

India

India Clarifies Liability to Deduct WHT, Gross Amount for E-commerce Transactions

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The Central Board of Direct Taxes (CBDT) has issued a circular clarifying certain aspects when deducting withholding tax (WHT) in e-commerce transactions under section 194-O of the Income-tax Act, 1961. The clarifications are set out below.

- Where multiple e-commerce operators (ECOs) are involved in a single transaction of sale of goods or services or both through an e-commerce platform and where:
 - the seller-side ECO is not the actual seller of the said goods or services - WHT compliance is the responsibility of the seller-side ECO who finally makes the payment to the seller; and
 - the seller-side ECO itself is the actual seller of the said goods or services - WHT compliance is the responsibility of the ECO who finally makes the payment to the actual seller of goods or services.
- For previous reporting on the goods and services tax (GST) compliance, see [India Clarifies Responsibility to Collect, Remit GST Where Multiple Parties are Involved in a Particular E-Commerce Sale \(1 August 2023\)](#).
- Commissions, convenience fees, logistic charges and delivery fees must be included in the "gross amount" for the calculation of WHT.
- WHT will be deducted from the amount credited without including GST and other taxes levied on the sale of goods or services, provided the GST and other taxes are clearly mentioned in the invoice.
- Seller discounts (not including discounts by a buyer-side ECO or seller-side ECO) must be deducted when calculating the gross amount of the products sold or services provided.
- In cases of purchase returns, if the WHT has already been deducted before the purchase return, the WHT can be adjusted against the next transaction with the same seller in the same tax year. No adjustment is required if the purchase return is replaced with goods.

Section 194-O provides that, where the sale of goods or provision of services of an e-commerce participant is facilitated by an ECO through its digital or electronic facility or platform, such ECO must deduct WHT at 1% of the gross amount of such sales or services or both. WHT must be deducted at the time of credit of amount of sale or services or both to the account of an e-commerce participant or at the time of payment thereof to such e-commerce participant by any mode, whichever is earlier.

The full text of Circular No. 20/2023 dated 28 December 2023 is available [here](#).

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