

DPNC GLOBAL



GST UPDATES

Collection of tax at source (TCS)

COLLECTION OF TAX AT SOURCE (TCS)

Meaning:

Tax Collected at Source (TCS) under GST means the tax collected by an e-commerce operator from the consideration received by it on behalf of the supplier of goods, or services who makes supplies through the operator's online platform.

Definitions:

Electronic Commerce has been defined in Sec. 2(44) of the CGST Act, 2017 to mean the supply of goods or services or both including digital products over digital or electronic network.

Electronic Commerce Operator (ECO) has been defined in Sec. 2(45) of the CGST Act, 2017 to mean any person who owns, operates or manages digital or electronic facility or platform for electronic commerce.

In common parlance, provision of market place over internet is called e-commerce & the person who owns, operates or manages such market place is called Electronic Commerce Operator (ECO).

Applicability of TCS:

Every E-commerce Operator (Like Amazon, Flipkart, Zomato etc.) is required to collect tax at source at such rate not exceeding 1% (0.5% each under CGST & SGST and 1% in case of IGST) @1% of **Net value of Taxable Supplies** except in the Following cases:

- i. When the supplier makes **Exempt supplies** through E-commerce operator,
- ii. TCS is not required to be collected on supplies on which the recipient is required to pay tax on **reverse charge basis**,
- iii. As far as **import of goods** is concerned since same would fall within the domain of Customs Act, 1962, it would be outside the purview of TCS. Thus, TCS is not liable to be collected on import of goods or services.
- iv. **Section 9(5) of the CGST Act (corresponding Section 5(5) of the IGST ACT):-**

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, and all the provisions of this Act shall apply to such electronic commerce operator as if he is the supplier liable for paying the tax in relation to the supply of such services:

#this service is added with effect from 1st January 2022 vide N/N 17/2021 dated 18.11.2021

| Specified Services under Section 9(5) of the CGST Act: | | | | |
|---|--|--|---------------------------------|--|
| S. No. | Description | Supplier of Service | Person Liable to pay GST | Notification No. |
| 1. | Services by way of transportation of passengers by a radio-taxi, motor cab, maxi cab and motor cycle; | Any person | ECO | Notification No. 17/2017-Central Tax (Rate) Dated 28th June'2017 |
| 2. | Services by way of providing accommodation in hotels, inns, guest houses, clubs, campsites or other commercial places meant for residential or lodging purposes. | Any person except who is liable for registration under sub-section (1) of section 22 of the said CGST Act i.e. whose turnover exceeds the Threshold limit. | ECO | Notification No. 17/2017-Central Tax (Rate) Dated 28th June'2017 |
| 3. | Services by way of house-keeping, such as plumbing, carpentering etc. | Any person except who is liable for registration under sub-section (1) of section 22 of the said CGST Act | ECO | Notification No. 23/2017-Central Tax(Rate) Dated 22nd Aug, 2017 |

| | | | | |
|----|--|------------|-----|--|
| 4. | Supply of restaurant service other than the services supplied by restaurant, eating joints etc. located at specified premises. | Any person | ECO | Notification No. 17/2021 Dated 18th Nov, 2021 |
|----|--|------------|-----|--|

Net Value of Taxable Supplies: -

"**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 persons through the operator reduced by the aggregate value of taxable supplies returned to the suppliers during the said month.

For eg. M/s XYZ sold goods through Amazon amounting to Rs.15 Lakhs and customers made a return for goods amounting to Rs.2 Lakhs. In this case, Amazon shall collect tax for M/s XYZ at Rs.13 Lakhs i.e. "Net Value of Taxable Supply".

Registration Requirements:

Compulsory Registration for ECO:-

As per **Sec. 24(x) of the CGST Act, 2017**, E-commerce operators must register under GST as they are liable to collect TCS in GST, even when their suppliers have not exceeded the GST registration threshold limit.

Compulsory Registration for person supplying through ECO: -

As per **Sec. 24(ix) of the CGST Act, 2017**, the suppliers who makes supplies through E-commerce operator and falls within the scope of TCS provisions are also required to get themselves register under GST as they can claim the TCS amount deducted as Input Tax Credit to their respective cash ledgers.

NOTE:- Where an electronic commerce operator does not have a physical presence in the taxable territory, any person representing such electronic commerce operator for any purpose in the taxable territory shall be liable to pay tax.

Where an electronic commerce operator does not have a physical presence in the taxable territory and also, he does not have a representative in the said territory, such electronic commerce operator shall appoint a person in the taxable territory for the purpose of paying tax and such person shall be liable to pay tax.

Reporting under TCS:

Every E-commerce operator who collects TCS shall furnish a statement in form **GSTR-8** electronically within 10 Days after the end of such month.

The amount of TCS paid by the ECO to the government will be reflected in the **GSTR-2A** of the actual registered supplier (on whose account such collection has been made) on the basis of the GSTR-8 filed by the e-commerce operator.

GSTR-8 Contains 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.

GSTR-8 once filed, cannot be revised, any mistake made in the return can be revised in the next month's return or in later months when the error or omission is identified.

Provided that no such rectification of any omission or incorrect particulars shall be allowed after the **thirtieth day of November** or the **actual date of furnishing of the relevant annual statement**, whichever is earlier.

Every E-commerce operator who collects TCS shall furnish an Annual Statement in form **GSTR-9B** electronically before the thirty first day of December following the end of such financial year.

Disclaimer: *The information contained herein is in summary form and is based on information available in public domain. While the information is believed to be accurate to the best of our knowledge, we do not make any representations or warranties, express or implied, as to the accuracy or completeness of such information. This document is not an offer, invitation, advice or solicitation of any kind. We accept no responsibility for any errors it may contain or for any loss, howsoever caused or sustained, by the person who relies on it.*