UNIT II: TAX DEDUCTION AT SOURCE AND COLLECTION OF TAX AT SOURCE

LEARNING OUTCOMES

After studying this Unit, 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.
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 is similar to “pay as you earn” scheme also known as Withholding Tax, in many other countries. It facilitates sharing of responsibility of tax collection between the deductor and the tax administration. It also ensures regular inflow of cash resources to the Government. It acts as a powerful instrument to prevent tax evasion and expands the tax net, as it provides for the creation of an audit trail.

Section 51 of CGST Act provides for deduction of tax at source in certain circumstances. This Section specifically lists out the deductors 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 makes some payments 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.

Section 52 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

- **Agent** means a person, including a factor, broker, commission agent, arhatia, del credere agent, an auctioneer or any other mercantile agent, by whatever name called, who carries on the business of supply or receipt of goods or services or both on behalf of another [Section 2(5)].

- **Authorised bank** shall mean a bank or a branch of a bank authorised by the Government to collect the tax or any other amount payable under this Act [Section 2(14)].

- **Business** includes
  
  (a) any trade, commerce, manufacture, profession, vocation, adventure, wager or any other similar activity, whether or not it is for a pecuniary benefit;
  
  (b) any activity or transaction in connection with or incidental or ancillary to sub-clause (a);
  
  (c) any activity or transaction in the nature of sub-clause (a), whether or not there is volume, frequency, continuity or regularity of such transaction;
  
  (d) supply or acquisition of goods including capital goods and services in connection with commencement or closure of business;
  
  (e) provision by a club, association, society, or any such body (for a subscription or any other consideration) of the facilities or benefits to its members;
  
  (f) admission, for a consideration, of persons to any premises;
  
  (g) services supplied by a person as the holder of an office which has been accepted by him in the course or furtherance of his trade, profession or vocation;
PAYMENT OF TAX

(h) services provided by a race club by way of totalisator or a licence to book maker in such club; and

(i) any activity or transaction undertaken by the Central Government, a State Government or any local authority in which they are engaged as public authorities [Section 2(17)].

- **Central Tax** means the central goods and services tax levied under Section 9 [Section 2(21)].

- **Cess** shall have the same meaning as assigned to it in the Goods and Services Tax (Compensation to States) Act [Section 2(22)].

- **Common Portal** means the common goods and services tax electronic portal referred to in section 146 [Section 2(26)].

- **Council** means the Goods and Services Tax Council established under article 279A of the Constitution [Section 2(36)].

- **Electronic Cash ledger** means the electronic cash ledger referred to in sub-section (1) of Section 49; [Section 2(43)].

- **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)].

- **Electronic Credit ledger** means the electronic credit ledger referred to in sub-section (2) of section 49 [Section 2(46)].

- **Integrated tax** means the integrated goods and services tax levied under the Integrated Goods and Services Tax Act [Section 2(58)].

- **Input tax** in relation to a registered person, means the central tax, State tax, integrated tax or Union territory tax charged on any supply of goods or services or both made to him and includes—
  - the integrated goods and services tax charged on import of goods;
  - the tax payable under the provisions of sub-sections (3) and (4) of section 9;
  - the tax payable under the provisions of sub-section (3) and (4) of section 5 of the Integrated Goods and Services Tax Act;
the tax payable under the provisions of sub-section (3) and sub-section (4) of section 9 of the respective State Goods and Services Tax Act; or

the tax payable under the provisions of sub-section (3) and sub-section (4) of section 7 of the Union Territory Goods and Services Tax Act,

but does not include the tax paid under the composition levy [Section 2(62)].

Input Tax Credit means the credit of input tax [Section 2(63)].

local authority means-

a “Panchayat” as defined in clause (d) of article 243 of the Constitution;

a “Municipality” as defined in clause (e) of article 243P of the Constitution;

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;

a Cantonment Board as defined in section 3 of the Cantonments Act, 2006;

a Regional Council or District Council constituted under the Sixth Schedule to the Constitution;

a Development Board constituted under article 371 of the Constitution; or

a Regional Council constituted under article 371A of the Constitution [Section 2(69)].

Notification means a notification published in the Official Gazette and the expression “notify” and “notified” shall be construed accordingly [Section 2(80)].

Output tax in relation to a taxable person, means the tax chargeable under this Act on taxable supply of goods or services or both made by him or by his agent but excludes tax payable by him on reverse charge basis [Section 2(82)].

Person includes:

(a) an individual;

(b) a Hindu Undivided Family;

(c) a company;

(d) a firm;

(e) a limited liability Partnership;
(f) an association of persons or body of individuals, whether incorporated or not, in India or outside India;

(g) any corporation established by or under any Central Act, State Act, or Provincial Act or a Government Company as defined in clause (45) of section 2 of the Companies Act, 2013;

(h) any body corporate incorporated by or under the laws of a country outside India;

(i) a co-operative society registered under any law relating to co-operative societies;

(j) a local authority;

(k) Central Government or a State Government;

(l) society as defined under the Societies Registration Act, 1860;

(m) trust; and

(n) every artificial juridical person, not falling within any of the above [Section 2(84)].

Recipient of supply of goods or services or both, means—

(a) where a consideration is payable for the supply of goods or services or both, the person who is liable to pay that consideration;

(b) where no consideration is payable for the supply of goods, the person to whom the goods are delivered or made available, or to whom possession or use of the goods is given or made available; and

(c) where no consideration is payable for the supply of a service, the person to whom the service is rendered,

and any reference to a person to whom a supply is made shall be construed as a reference to the recipient of the supply and shall include an agent acting as such on behalf of the recipient in relation to the goods or services or both supplied [Section 2(93)].

State Tax means the tax levied under any State Goods and Services Tax Act [Section 2(104)].

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)].

- **Taxable person** means a person who is registered or liable to be registered under Section 22 or section 24 [Section 2(107)].

- **Valid return** means a return furnished under sub-section (7) of section 39 on which self-assessed tax has been paid in full [Section 2(117)].

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

<table>
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<th>Section 51</th>
<th>Tax deduction at source</th>
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<td><strong>Sub-Section</strong></td>
<td><strong>Clause</strong></td>
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<td>(1)</td>
<td>Notwithstanding anything to the contrary contained in this Act, the Government may mandate,—</td>
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<td>a department or establishment of the Central Government or State Government; or</td>
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<td>(b)</td>
<td>local authority; or</td>
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<td>(c)</td>
<td>Governmental agencies; or</td>
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<td>(d)</td>
<td>such persons or category of persons as may be notified by the Government on the recommendations of the Council,</td>
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(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:
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<th>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.</th>
<th>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.</th>
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<tr>
<td>(2) 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.</td>
<td>(3) The deductor shall furnish to the deductee a certificate mentioning therein the contract value, rate of deduction, amount deducted, amount paid to the Government and such other particulars in such manner as may be prescribed.</td>
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<td>(4) If any deductor fails to furnish to the deductee the certificate, after deducting the tax at source, within five days of crediting the amount so deducted to the Government, 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 day period until the failure is rectified, subject to a maximum amount of five thousand rupees.</td>
<td>(5) 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.</td>
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<td>(6) 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.</td>
<td>(7) The determination of the amount in default under this section shall be made in the manner specified in section 73 or section 74.</td>
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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.

The provisions of section 51(1) have come into effect from 18.09.2017 with respect to persons specified under clauses (a) and (b) of section 51(1) and following persons notified under clause (d) of sub-section (1) of section 51 of the CGST Act by the Central Government:

(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;

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(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:

However, the said persons shall be liable to deduct tax from the payment made or credited to the supplier of taxable goods or services or both with effect from a date to be notified subsequently, on the recommendations of the Council, by the Central Government [Notification No. 33/2017 CT dated 15.09.2017].

**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.

**Standard Rate of deduction**

The tax would be deducted @ 1% 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 supply under a contract is more than ₹ 2,50,000/-, TDS will have to be deducted.

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.

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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.

Further, the value of a supply shall include any taxes, duties, cesses, fees and charges levied under any law for the time being in force other than this Act, and the Goods and Services Tax (Compensation to States) Act, if charged separately by the supplier:
12.48 GOODS AND SERVICES TAX

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.

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.

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 Municipal Corporation of Chennai deducts CGST at source @1% from the payment to be made to a notified supplier on 4th July. This TDS amount has to be remitted into the Treasury on or before 10th August. The TDS certificate with the above mentioned details has to be issued on before 15th of August.

Certificate not furnished by the deductor

If the deductor does not furnish the certificate of deduction-cum- remittance within 5 days of the remittance, the deductor has to pay a late fee of ₹ 100/day from the expiry of the 5th day until the day he furnishes the certificate. This late fee would not be more than ₹ 5000/-. 

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).

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.

**Refund on excess/erroneous deduction**

The deductor or the deductee can claim refund of excess deduction or erroneous deduction. The provisions of section 54 relating to refunds would apply in such cases. However, if the deducted amount is already credited to the electronic cash ledger of the supplier, the same shall not be refunded.

**Other Key concepts relating to TDS**

**Registration of TDS deductors**: A TDS deductor has to compulsorily register without any threshold limit. The deductor has a privilege of obtaining 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, 1961.

**TDS Return**: The deductor is also required to file a return in Form GSTR-7 within 10 days from the end of the month. If the supplier is unregistered, name of the supplier rather than GSTIN shall be mentioned in the return.

The details of tax deducted at source furnished by the deductor in FORM GSTR-7 shall be made available to each of the suppliers in Part C of FORM GSTR-2A electronically through the common portal and the said supplier may include the same in FORM GSTR-2. The amounts deducted by the deductor get reflected in the GSTR-2 of the supplier (deductee).

The supplier can take this amount as credit in his electronic cash register and use the same for payment of tax or any other liability.

**Example**

Suppose a supplier makes a supply worth ₹ 1000/- to a recipient and the GST at the rate of 18% is required to be paid. The recipient, while making the payment of ₹1000/- to the supplier, shall deduct 1% viz ₹ 10/- as TDS.

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1 The provisions relating to Registration have already been discussed in detail in Chapter-9.
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. The purpose of TDS is just to enable the Government to have a trail of transactions and to monitor and verify the compliances.

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

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<th>STATUTORY PROVISIONS</th>
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<td><strong>Section 52</strong></td>
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<td><strong>Sub-Section</strong></td>
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### GOODS AND SERVICES TAX

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<td>(a)</td>
<td>supplies of goods or services or both effected through such operator during any period; or</td>
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<tr>
<td>(b)</td>
<td>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,</td>
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as may be specified in the notice.

**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.**

**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, 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.

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**Overview of TCS**

TCS² 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. The nature of working of electronic commerce operator can be better understood with the following example.

There are many e-Commerce operators [hereinafter referred to as an Operator], like Amazon, Flipkart, Jabong, etc. operating in India. These

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² The provisions relating to TCS have not been made effective as of now.
operators display on their portal products as well as services which are actually supplied by some other person to the consumer.

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 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 by the Operator.

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

Section 52 has 14 sub-sections.

**Who is liable to collect TCS?**

Every Electronic Commerce Operator (ECO), not being an agent, has been mandated to collect tax at source (TCS) from the net value of taxable supplies made through it by other suppliers, whenever the ECO collects the consideration on behalf of the supplier.

**Rate of TCS**

Not exceeding 1% as may be notified by the Government on the recommendations of the Council, of the net value of taxable supplies. [Sub-section (1)]

Suppose a certain product is sold at ` 1000/- through an Operator by a supplier. The operator would collect tax @ 1% of the net value of ` 1,000/- i.e. ` 10/-.

**Net Value of Taxable Supplies**

- Aggregate value of taxable supplies of goods and / or services
- **returned** to suppliers
- other than notified services under section 9(5) by all registered persons through operator
12.56 GOODS AND SERVICES TAX

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:

Further, the value of a supply shall include any taxes, duties, cesses, fees and charges levied under any law for the time being in force other than this Act, and the Goods and Services Tax (Compensation to States) Act, if charged separately by the supplier:

Further, the power conferred on the e-commerce operator to collect tax at source, is without prejudice to other modes of recovery from operator. This Sub-section establishes that the powers of e-commerce operator is restricted only to the extent of tax collection at source under circumstances specified therein and nothing more. [Sub-section (2)]

 Deposited 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. [Sub-section (3)]

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.

 Filing of Monthly & Annual Statements by ECO

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. [Sub-section (4)]

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. [Sub-section (5)]

 Rectification in Monthly Statement by ECO

If the ECO discovers any discrepancy on his own not being the result of any scrutiny, inspection or enforcement proceedings, he has to rectify the statement. However, the limit for rectification is earlier of the two:-
(i) due date for filing statement for the month of September following the end of the financial year.

OR

(ii) Actual date of furnishing of relevant annual statement.

Interest provisions are applicable. [Sub-section (6)]

Claim of Credit by Supplier

Supplier can claim credit of the TCS amount in his electronic cash ledger. This amount should reflect in the monthly statement filed by the e-commerce operator. [Sub-section (7)]

Matching of details of supplies

The details of the supplies, including the value of supplies, submitted by every operator in the statements will be matched with the details of supplies submitted by all such suppliers in their returns. [Sub-section (8)]

If there is any discrepancy in the value of supplies, the same would be communicated to both of them. If such discrepancy in value is not rectified within the given time, then such amount would be added to the output tax liability of such supplier succeeding the calendar month in which the discrepancy is communicated, where outward supplies furnished by operator is more than the value as shown by supplier.

The supplier will have to pay the differential amount of output tax along with interest from the date such tax was due till the date of its payment. [Sub-sections 9 To 11]

Notice to the Operator

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. [Sub-section (12)]

The operator is required to furnish such details within 15 working days. [Sub-section (13)]

In case an operator fails to furnish the information, besides being liable for penal action under section 122, it shall also be liable for penalty up to ₹ 25,000. [Sub-section (14)]
**Other key concepts relating to TCS**

**Registration**: The e-commerce operator as well as the supplier supplying goods or services through an operator need to compulsorily register under GST. The threshold limit of ₹ 20 lakhs (₹ 10 lakhs for special category states) is not applicable to them. Section 24(x) of the CGST Act, 2017 makes it mandatory for every e-commerce operator to get registered under GST. Similarly, section 24(ix) of the CGST Act, 2017 makes it mandatory for every person who supplies goods/services through an operator to get registered under GST.

**TCS Statement**: The amount of tax collected by the operator is required to be deposited by the 10th of the following month, during which such collection is made. The operator is also required to furnish a monthly statement in Form GSTR-8 by the 10th of the following month. The operator is also required to file an Annual statement in prescribed form by the 31st of December following the end of every financial year. The operator can rectify errors in the statements filed, if any, latest by the return to be filed for the month of September, following the end of every financial year.

The details furnished by the operator in GSTR-8 shall be made available electronically to each of the suppliers in Part C of FORM GSTR-2A on the common portal after the due date of filing of FORM GSTR-8.

**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:

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3 The provisions relating to Registration have already been discussed in detail in Chapter-9.
**Definition of Key terms**

**Electronic Commerce**
- means
  - supply of goods
  - supply of services
  - supply of goods and services
  - including digital products over digital network
  - electronic network

**Electronic Commerce Operator**
- means
  - Any person who
    - owns
    - operates
    - manages
digital/electronic facility/platform for electronic commerce
12.60 Goods and Services Tax

Rate of TDS

- Rate of TDS under CGST: 1%
- Rate of TDS under IGST: 2%

Person liable to deduct tax at source:
- Central and State Government
- Local authority
- Governmental agencies
- Notified persons

Threshold limit:
Total value of supply under a contract > ₹ 2.5 lakhs, exclusive of GST as per invoice

Rate of deduction:
1%

NO TDS
When location of supplier and place of supply is different from the state of registration of recipient

Due date of payment of TDS to Government
Within 10 days from the end of month
**MANNER OF ACCOUNT OF TDS BY TDS DEDUCTOR**

1. Such deductors need 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.

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 deducting TDS failing which fees of ₹ 100 per day subject to maximum of ₹ 5,000/- will be payable by such deductor.

**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**

![Diagram showing applicability of TDS]

**Situations**

- **Supplier, place of supply & recipient - same State**
  - Intra-State supply
  - TDS (CGST + SGST) to be deducted

- **Supplier and place of supply - different States**
  - Inter-State supply
  - TDS (IGST) to be deducted

- **Supplier & place of supply - same State & recipient located in another State**
  - Intra-State supply
  - NO TDS
### Consequences of Not Complying with TDS Provisions

<table>
<thead>
<tr>
<th>S. No.</th>
<th>Event</th>
<th>Consequence</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>TDS not deducted</td>
<td>Interest to be paid along with the TDS amount; else the amount shall be determined and recovered as per the law</td>
</tr>
<tr>
<td>2.</td>
<td>TDS certificate not issued or delayed beyond the prescribed period of five days</td>
<td>Late fee of ₹ 100/- per day subject to a maximum amount of ₹ 5000/-</td>
</tr>
<tr>
<td>3.</td>
<td>TDS deducted but not paid to the Government or paid later than 10th of the succeeding month</td>
<td>Interest to be paid along with the TDS amount; else the amount shall be determined and recovered as per the law</td>
</tr>
<tr>
<td>4.</td>
<td>Late filing of TDS returns</td>
<td>Late fee of ₹ 100/- for every day during which such failure continues, subject to a maximum amount of ₹ 5,000.</td>
</tr>
</tbody>
</table>

### Rate of TCS

- **under CGST**: not exceeding 1%
- **under IGST**: not exceeding 2%
**PAYMENT OF TAX**

**TCS**

- Person liable to collect tax at source: Electronic commerce operator
- Threshold limit: Nil
- Rate of collection under CGST: Not exceeding 1%
- Value for collection of tax at source: Net value of taxable supply
- Due date of payment of TCS to Government: Within 10 days from the end of month

**Net Value of Taxable Supplies**

- Aggregate value of taxable supplies of goods and/or services
- other than notified services under section 9(5) by all registered persons
- Net value of Taxable Supplies
- taxable supplies returned to supplier
FILING OF STATEMENTS

KEY POINTS RELATING TO TCS

(a) Every e-commerce operator is required to collect tax on behalf of actual supplier, where consideration with respect to the supply is being collected by the e-commerce operator.

(b) The e-commerce operator should make the collection during the month in which supply was made.

CONTENT OF MONTHLY & ANNUAL STATEMENTS FURNISHED BY OPERATOR

- Details of outward supplies of goods and/or services through it
- Supplies of goods and/or services returned through it
- Amount collected as TCS
TEST YOUR KNOWLEDGE

1. Who is liable to pay GST?

2. What will happen if the deductor fails to issue TDS Certificate within the time prescribed?

3. Whether the rate of tax of 1% specified in section 52 is CGST or SGST or a combination of both CGST and SGST?

4. Explain matching concept for electronic commerce operator with suitable real life example?

5. What will be the availment of input tax credit in case of default in filing of return and payment of tax?

6. State whether Tax collected at source under section 52 of CGST Act, will be applicable in below mentioned scenarios -
   (a) Titan sells watch on his own through its own website?
   (b) ABC limited who is dealer of Titan brand sells watches through flipkart, amazon etc.?

ANSWERS /HINTS

1. General rule - Supplier of goods or services is liable to pay GST.
   Specific circumstances –
   • Import supplies – Recipient of goods or services has to pay tax under reverse charge
   • The Government may, on the recommendations of the Council, by notification, specify categories of services the tax on intra-State supplies, of which shall be paid by the electronic commerce operator, if such services are supplied through it
   • TDS – If total value of supply under contract > ₹ 2.5 lakhs, then Central and State Government, Local authority, Government agencies is liable to deduct TDS and pay the same to the government
   • TCS - E-commerce operators are required to collect tax (TCS) on the aggregate value of supply reduced by returns in a month

2. As per section 51(4) of the CGST Act, 2017, if any deductor fails to furnish to the deductee the certificate, after deducting the tax at source, within five days of crediting the amount so deducted to the Government, 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.

3. The rate of TCS as specified in CGST Act, 2017 is payable under CGST and the equal rate of TCS is expected under the SGST Act also, in effect aggregating to 2%.

4. As per section 52(8) of CGST Act, the details of outward supplies furnished by every operator for the month of tax collected shall be matched with the corresponding details of outward supplies furnished by concerned supplier.

Example: PQR limited sold iPhone 6S mobile via shopkart (e-commerce operator) to customers worth ₹ 55,60,000 for the month of November and some customers returned iPhone worth ₹ 9,60,000, so net supply for the month of November would be ₹ (55,60,000 - 9,60,000) = ₹ 46,00,000.

Now, as per section 52(4) of CGST Act, Shopkart will have to furnish statement, electronically, containing the net outward supply worth ₹ 46,00,000 up to 10th December which is to be matched with the details of outward supply furnished by PQR limited under section 39.

5. If there is default in payment of tax and filing of returns, input tax credit will become ineligible as per Section 16(2)(d) of the CGST Act, and interest will be calculated on gross tax payable.

6. Answers for both the scenarios is as follows:

As per Section 52 of CGST Act, 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

a. 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, TCS won’t be applicable.

b. If ABC limited who is dealer of Titan brand sells watches through Flipkart, Amazon etc., then the provision of TCS will be applicable to flipkart, amazon.