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TDS Provisions under GST

(applicable w.e.f. 1st October, 2018)



Applicable Date - GST Council in its 28th meeting held on 21.07.2018 recommended the introduction of TDS from 01.10.2018.

Who is Deductor - Following would be the deductors of tax in GST u/s 51 of the CGST Act, 2017 r.w notification No. 33/2017-Central Tax dated 15.09.2017: (a) a department or establishment of the Central Government or State Government; or (b) local authority; or (c) Governmental agencies; or (d) an authority or a board or any other body, - (i) set up by an Act of Parliament or a State Legislature; or (ii) established by any Government, with fifty-one per cent. or more participation by way of equity or control, to carry out any function; or (e) a society established by the Central Government or the State Government or a Local Authority under the Societies Registration Act, 1860 (21 of 1860); or (f) public sector undertakings.

When GST TDS is applicable - Tax is required to be deducted from the payment made / credited to a supplier, if the total value of supply under a contract in respect of supply of taxable goods or services or both, exceeds Rs. 2,50,000/- This value shall exclude the taxes leviable under GST (i.e. 'Central tax', 'State tax', 'UT tax', 'Integrated tax' & Cess).

Tax deduction is required if all the following conditions are satisfied –

- Total value of taxable supply > Rs.2.5 Lakh under a single contract. This value shall exclude taxes & cess leviable under GST.
- If the contract is made for both taxable supply and exempted supply, deduction will be made if the total

value of taxable supply in the contract > Rs.2.5 Lakh. This value shall exclude taxes & cess leviable under GST.

- Where the location of the supplier and the place of supply are in the same State/UT, it is an intra-State supply and TDS @ 1% each under CGST Act and SGST/UTGST Act is to be deducted if the deductor is registered in that State or Union territory without legislature, while where the location of the supplier is in State A and the place of supply is in State or Union territory without legislature - B, it is an inter-State supply and TDS @ 2% under IGST Act is to be deducted if the deductor is registered in State or Union territory without legislature - B.
- Where the location of the supplier is in State A and the place of supply is in State or Union territory without legislature B, it is an inter-State supply and TDS @ 2% under IGST Act is to be deducted if the deductor is registered in State A.
- When advance is paid to a supplier on or after 01.10.2018 to a supplier for supply of taxable goods or services or both.

Rate of deduction – Rate is @ 2% [i.e. 1% each on CGST & SGST/UTGST component] on the amount paid/credited in respect of intra-State supply & @ 2% [as IGST] on the amount paid/credited in respect of inter-State supply.

Benefit of TDS to deductee and TDS certificate - With the deduction of tax and submission of return in FORM GSTR 7 the amount deducted would be available in FORM GSTR 2A/4A of the registered deductee and the same would be credited in his electronic cash ledger. The deductee would be able to utilize this amount for discharging his tax liabilities.



Tax Collection at Source (TCS) under GST

Who is TCS collector - As per Sec 52 of the CGST Act, 2017 the ecommerce operator is required to collect @ 1% TCS of the net value of taxable supplies made through it, where the consideration with respect to such supplies is to be collected by such operator.

Electronic Commerce means the supply of goods or services or both, including digital products over digital or electronic network. Electronic Commerce operator means any person who owns, operates or manages digital or electronic facility or platform for electronic commerce.

Registration by e-commerce operator - As per the extant law, registration for TCS would be required in each State / UT as the obligation for collecting TCS would be there for every intra-State or inter-State supply. In order to facilitate the obtaining of registration in each State / UT, the e-commerce operator may declare the Head Office as its place of business for obtaining registration in that State / UT where it does not have physical presence. E-Commerce operator has to obtain separate registration for TCS irrespective of the fact whether e-Commerce operator is already registered under GST as a supplier or otherwise and has GSTIN.

Exemption for supplier of goods or services supplying through ecommerce operator

As per Section 24(ix) of the CGST Act, 2017, every person supplying goods through an ecommerce operator shall be mandatorily required to register irrespective of the value of supply made by him. However, a person supplying services, other than supplier of services u/s 9 (5) of the CGST Act, 2017, through an e-commerce platform are exempted from obtaining compulsory registration provided their aggregate turnover does not exceed INR 20 lakhs (or INR 10 lakhs in case of specified special category States) in a financial year. Government has issued the notification No. 65/2017 - Central Tax dated 15th November, 2017 in this regard.

Benefit of TCS to registered supplier

The amount of TCS deposited by the operator with the appropriate Government will be reflected in the electronic cash ledger of the actual registered supplier (on whose account such collection has been made) on the basis of the statement filed by the operator in FORM GSTR-8 in terms of Rule 67 of the CGST Rules, 2017. The said credit can be used at the time of discharge of tax liability by the actual supplier.



Other GST Updates -

Return Filing

The Central Government vide Notification No. 32/2018-Central Tax; Notification No. 33/2018-Central Tax dated

10th August, 2018 has provided the time limits within which the taxpayers shall furnish the Forms as specified in Column (2) of the table below:

Sr. No.	Form	For the Month / Quarter	Last date for filing of return in FORM GSTR1
01	GSTR 1 by the taxpayers with annual aggregate turnover of more than ` 1.5 crore	For each of the months from July, 2018 to March, 2019	11th day of the month succeeding such month.
02	GSTR 1 by the taxpayers with annual aggregate turnover upto 1.5 crore	July - September, 2018 October- December, 2018 January - March, 2019	31st October, 2018 31st January, 2019 30th April, 2019

GST ANNUAL RETURN

The govt. has notified annual return form for normal taxpayers (GSTR-9) and for composition taxpayers (GSTR-9).

The last date for filing the annual return forms is December 31.

The annual return form for normal taxpayers has been divided into 6 parts with 19 tables which includes detailed information related to:

- | | | |
|---------------------|-------------------|---------------------------------------|
| + outward supplies, | + ITC availed, | + particulars of demand and refund, |
| + inward supplies, | + ITC reversed, | + HSN summary of outward supplies and |
| | + ineligible ITC, | + HSN summary of inward supplies |

of the transactions declared in returns filed during the financial year ending March 2018.

Also information with regard to transactions related to financial year ending March 31, 2018 declared in return of April 2018 to September 2018 is also to be declared in the annual return.

GSTR 9 - For Regular Taxpayers filing GSTR 1, GSTR 2, GSTR 3

GSTR 9A - For the persons registered under composition scheme under GST.

GSTR 9B - For e-commerce operators

GSTR 9C - Reconciliation Statement



NBFC

Ind-AS and NBFC's

Following are the important aspects related to NBFC's under Ind-AS –

Important Differences between I-GAAP and Ind-AS as applicable to NBFC's – Following three areas can be highlighted as the most important differences between I-GAAP and Ind-AS for NBFC's

✦ **Financial Assets Classification** – Under I-GAAP Investments were categorised under three categories, viz., 'Held to Maturity (HTM)', 'Available for Sale (AFS)' and 'Held for Trading (HFT)'

However, under Ind-AS they will get classified (based on debt and Equity Instruments) under Amortised Cost, Fair Value through Other Comprehensive Income (FVOCI) and Fair Value through Profit Loss (FVTPL), as per SPPI Test (Solely Payment of Principal and Interest) and Business Model test.

Irrespective of categorisation, initial recognition was at cost (i.e. transaction price) under I-GAAP while it will be at Fair Value under Ind-AS. Subsequent classification criteria as HTM or AFS or HFT was governed by RBI guidelines and intention of sale / holding which under Ind-AS will be decided based on contractual cash flows and entity's business model. While debt instruments may get classified either at Amortised cost or FVTOCI / FVTPL, in case of equity instruments, it shall be either FVTOCI or FVTPL only.

✦ **Revenue Recognition** – Here the major difference is in recognition of Processing Fees which are recognised as upfront income, while sourcing costs as immediate expense.

However, under Ind-AS Loan origination fees net of costs are amortised as interest income based on Effective Interest Rate (EIR). Expected cash flows, discount and premium, and transaction costs are the elements of determination of EIR. This EIR remains fixed for the life of loan except in case of floating interest rate loans. Also with pre-payments and change in expected cash flows, amortised costs is required to be changed impacting on revenue recognition.

✦ **Financial Assets Impairment** – impairment provision shall be applicable for financials assets carried at amortised costs, debt instruments at FVTOCI, irrevocable loan commitment and financial guarantees.

Most importantly, under Ind-AS, Impairment provision is also required for Non fund based and undrawn exposures. On performing financial assets, loss allowance shall be based on 12 months expected credit losses, while in case of Financial assets where credit risk has significantly increased, loss allowance shall be based on life time expected credit losses. The significant difference is that – Under I-GAAP loss allowance was based on actual default, while under Ind-AS it is expected credit loss model.

Collective assessment may be made for performing loans, retail NPA's etc. where provision shall be $EAD * PD * LGD$ (where EAD is Exposure at default; PD is Probability of default and LGD is Loss given default). For corporate and other impaired accounts, it shall be individual assessment where provision shall be equal to outstanding loan balance less Present Value of estimated cash flows.



Co-operative Housing Society – Compliance Aspects



Following are the Important Compliances to be done by Managing Committee of Housing Co-operative Society (as per Model Bye Law) –

Bye Law No.	Particulars	Time Period
9	Issue of Share Certificate	Within 6 months from allotment of Shares
34	Transfer of shares and interest of the deceased member in the capital/property of the Society to the nominee-	Within 6 months from death of member
86	Calling of first general body meeting	within the period of 3 months of the date of the registration, of the Society
95	Period of AGM Meeting	on or before 30th September each year
97	Special General Body Meeting	within one month of the date of the receipt or requisition, in writing signed by at least 1/5th of the members of the Society
100	Period of notice of a general body meeting	14 clear day's notice and in the case of the special general body meeting, 5 clear day's notice
147	Finalization of accounts	Within 45 days of the close of every co-operative year
147	Filing of Annual Returns	on or before 30th September of every year
152	Audit of Accounts	within a period of six months from the closure of financial year and in any case before issuance of notice of the holding of the Annual General Body Meeting.

General matters to be considered by Managing Committee in Monthly Meeting(s) –

- ★ Approval of Last committee meetings minutes
- ★ Expenses incurred during the previous month (post facto approval)
- ★ Transfer of flats, approval of membership, Associate/nominal
- ★ Subletting decisions
- ★ Nominations
- ★ Budget / expenses to be incurred
- ★ Investment of Funds
- ★ Statutory Compliances related to Income Tax incl TDS, GST etc.
- ★ Noting of payments to vendors
- ★ Updation of statutory registers, if any
- ★ Any other issues that needs resolution from the managing committee



Trusts, NGO's and Returns under Foreign Contribution Regulation Act (FCRA)

The FCRA is administered and regulated under the Ministry of Home Affairs (MHA), Government of India, through only one office at New Delhi. There are no branch offices anywhere in India.

The basic purpose of FCRA, 2010 is "to consolidate the law to regulate the acceptance and utilisation of foreign contribution or foreign hospitality by certain individuals or associations or companies and to prohibit acceptance and utilisation of foreign contribution or foreign hospitality for any activities detrimental to the national interest and for matters connected therewith or incidental thereto."

Filing of Returns under FCRA -

Who is required to file Annual Return - An association permitted to accept foreign contribution is required under law to maintain separate set of accounts and records exclusively for the foreign contribution received and utilised and submit an annual return, giving details of the receipt and purpose-wise utilisation of the foreign contribution.

Form of Annual Return and How to file - The return is to be filed for every financial year (covering period 1st April to 31st March) in Form FC-4 electronically through your login ID on <https://fcraonline.nic.in>

Due Date for filing Annual Return - The return should be uploaded within a period of nine months from the closure of the year i.e. by 31st December each year. If there is no receipt/utilisation of foreign contribution during the year, is mandatory to submit a 'NIL' returns under the law.

Intimation of Quarterly Receipts of Foreign Contribution - Every registered Association should submit Quarterly Report electronically, as intimation of receipts of foreign contribution, within 15 days from the end of the quarter with details of donor, amount received and date of receipt.

Documents required for filing FC 4 Annual Return –

Sl. No	Document Name	Maximum Size Limit of PDF document
1.	Duly signed and seal Chartered Accountant Certificate(with C.A registration number).	1 MB
2.	Declaration Certificate of Chief Functionary.	1 MB
3.	Audited Statement of Accounts(It should contain Payment Account, Income and Expenditure Statement, and Balance Sheet).	50 MB
4.	Statement of Account from Bank duly certified by officer of such bank.	10 MB



Please also ready with the images of Chief Functionary signature and Seal of the Association which are saved in JPG/JPEG format and available for uploading

Sl. No	Instruction for Images
1.	Image Dimension of Signature should be 140(Width) * 60(Height) Pixel only.
2.	Ensure that the size of the scanned signature image is not more than 50 KB.
3.	Image Dimension of Seal of Association should be 140(Width) * 60(Height) Pixel only.
4.	Ensure that the size of the scanned image of Seal of Association is not more than 100 KB.

No. Of years for which Annual Return is to be filed -
The association should submit online the mandatory return in FC-4 form for receipt and utilization of the foreign contribution on a yearly basis, till the amount of foreign contribution is fully utilized. Even if no transaction takes place during a year, a NIL return should be submitted.

Consequences of not filling the annual returns on time -
An association not filing annual return on time may face the following consequences:

- (1) Imposition of penalty for of late submission of return..
- (2) Cancellation of registration

GST Return for September 2018 – Very Important

Don't miss the last chance to rectify errors of FY 2017-18.

GST Law has given us a chance to rectify any errors crept in GST returns filed for the financial year 2017-18 till date of filing of September 2018 return (i.e. 20th October, 2018). All errors including mistakes in outward supplies as well as failure to claim ITC can be corrected. So please make full use of this opportunity.

LIFE



Action Less Thought !!

Thoughts are very powerful as they precede the action. Many a times a very positive and good thought (may be - to start exercise, to get up early, to pursue new course, to learn new subject or language) gets lost in its essence if not acted upon in time. And then.... then we blame our destiny for getting repeated life experiences. So start taking action on those positive thoughts !!

Who knows - it will take you to some different levels all together !



Due Date Diary for October to December 2018

Due Date	Category	Description
07-10-2018	Income Tax	Payment of TDS
11-10-2018	GST	Monthly return for registered persons with aggregate turnover of more than Rs.1.50 crores for the month of September 2018 (GSTR-1).
15-10-2018	Income Tax	Upload declarations received from recipients in Form No. 15G/15H during the quarter ending September, 2018
20-10-2018	GST	GST monthly return for the month of September 2018 (GSTR 3B).
31-10-2018	Income Tax	Quarterly TDS Return.
31-10-2018 (Extended due date)	Income Tax	Filing of ITR by (a) corporate-assessee or (b) non-corporate assessee (whose books of account are required to be audited) or (c) working partner of a firm whose accounts are required to be audited), except for those having International Transactions
31-10-2018	GST	Quarterly return for registered persons with aggregate turnover of more than Rs.1.50 crore for the month of September 2018 (GSTR-1).
07-11-2018	Income Tax	Payment of TDS
11-11-2018	GST	Monthly return for registered persons with aggregate turnover of more than Rs.1.50 crores for the month of October 2018 (GSTR-1).
20-11-2018	GST	GST monthly return for the month of October 2018 (GSTR 3B).
30-11-2018	Income Tax	Filing of ITR by assessee having International Transactions (Transfer Pricing)
07-12-2018	Income Tax	Payment of TDS
11-12-2018	GST	Monthly return for registered persons with aggregate turnover of more than Rs.1.50 crores for the month of November 2018 (GSTR-1).
15-12-2018	Income Tax	Payment of Advance Income Tax
20-12-2018	GST	GST monthly return for the month of November 2018 (GSTR 3B).
31-12-2018	GST	GST Annual Return



Cash Transaction and Income Tax Provisions

Introduction – Doing cash transactions has always played major role in Indian economy and in fact been major contributor in creating the black money. Govt through Income Tax has taken several initiatives to reduce and curb cash transactions.

Following are some important provisions under Income Tax –

A. Provisions related to Cash Payments

Particulars of Cash Transactions	Effect of violation / non-compliance
Payment of any expenditure more than ₹ 10,000/- in a day (payment to transport operator for plying, hiring or leasing of goods carriage limit is ₹ 35,000/-).	Expenditure not allowed as deduction from income from Business & Profession.
Repayment of loan or deposit in cash over Rs. 20,000	Penalty 100% such of loan or deposit
Payment of more than ₹ 10,000/- for purchase of business assets in cash.	Such amount will be reduced from the cost of assets and no depreciation will be allowed on such amount .
Payment for donation for more than ₹ 2,000/- in cash to funds or trusts approved	Deduction u/s 80G is not allowed

B. Provisions related to Cash Receipts

Particulars of Cash Transactions	Effect of violation / non-compliance
Acceptance of cash more than ₹ 2 lakhs in aggregate in a year, in a day or for one occasion or for one event or in one transaction.	Penalty 100% of the amount
Acceptance of loan or deposit of more than ₹ 20,000/- in cash.	Penalty 100% such of loan or deposit .
Acceptance of advance more than ₹ 20,000/- in a year for transfer of immovable property	Penalty 100% of such amount.

C. Provisions related to Investment in Cash

Particulars of Cash Transactions	Effect of violation / non-compliance
Investment linked deduction for capital expenditure more than ₹ 10,000/- in cash.	Deduction will not be allowed of such expenditure Section 35AD
Payment of premium for medical Insurance in cash	Deduction will not be allowed of such payments Section 80D



SAFE HARBOUR RULES

Introduction - The CBDT has notified the Safe Harbour Rules (10TA to 10TG) for international transactions. The rules contains the procedure for adopting Safe Harbour, the transfer price to be fixed and the compliance procedures to be undertaken. In order to avail the benefit of Safe Harbour provisions, a taxpayer is required

to file Form No. 3CEFA with the revenue authorities. A validly exercised Safe Harbour option can continue to remain in force for a period of 3 years or period opted by the taxpayer, whichever is less, provided certain conditions are met.

The rules cover international transactions in following categories/sectors:

Sl. No.	Eligible International Transaction	Circumstances
1.	Provision of software development services or Provision of information technology enabled services	The operating profit margin in relation to operating expense incurred is 17 % or more, where the value of international transaction is upto Rs. 100 Cr; or 18 % or more, where the value of international transaction is Rs. 100 Cr to Rs. 200 Cr.
2.	Provision of knowledge process outsourcing services	For the value of international transaction Upto Rs. 200 Cr and the operating profit margin in relation to operating expense is 18% - 24% or more based on the Employee Cost in relation to the Operating Expense is from 40% to at least 60%
3.	Advancing of intra-group loans where the amount of loan is denominated in Indian Rupees (INR).	The minimum interest rate declared in relation to the eligible international transaction is equal to 1 year MCLR of SBI on 1st April of the relevant previous year plus, 175 basis points to 625 basis points based on CRISIL credit rating.
4.	Advancing of intra-group loans where the amount of loan is denominated in foreign currency.	The minimum interest rate declared in relation to the eligible international transaction is 6 month LIBOR of the relevant foreign currency as on 30th September of the relevant previous year plus, 150 basis points to 600 basis points based on CRISIL credit rating.
5.	Providing corporate guarantee	The commission or fee declared in relation to the eligible international transaction is at the rate not less than one per cent per annum on the amount guaranteed.
6.	Provision of contract research and development services wholly or partly relating to software development or Provision of contract research and development services wholly or partly relating to generic pharmaceutical drugs	The operating profit margin in relation to operating expense incurred is 24% or more, where the value of the international transaction is upto Rs 200 Cr.
7.	Manufacture and export of core auto components	The operating profit margin in relation to operating expense is 12 % or more.
8.	Manufacture and export of non-core auto components	The operating profit margin in relation to operating expense is 8.5 % or more.
9.	Receipt of low value-adding intra-group services	The entire value of the international transaction, including a mark-up not exceeding 5 per cent., does not exceed a sum of ten crore rupees: Provided that the method of cost pooling, the exclusion of shareholder costs and duplicate costs from the cost pool and the reasonableness of the allocation keys used for allocation of costs to the assessee by the overseas associated enterprise, is certified by an accountant.]



Other Important Points –

- ★ If the taxpayer has opted for Safe Harbour but has reported rates or margins less than the Safe Harbour rates or margins, then income shall be computed by the tax authorities on the basis of the Safe Harbour rates or margins.
- ★ The Safe Harbour rates or margins are not a benchmark for the cases not covered by the Safe Harbour Rules. Thus, regular transfer pricing audits should be carried out without having regard to the Safe Harbour rates or margins.
- ★ The Safe Harbour rules shall not apply in respect of eligible international transactions entered into with an associated enterprise located in any country or territory notified under section 94A or in a no tax or low tax country or territory.
- ★ Provision of contract research and development services wholly or partly relating to generic pharmaceutical drugs





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