

Sub: FAQ on GST TDS and Clarification

<u>S. N</u>	<u>Query</u>	<u>Reply/ Remarks</u>
1.	Whether the new provisions are applicable to UTGST also & if so what would be rate of TDS?	Yes, Applicable also in case of UTGT. In case of Union Territory, UTGST TDS @ 1 % will be deducted along with CGST TDS.
2.	The definition of Contract may be indicated?	Term Contract has not been defined in GST Act. Hence, the same should be referred from Indian Contract Act, 1872 whereas per subsection h of section 2, Contract means “an agreement enforceable by law is a contract”.
3.	In case the liability is booked by crediting the vendor before 1st Oct 2018 & payment is released on or after 1st Oct 2018, then whether TDS shall be applicable?	No, TDS is not required to be deducted. The Law Committee, GST Council has also clarified in the Standard Operating Procedure (SOP) issued by dated 28/09/2018 that <i>no TDS is required to be deducted “where the payment relates to a tax invoice that has been issued before 01/10/2018”.</i> Reference: Para 4 (i) at Page No.10.
4.	What would be the value on which TDS is to be calculated, i.e. Whether base value or Total value inclusive of GST?	As per Explanation given under subsection 1 of Section 51 of CGST Act, 2017 TDS will be deducted on the base value i.e. value excluding central tax, State tax, Union territory tax, integrated tax and cess indicated in the invoice. The explanation is reproduced as under: <i>“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”</i>
5.	Is it applicable to unregistered supplier also? If so what would be modalities for the same.	On payment made to unregistered supplier GST (TDS) will not be applicable because as per section 51 of CGST Act,2017 TDS is required to be deducted on payment made to supplier of taxable goods and services and any supplier of taxable goods and services needs to get registration. Further as per the provision of subsection 5 of section 51, deductee can claim credit of TDS deducted in his credit ledger. It is also cleared from this provision that only the registered person can claim credit. Hence this provision is applicable only in case of registered Supplier. Hence, in our

		<p>opinion there is no requirement to deduct TDS on payment made to unregistered suppliers.</p> <p>Further the Law Committee, GST Council has also clarified in the Standard Operating Procedure (SOP) issued by dated 28/09/2018 that <i>no TDS is required to be deducted “where the payment is made to an unregistered dealer”.</i></p> <p>Reference: Para 4 (I) at Page No.10.</p>
6.	(i) In case there is a spot purchase of more than Rs. 2.5 lakhs without a contract then what would be applicability status?	<p>As per section 51 of CGST Act,2017 TDS is required to be deducted on payment made to supplier of taxable goods and services where the total value of such supply, under a contract, exceeds two lakh and fifty thousand rupees.</p> <p>On bare perusal of this provisions it is observed that the words “<i>under a contract</i>” is relevant for determining the value of supply for TDS deduction.</p> <p>Hence in our opinion, in case of any supply received from registered person having value exceeding Rs.2,50,000/- TDS is required to be deducted irrespective of the fact whether there is any contract or not for supplying the goods or services or both.</p>
	(ii) Similarly, the status & rate for procurement from a Vendor who has opted for composite rate may also be clarified?	<p>On payment to Supplier under composition scheme GST (TDS) will be applicable, because as per section 51 of CGST Act,2017 TDS is required to be deducted on payment made to supplier of taxable goods and services and any supplier of taxable goods and services needs to get registration and any composition dealer who is supplying taxable goods and services is required to get registration. Hence, GST (TDS) will be deducted on payment made to composition dealer.</p> <p>Rate of TDS : 1% CGST + 1% SGST/ UTGST or 2% IGST (in case of Interstate supply)</p>
7.	Is there requirement of issue of any TDS certificates by the paying authority & if so the format/timelines for issue of same may be intimated.	<p>Yes, as per the subsection 3 of Section 51 of CGST Act, 2017, there is a requirement to issue TDS Certificate in Form GSTR 7A.</p> <p>Requirement: As per the subsection 3 of Section 51 of CGST Act, 2017 TDS certificate is required to be furnished.</p>

		<p>Timeline: Within five days of crediting the amount so deducted to the Government.</p> <p>As per section 51(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 days period until the failure is rectified, subject to a maximum amount of five thousand rupees.</p> <p>Format of TDS Certificate: The same can be downloaded by access the www.gst.gov.in URL and using following path: Login to the GST Portal with valid credentials. Navigate to Services > User Services > View/Download Certificates option.</p> <p>However, the same is also attached in email.</p>
8.	Requirements of Report(s), if any, may also be intimated with Format(s).	<p>Reports is required containing the details as required in GST TDS return (GSTR 7). The details are as under:</p> <ol style="list-style-type: none"> 1. GSTN of Deductee. 2. Name of Deductee. 3. Month of Deduction. 4. Amount paid to deductee on which tax is deducted. 5. IGST deducted. 6. CGST deducted. 7. SGST/UTGST deducted. <p>Further monthly invoice wise details of payment made to parties is also required for reconciliation purpose.</p>
9.	Details of various GL codes for 35 GSTN may also be intimated.	<p>AAI has to create for GL's for GST TDS purposes for all 35 registration (where TDS GST registration will be obtained)</p> <p>1. 3 GL for GST TDS deducted by AAI as recipient from vendor's invoice as under</p> <ol style="list-style-type: none"> (i) TDS-GST- Payable - CGST - Delhi (For Intra state - @ 1%) (ii) TDS-GST- Payable -SGST - Delhi (For Intra state - @ 1%) (iii) TDS-GST- Payable -IGST - Delhi (For Interstate - @ 2%) <p>2. 3 GL for GST TDS deducted by parties from AAI invoices</p>

		<p>(i) TDS-GST- Receivable - CGST - Delhi (For Intra state - @ 1%)</p> <p>(ii) TDS-GST- Receivable - SGST - Delhi (For Intra state - @ 1%)</p> <p>(iii) TDS-GST- Receivable - IGST - Delhi (For Interstate - @ 2%)</p> <p>3. 1 GL for Payment of GST TDS deducted by AAI.</p>
10.	In case a Vendor has more than one contract in same GSTN or more than one GSTN of AAI, then is the value of contract is to be reckoned individually or on consolidated basis?	<p>On bare perusal of the provisions of Subsection 1 of Section 51 of CGST Act 2017, it is found that the value of contract is to be considered individually and not consolidated. The Law Committee, GST Council has also clarified this situation in the Standard Operating Procedure (SOP) issued by dated 28/09/2018 in Para 6 by way of Note .</p> <p>Reference: Para 6 at Page No.14.</p> <p>But it is practically difficult to control or check all the contracts at the time of making payment. Hence it is suggested to deduct TDS in case of multiple contracts, combined value of which exceed Rs. 2.5Lacs.</p>
11.	Whether is TDS GST applicable on Stock & Asset Transfer between different GSTN of AAI?	<p>As per section 51 of CGST Act,2017 TDS is required to be deducted on payment made to supplier of taxable goods and services where the total value of such supply, under a contract, exceeds two lakh and fifty thousand rupees.</p> <p>As per the provisions of section 51, there must be some contract. As per the provisions of Contract Act there must be two parties for executing a contract and a person cannot do any contract with itself.</p> <p>The stock and any assets transfer between two units/branch having same PAN but having different GSTN is generally made on management decision and there is no any contract between the units/branch. These units/branch are different entity in GST perspective but in contract perspective these are same legal entity and cannot do contract with itself.</p> <p>Hence in our opinion TDS under GST is not required to be deducted in case of stock and assets transfer between two units/branch having same PAN.</p>
12.	Whether is TDS GST applicable on Advance Payment?	Yes, TDS is applicable on advance payment made for supply of goods or services under a contract, where contract value exceeds 2,50,000 (excluding GST).

13.	Whether is TDS GST applicable on IGST paid on custom duty payment for import of material?	<p>No, TDS (GST) is not applicable on IGST paid on custom duty because the IGST is paid under reverse charge.</p> <p>In case of Reverse charge no TDS is required to be deducted. The Law Committee, GST Council has also clarified in the Standard Operating Procedure (SOP) issued by dated 28/09/2018 that <i>no TDS is required to be deducted “where the tax is to be paid on reverse charge by the recipient i.e. deductee”.</i></p> <p>Reference: Para 4 (k) at Page No.10.</p>
14.	Is TDS GST applicable on balance payment of a running contract where 80% already paid of the contract to the vendor for Pre GST TDS-period?	<p>Yes, TDS (GST) is applicable on a running contract for the balance payment made on or after 01-10-2018. Tax cannot be deducted for any payment made prior to 01/10/2018. The Law Committee, GST Council has also clarified this situation in the Standard Operating Procedure (SOP) issued by dated 28/09/2018 in replying Q.21 & 22 of FAQ at Para No.14.</p> <p>Reference: Q. No.21 & 22, Para 14 at Page No. 29.</p>
15.	Is TDS GST applicable on GST booked under Reverse Charge Mechanism?	<p>No, TDS (GST) is not applicable on GST booked under Reverse charge mechanism. The Law Committee, GST Council has also clarified in the Standard Operating Procedure (SOP) issued by dated 28/09/2018 that <i>no TDS is required to be deducted “where the tax is to be paid on reverse charge by the recipient i.e. deductee”.</i></p> <p>Reference: Para 4 (k) at Page No.10.</p>