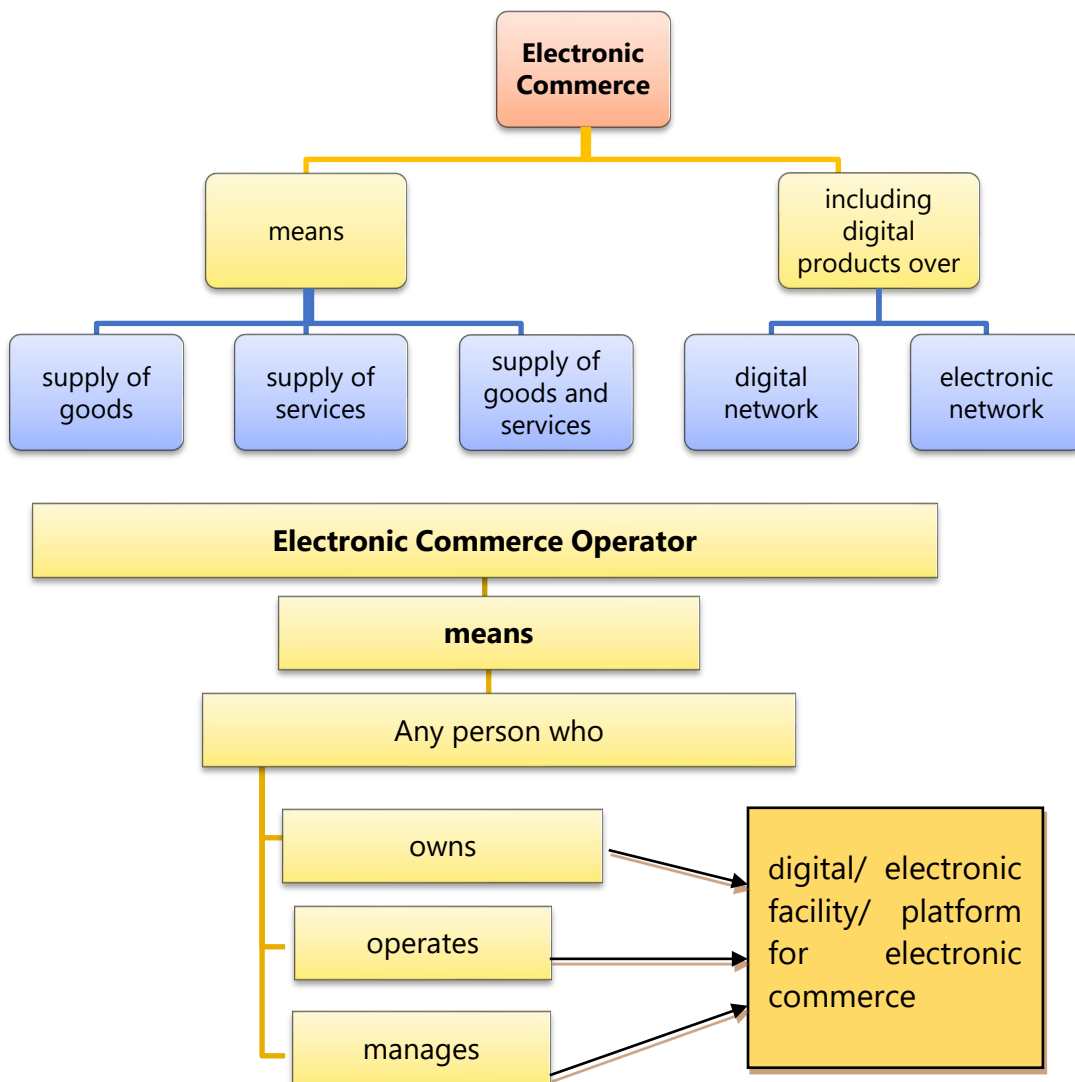
¹³ The provisions relating to section 122 will be discussed in detail at Final level.



LET US RECAPITULATE

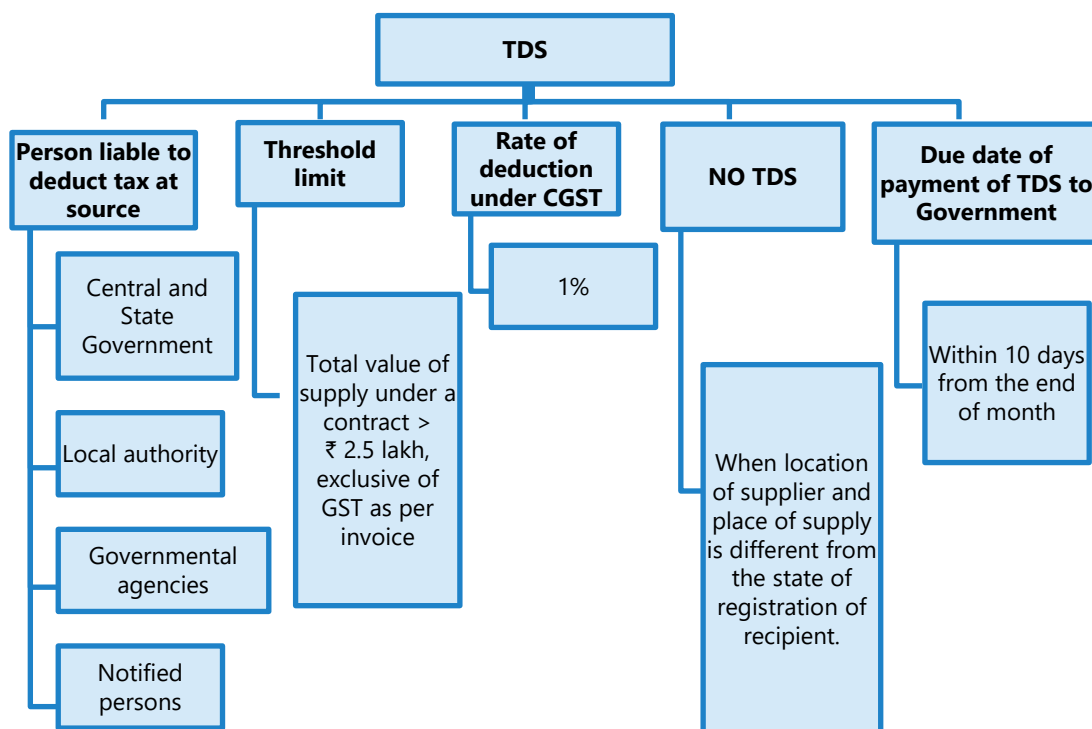
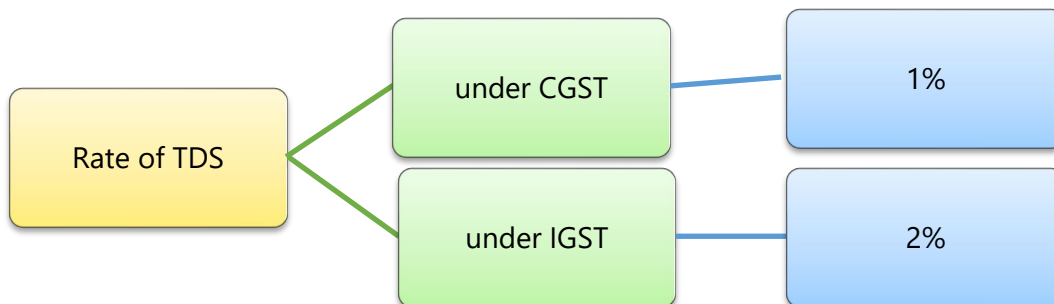
The provisions relating to TDS & TCS have been summarised by way of table and diagrams to help students remember and retain the provisions in a better and effective manner:-

Definition of Key terms



TDS

Rate of TDS



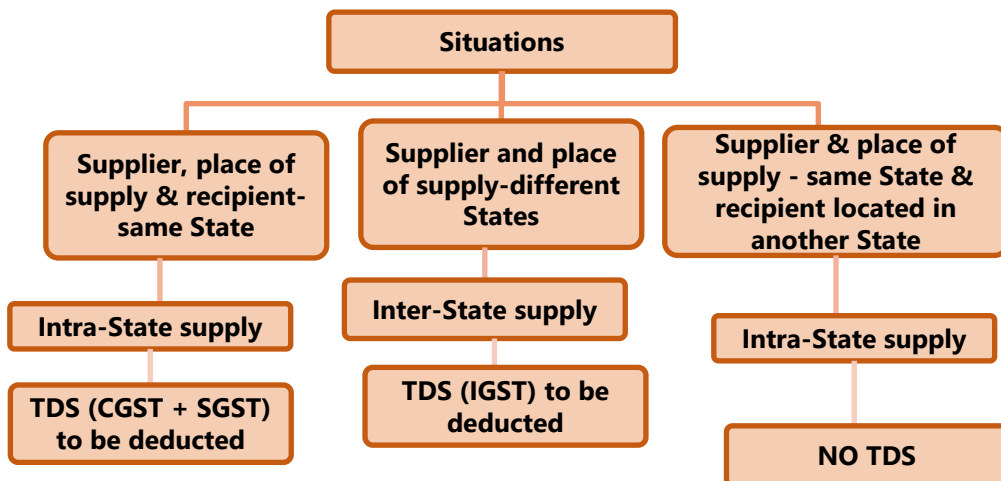
Manner of account of TDS by TDS deductor

1.	Such deductor need to get compulsorily registered under section 24 of the CGST/SGST Act.
2.	They need to remit such TDS collected by the 10 th day of the month succeeding the month in which TDS was collected.
3.	The amount deposited as TDS will be reflected in the electronic cash ledger of the supplier.

Manner of account of TDS by supplier

- ❖ 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.

Applicability of TDS

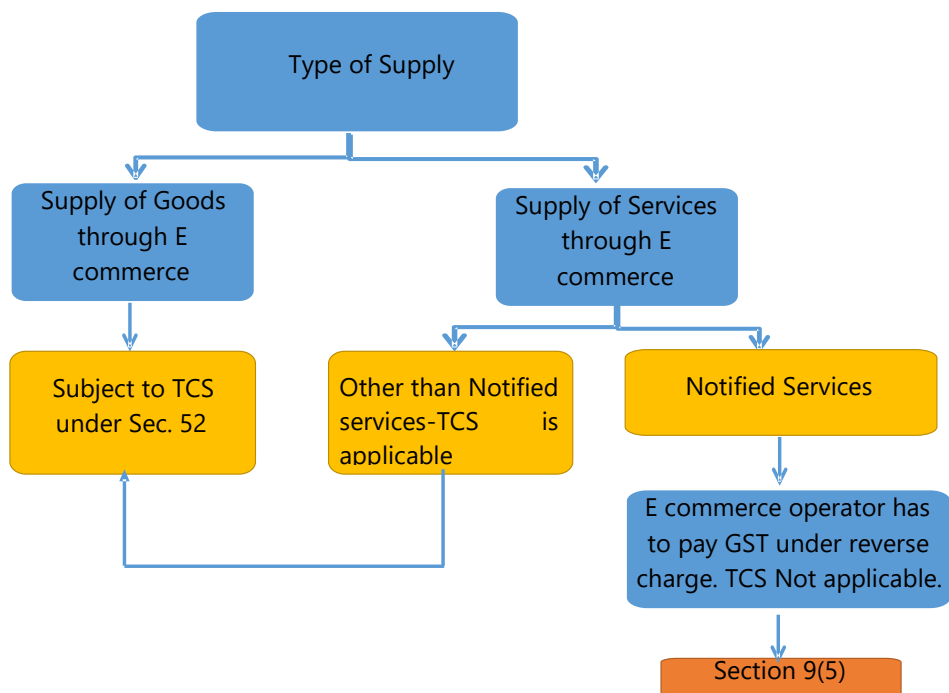


Consequences of not complying with TDS provisions

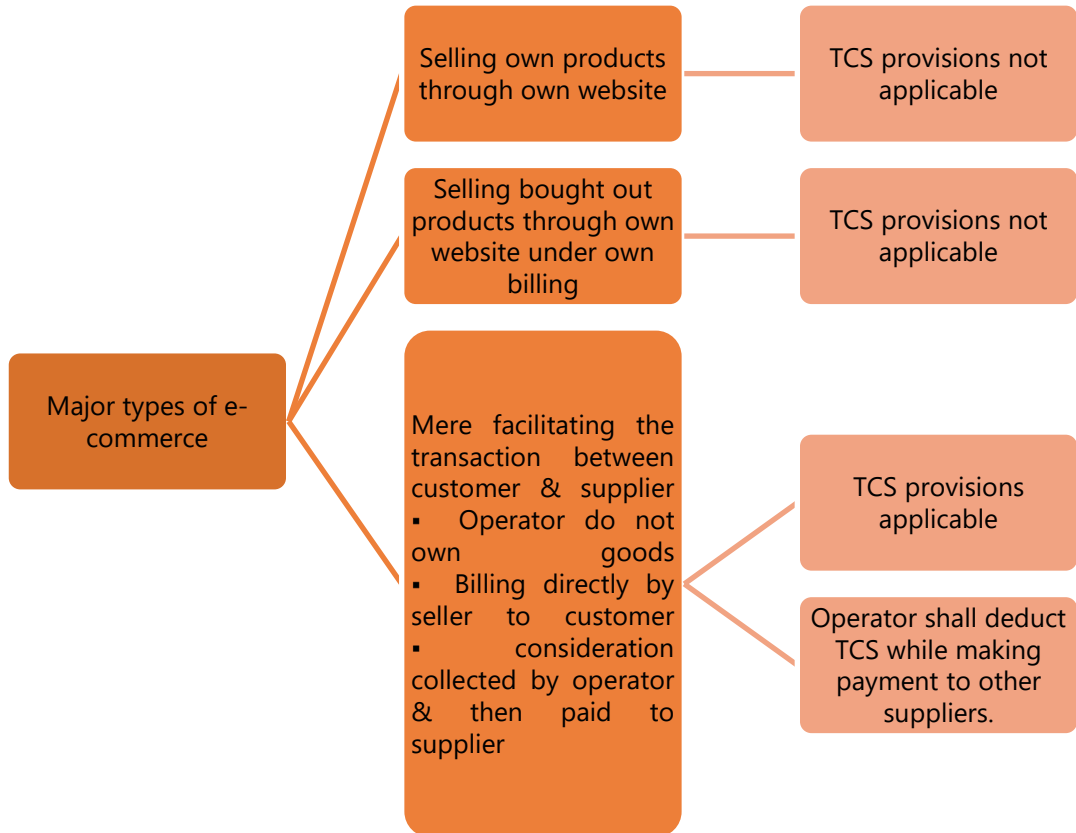
S. No.	Event	Consequence
1.	TDS not deducted	Interest to be paid along with the TDS amount; else the amount shall be determined and recovered as per the law
2.	TDS deducted but not paid to the Government or paid later than 10th of the succeeding month	Interest to be paid along with the TDS amount; else the amount shall be determined and recovered as per the law

TCS

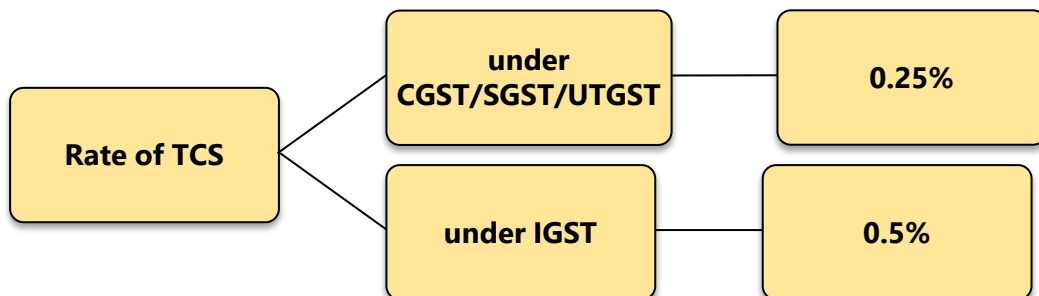
Type of supply liable to TCS



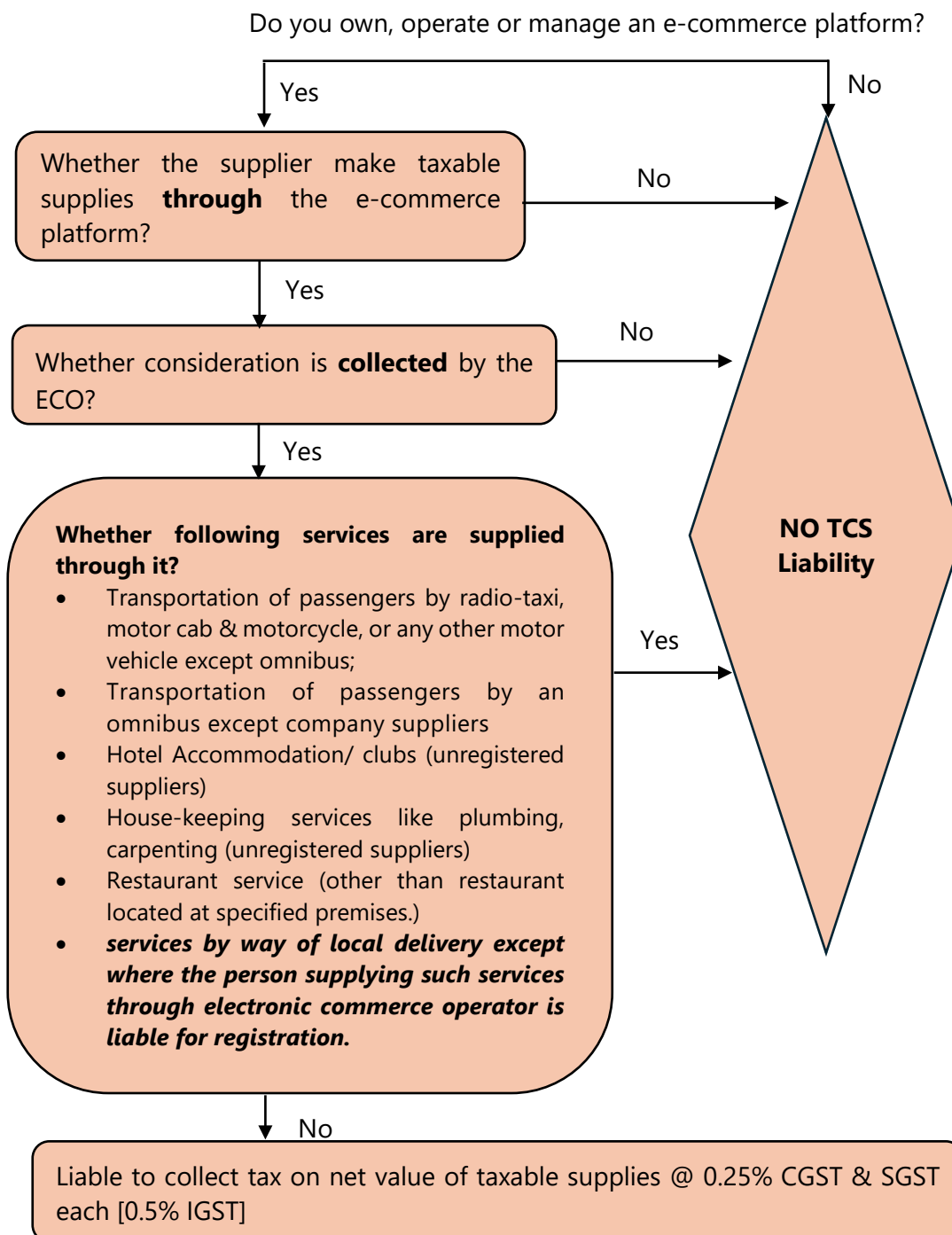
TCS applicability in major types of E-commerce



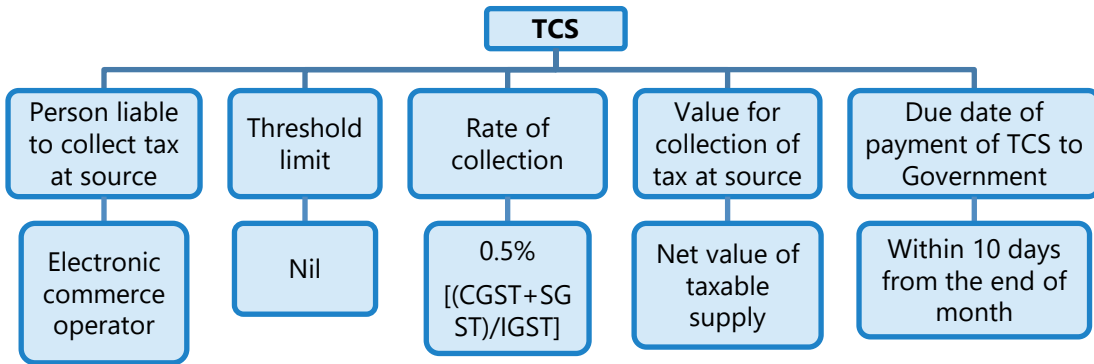
Rate of TCS



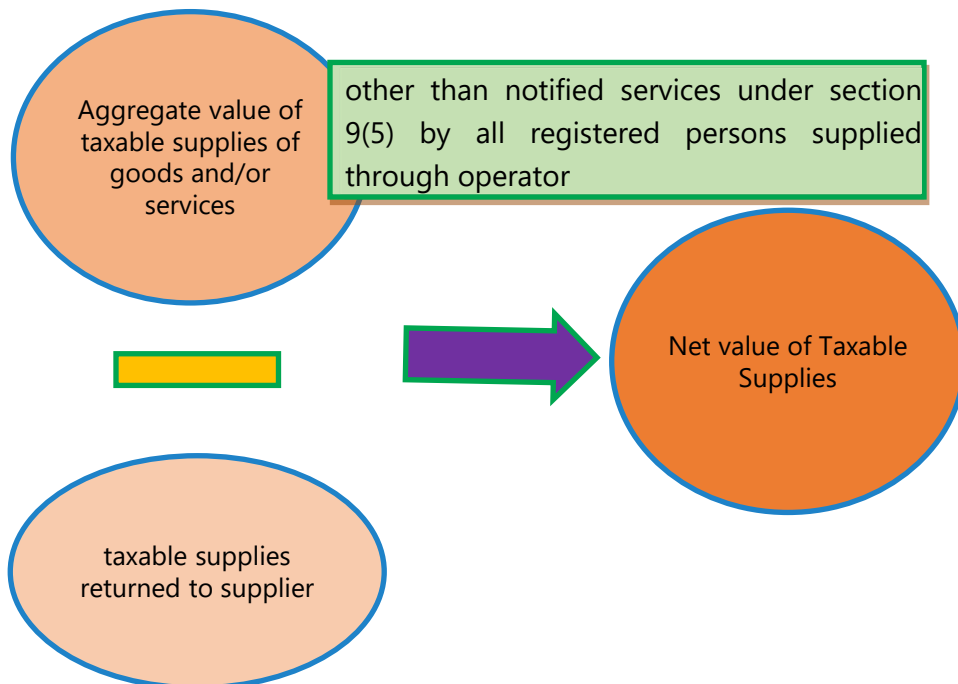
Steps to determine whether ECO is liable to collect tax at source



Significant aspects of TCS



Net value of taxable supplies





TEST YOUR KNOWLEDGE

1. Whether the rate of tax of 0.5% notified under section 52 is CGST or SGST or a combination of both CGST and SGST?
2. Is every e-commerce operator required to collect tax on behalf of actual supplier?
3. State whether the provisions pertaining to tax collected at source under section 52 of CGST Act, will be applicable, if Fitan Ltd. sells watch on its own through its own website?
4. There is no onus of filing any monthly & annual statements by ECO. Examine the technical veracity of the statement by explaining relevant provisions.
5. State whether the provisions pertaining to tax collected at source under section 52 of CGST Act, will be applicable, if ABC limited who is dealer of Royul brand sells watches through Slipkart, an electronic commerce operator?
6. Mohan, a registered person in Salem, Tamil Nadu, makes intra-State supply of taxable goods amounting to ₹13,57,000 (inclusive of GST) to a Public Sector Undertaking (PSU). Consideration for same is received in 5 equal instalments from the PSU.

Tax rates applicable: CGST 9%, SGST 9%, IGST 18%

What will be your view with respect to applicability of TDS provisions as per section 51 of the CGST Act, 2017 regarding above transaction?

What is the period by which TDS is required to be deposited to the Government account?

7. HIM Corporation, a public sector undertaking registered under section 51(1)(d) of the CGST Act, 2017 in Shimla (Himachal Pradesh), provided the following details regarding payment of bills during the month of May for deduction of tax at source:

Sr. No.	Particulars	Value of supply (₹)
1	Hilux Traders, registered in the State of Himachal	2,45,000

	<i>Pradesh, for supply of lab equipment.</i>	
2	<i>Arun, labour contractor registered in the State of Himachal Pradesh, for supply of manpower.</i>	<i>2,60,000</i>
3	<i>Adhunik Heavy Electricals, a registered public sector undertaking registered in Raipur (Chhattisgarh), for supply of goods.</i>	<i>3,80,000</i>
4	<i>Jain & Sons registered in Ludhiana (Punjab):</i>	
	<i>(a) for providing rights to use space for hoarding mounted on the ground in the State of Himachal Pradesh</i>	<i>4,20,000</i>
	<i>(b) for providing rights to use space for hoarding mounted on the ground in Chandigarh (Punjab)</i>	<i>3,00,000</i>

Additional information:

1. All the amounts given are exclusive of GST.
2. Rate of GST for goods supplied by Adhunik Heavy Electricals is IGST 5%, CGST 2.5%, SGST 2.5%. For all other transactions, rate of GST is IGST 18%, CGST 9%, SGST 9%

Calculate the amount of tax deducted at source (TDS) to be deposited by HIM Corporation for the month of May .



ANSWERS

1. The rate of TCS as notified under CGST Act is payable under CGST and the equal rate of TCS is expected under the SGST Act also, in effect aggregating to 0.5%.
2. Yes, every e-commerce operator is required to collect tax where consideration with respect to the supply is being collected by the e-commerce operator.
However, no TCS is required to be collected in the following cases:-
(i) on supply of services notified under section 9(5) of the CGST Act, 2017.

- (ii) on exempt supplies
 - (iii) on supplies on which the recipient is required to pay tax on reverse charge basis.
3. As per Section 52, every electronic commerce operator not being an agent, shall collect an amount calculated at such rate not exceeding one per cent., as may be notified by the Government on the recommendations of the Council, of the net value of taxable supplies made through it by other suppliers where the consideration with respect to such supplies is to be collected by the operator.

Hence, if the person sells on his own, provisions pertaining to tax collected at source (TCS) won't be applicable.

4. The given statement is invalid. An electronic statement has to be filed by the ECO containing details of the outward supplies of goods and/ or services effected through it, including the supplies returned through it and the amount collected by it as TCS during the month within 10 days after the end of the each month in which supplies are made.

Additionally, the ECO is also mandated to file an Annual Statement on or before 31st day of December following the end of the financial year.

The Commissioner has been empowered to extend the due date for furnishing of monthly and annual statement by the person collecting tax at source.

5. As per Section 52, every electronic commerce operator not being an agent, shall collect an amount calculated at such rate not exceeding one per cent., as may be notified by the Government on the recommendations of the Council, of the net value of taxable supplies made through it *by other suppliers* where the consideration with respect to such supplies is to be collected by the operator. If ABC limited who is dealer of Royul brand sells watches through Slipkart, then the provision of TCS will be applicable to Slipkart.
6. In case of intra-State supply of goods by a supplier to a PSU, TDS @ 1% each under CGST and SGST is liable to be deducted by PSU only when the total value of supply under a contract exceeds ₹ 2,50,000 (exclusive of tax & cess), from the payment made or credited to the supplier.

Accordingly, in the given case, since the value of supply under the contract excluding taxes and cesses is ₹ 11,50,000 ($₹ 13,57,000 \times 100/118$),

TDS @ 1% on payment of each of the instalment of ₹ 2,30,000 ($₹ 11,50,000/5$), i.e. ₹ 2,300 each under CGST and SGST is to be deducted even though the individual payment is less than ₹ 2,50,000.

The amount of TDS deducted shall be paid to the Government by the deductor within 10 days after the end of the month in which such deduction is made or by 10th of the succeeding month.

7. Computation of TDS to be deposited by HIM Corporation

Particulars	Value of supply (₹)	TDS to be deposited		
		CGST (₹)	SGST (₹)	IGST (₹)
Payment to Hilux Traders [Since total contract value of taxable supply does not exceed ₹ 2,50,000, TDS is not deductible]	2,45,000	-	-	-
Payment to Arun [TDS is deductible @ 1% each under CGST & SGST, since total contract value of taxable supply exceeds ₹ 2,50,000 and it is an intra-State supply since location of supplier and place of supply (being location of recipient) is Himachal Pradesh.]	2,60,000	2,600	2,600	-
Payment to Adhunik Heavy Electricals [No TDS is deductible since the supply has been made by a PSU to another PSU]	3,80,000	-	-	--
Payment to Jain & Sons				

(a) For providing right to use hoarding space in Himachal Pradesh [TDS is deductible @ 2% under IGST since the contract value exceeds ₹ 2,50,000 and it is an inter-State supply since place of supply being the location where the hoardings are located is Himachal Pradesh while location of supplier is Punjab.]	4,20,000			8,400
(b) For providing right to use hoarding space in Punjab [No TDS is deductible, since location of the supplier (Punjab) and the place of supply (being the location where the hoardings are located, i.e. Punjab) is in a State which is different from the State of registration of the recipient (Himachal Pradesh).]	3,00,000	--	--	--
Total amount of TDS to be deposited		2,600	2,600	8,400



1

•Is it correct or not that public sector undertakings is liable to deduct TDS from payments made to the suppliers of taxable goods?

2

•What is the implication of TDS in case services are supplied from a public sector undertaking (PSU) to another PSU?

3

•Mr. X contends that tax is liable to be deducted if total value of supply of taxable goods under a contract is ₹ 2,50,000 exclusive of tax. Is his contention valid in law or not?

4

•What is the implication of TDS in case supplier, place of supply and recipient are in the same state?

5

•What is the implication of TDS in case location of supplier is in State A and place of supply as well as registration of recipient are in State B?

6

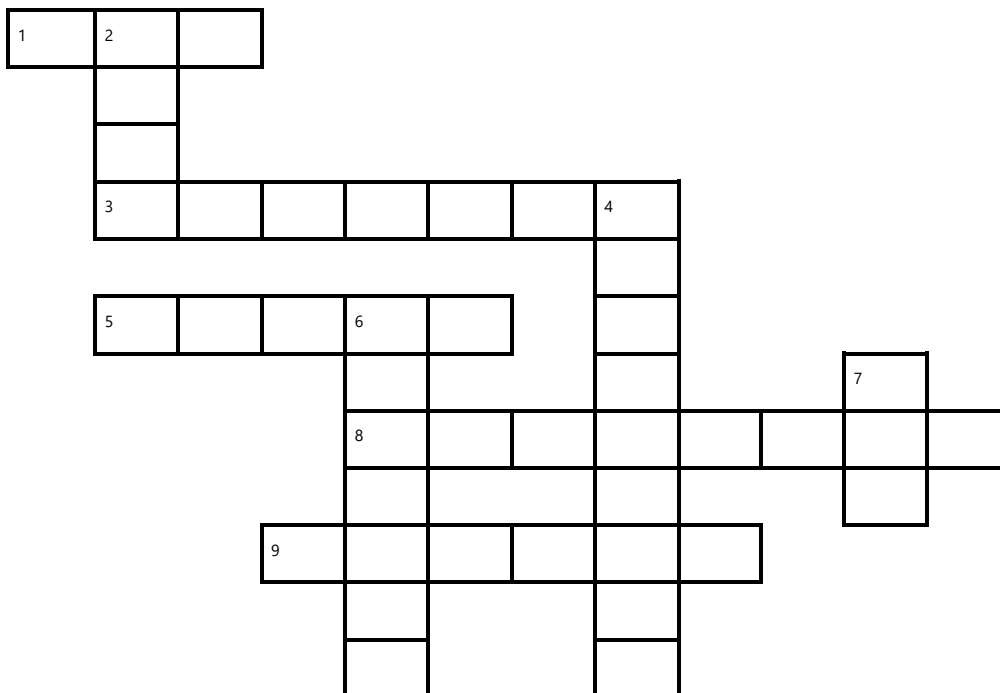
•What is the implication of TDS if supplier as well as the place of supply are in State A and the recipient is located in State B. ?

7

•What is the rate of TCS under CGST?

8

•Is it valid that services by way of transportation of passengers by motor cycle is to be included while computing net value of taxable supplies?



ACROSS

1. TDS is not attracted if services are supplied from a PSU to another ----- (Acronym)
3. Value of supply shall----- tax & cess for the purpose of TDS under Section 51 of CGST Act, 2017.
5. The amount of tax deducted at source should be deposited to the Government account by 10th of the succeeding-----.
8. Net value of taxable supplies shall mean the aggregate value of taxable supplies of goods and/or services, other than services notified under sub-section (5) of section 9, made during any month by all registered persons through the operator reduced by the aggregate value of taxable supplies----- to the suppliers during the said month.

9. ----- sector undertakings are notified to deduct tax at source from payments made to the suppliers.

DOWNWARDS

2. TDS would be deducted if supplier, place of supply and recipient are in the--
----- State.
4. The TDS deductees are the suppliers whose total value of supply of taxable goods under a contract exceeds ₹ 2,50,000 -----of tax & cess as per the invoice.
6. Every Electronic Commerce Operator (ECO), not being an agent, has been mandated to collect tax at source (TCS) on net value of taxable supplies made -----it by suppliers.
7. The TCS amount collected by the ECO has to be remitted to the Government Treasury within-----days after the end of the month in which the collection was made.

