

# TAX DEDUCTION AT SOURCE AND COLLECTION OF TAX AT SOURCE

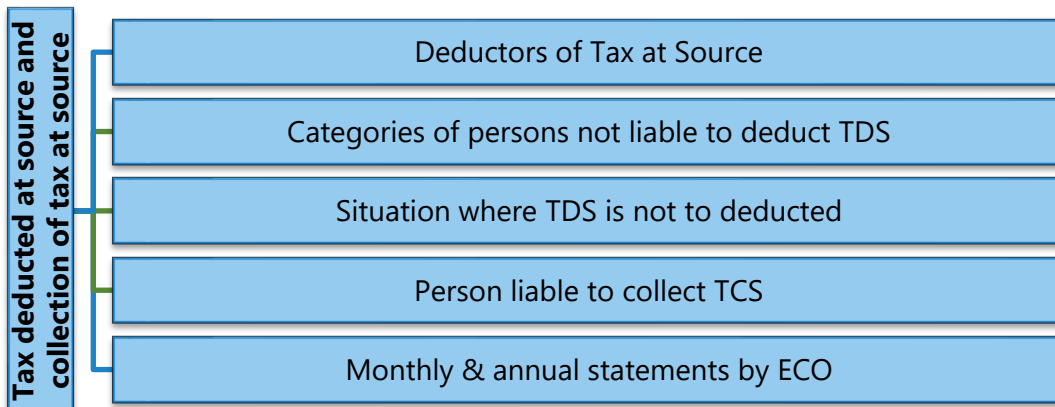


*The section numbers referred to in the Chapter pertain to the CGST Act, 2017, unless otherwise specified. Examples/Illustrations/Questions and Answers given in the Chapter are based on the position of GST law existing as on 30.04.2023.*

## LEARNING OUTCOMES

**After studying this chapter, 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.

**CHAPTER OVERVIEW**

## 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 facilitates

# TDS

sharing of responsibility of tax collection between the deductor and the tax administrator. This concept of TDS ensures regular inflow of tax collection to the Government. This mechanism acts as a powerful instrument to prevent tax evasion and expands the tax net, as it provides for the creation of an audit trail. Also, with the integration of data furnished by the Supplier and Buyer on the GST common portal, there exists an audit trail to ensure for harmony of taxes paid by the supplier.

Section 51<sup>1</sup> of CGST Act, 2017 provides for deduction of tax at source in certain circumstances. This Section specifically lists out the deductor's 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 make payment to or credits a supplier's account 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.

**TCS**

Section 52<sup>2</sup> of CGST Act, 2017 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**

❖ **Local authority** means

- (a) a "Panchayat" as defined in clause (d) of article 243 of the Constitution;
- (b) a "Municipality" as defined in clause (e) of article 243P of the Constitution;


<sup>1</sup> Students may refer "Standard Operating Procedure on TDS" issued by CBIC from CBIC website.

<sup>2</sup> Students may refer "Frequently Asked Questions on TCS" issued by CBIC from CBIC website.

- (c) 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;
  - (d) a Cantonment Board as defined in section 3 of the Cantonments Act, 2006;
  - (e) a Regional Council or a District Council constituted under the Sixth Schedule to the Constitution;
  - (f) a Development Board constituted under article 371 and article 371J of the Constitution; or
  - (g) a Regional Council constituted under article 371A of the Constitution; [Section 2(69)]
- ❖ **Cess** shall have the same meaning as assigned to it in the Goods and Services Tax (Compensation to States) Act [Section 2(22)].
  - ❖ **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)].
  - ❖ **Taxable supply** means a supply of goods or services or both which is leviable to tax under this Act [Section 2(108)].
  - ❖ **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)]
  - ❖ **Notification** means a notification published in the official gazette and the expressions "notify" and "notified" shall be constructed accordingly.



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

	STATUTORY PROVISIONS	
Section 51	Tax deduction at source	
Sub-Section	Clause	Particulars
(1)		Notwithstanding anything to the contrary contained in this Act, the Government may mandate, —
	(a)	a department or establishment of the Central Government or State Government; or
	(b)	local authority; or
	(c)	Governmental agencies; or
	(d)	such persons or category of persons as may be notified by the Government on the recommendations of the Council,
	(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 :	
	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.	
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.	

(2)	<i>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.</i>
(3)	<i>A certificate of tax deduction at source shall be issued in such form and in such manner as may be prescribed.</i>
(5)	<i>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.</i>
(6)	<i>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.</i>
(7)	<i>The determination of the amount in default under this section shall be made in the manner specified in section 73 or section 74<sup>3</sup>.</i>
(8)	<p><i>The refund to the deductor or the deductee arising on account of excess or erroneous deduction shall be dealt with in accordance with the provisions of section 54<sup>4</sup> :</i></p> <p><i>Provided that no refund to the deductor shall be granted, if the amount deducted has been credited to the electronic cash ledger of the deductee.</i></p>



## ANALYSIS

### ❑ 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

<sup>3</sup> The provisions relating to section 73 and section 74 will be discussed in detail at Final level.

<sup>4</sup> The provisions relating to section 54 will be discussed in detail at Final level.

persons (the deductor) to deduct tax at source from payments made to the suppliers of taxable goods and/or services.

**Central/State Government  
department or establishment  
[Section 51(1)(a)]**

**Local Authority [Section 51(1)(b)]**

**Governmental Agencies  
[Section 51(1)(c)]**

**Notified Persons/category of  
persons [Section 51(1)(d)]**

With respect to deductors under section 51(1)(a), provisions of TDS are applicable to certain prescribed authorities of Ministry of Defence, remaining authorities under the Ministry of Defence are exempt. Detailed list has been specified under *Notification 57/2018 CT dated 23.10.2018*.

The following persons have been 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;

It has been clarified vide *Circular No. 76/50/2018 GST dated 31.12.2018* that the rider of 51% or more participation by way of equity or control is applicable to both the items (i) and (ii). Thus, the provisions of section 51 of the CGST Act are applicable only to such authority or a board or any other body set up by an Act of parliament or a State legislature or established by any Government in which 51% or more participation by way of equity or control is with the Government.

- (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:

### ❑ Categories of persons not liable to deduct TDS

Tax is not liable to be deducted at source in the following cases:-

- (i) When goods and/or services are supplied from a public sector undertaking (PSU) to another PSU, whether or not a distinct person

*[Notification No. 61/2018 CT dated 05.11.2018]*

- (ii) When supply of goods and/or services takes place between one person to another person specified in clauses (a), (b), (c) and (d) of section 51(1) of the CGST Act.

*[Notification No. 73/2018 CT dated 31.12.2018]*

### ❑ 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% under CGST Act, 2017 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 supplies under a contract is more than ₹ 2,50,000/-, TDS has to be deducted.

TDS-1% +1% [CGST + SGST] on net value of taxable supplies

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 under CGST Act, 2017.



***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.***



**❑ 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.

Location of Supplier	Place of Supply	Registration of Recipient	TDS u/s 51
State A	State A	State A	Yes
State A	State A	State B	No
State A	State B	State B	Yes
UT1	UT1	UT1	Yes
UT1	UT2	UT2	Yes
UT1	UT1	UT2	No

### ❑ 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 for the purpose of TDS under Section 51 of CGST Act, 2017.

**Value of supply  
shall exclude  
tax & cess**

### ❑ 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 content of Form GSTR 7A (TDS Certificate) are given below:

1. TDS Certificate No.
2. GSTIN of deductor
3. Name of deductor
4. GSTIN of deductee
5. (a) Legal name of the deductee  
(b) Trade name, if any
6. Tax period in which tax deducted and accounted for in GSTR-7
7. Details of supplies
8. Amount of tax deducted

### ❑ 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). [GSTR-7] [Refer Chapter:15 Returns for detailed discussion on GSTR-7].

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.

**❑ Determination of amount in Default**

Any default in determination of the amount under Section 51 shall be made in the manner specified in Section 73 or section 74,<sup>5</sup> as the case may be.

**❑ Refund on excess/erroneous deduction**

The deductor or the deductee can claim refund of excess deduction or erroneous deduction. The provisions of section 54<sup>6</sup> relating to refunds would apply in such cases.

**❑ Registration<sup>7</sup> [Rule 12 of CGST Rules, 2017]**

Any person required to deduct tax in accordance with the provisions of section 51 shall electronically submit a registration application in prescribed form through the common portal. The proper officer shall, after due verification, grant registration within 3 working days from the date of the application. Also, on a request or upon an enquiry or pursuant to any other

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<sup>5</sup> The provisions relating to section 73 and section 74 will be discussed in detail at Final level.

<sup>6</sup> The provisions relating to section 54 will be discussed in detail at Final level.

<sup>7</sup> The provisions relating to registration have already been discussed in Chapter-9 of this Module.

proceeding under the Act, if the proper officer is satisfied that a person is no longer liable to deduct tax at source under section 51, then the said officer may cancel the said registration, following procedures as provided in Rule 22 of the CGST Rules for the cancellation of registration.



**(1)** Supplier makes a supply worth ₹ 20 lakh to a recipient and the GST at the rate of 18% is required to be paid. The recipient, while making the payment of ₹ 20 lakh to the supplier, shall deduct 2% [CGST 1% + SGST 1%] viz ₹ 40,000 as TDS.

The value for TDS purpose shall not include 18% GST. The TDS, so deducted, shall be deposited in the account of Government by 10<sup>th</sup> 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.



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

	<b>STATUTORY PROVISIONS</b>	
<b>Section 52</b>	<b>Collection of tax at source</b>	
<b>Sub-Section</b>	<b>Clause</b>	<b>Particulars</b>
<b>(1)</b>		Notwithstanding anything to the contrary contained in this Act, every electronic commerce operator (hereafter in this section referred to as the "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 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.

<b>Explanation</b>	<i>For the purposes of this sub-section, the expression "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.</i>
<b>(2)</b>	<i>The power to collect the amount specified in sub-section (1) shall be without prejudice to any other mode of recovery from the operator.</i>
<b>(3)</b>	<i>The amount collected under sub-section (1) shall be paid to the Government by the operator within ten days after the end of the month in which such collection is made, in such manner as may be prescribed.</i>
<b>(4)</b>	<i>Every operator who collects the amount specified in sub-section (1) shall furnish a statement, electronically, containing 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, and the amount collected under sub-section (1) during a month, in such form and manner as may be prescribed, within ten days after the end of such month</i>
	<i>Provided that the Commissioner may, for reasons to be recorded in writing, by notification, extend the time limit for furnishing the statement for such class of registered persons as may be specified therein:</i>
	<i>Provided further that any extension of time limit notified by the Commissioner of State tax or the Commissioner of Union territory tax shall be deemed to be notified by the Commissioner</i>
<b>(5)</b>	<i>Every operator who collects the amount specified in sub-section (1) shall furnish an annual statement, electronically, containing 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, and the amount collected under the said sub-section during the financial year, in such form and manner as may</i>

	<i>be prescribed, before the thirty first day of December following the end of such financial year</i>
	<i>Provided that the Commissioner may, on the recommendations of the Council and for reasons to be recorded in writing, by notification, extend the time limit for furnishing the annual statement for such class of registered persons as may be specified therein:</i>
	<i>Provided further that any extension of time limit notified by the Commissioner of State tax or the Commissioner of Union territory tax shall be deemed to be notified by the Commissioner</i>
<b>(6)</b>	<i>If any operator after furnishing a statement under sub-section (4) discovers any omission or incorrect particulars therein, other than as a result of scrutiny, audit, inspection or enforcement activity by the tax authorities, he shall rectify such omission or incorrect particulars in the statement to be furnished for the month during which such omission or incorrect particulars are noticed, subject to payment of interest, as specified in sub-section (1) of section 50:</i>
	<i>Provided that no such rectification of any omission or incorrect particulars shall be allowed after the <b>thirtieth day of November</b> following the end of the financial year or the actual date of furnishing of the relevant annual statement, whichever is earlier.</i>
<b>(7)</b>	<i>The supplier who has supplied the goods or services or both through the operator shall claim credit, in his electronic cash ledger, of the amount collected and reflected in the statement of the operator furnished under sub-section (4), in such manner as may be prescribed.</i>
<b>(12)</b>	<i>Any authority not below the rank of Deputy Commissioner may serve a notice, either before or during the course of any proceedings under this Act, requiring the operator to furnish such details relating to —</i>

	(a)	<i>supplies of goods or services or both effected through such operator during any period; or</i>
	(b)	<i>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,</i>
	<i>as may be specified in the notice.</i>	
<b>(13)</b>	<i>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.</i>	
<b>(14)</b>	<i>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<sup>8</sup>, be liable to a penalty which may extend to twenty-five thousand rupees.</i>	
<b>Explanation</b>	<i>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.</i>	



## **ANALYSIS**

### **Overview of TCS**

TCS refers to the tax which is collected by the electronic commerce operator when a supplier supplies taxable goods or services through portal of e-commerce operator and the payment for that supply is collected by said electronic commerce operator. The nature of working of electronic commerce operator can be better understood with the following example.

<sup>8</sup> The provisions relating to section 122 will be discussed in detail at Final level.



(2) There are many e-Commerce operators [hereinafter referred to as an Operator], like Amazon, Flipkart, Urban clap etc. operating in India. These 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 through the Operator 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 and incidental expenses mutually agreed upon by the Operator.

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

#### ❑ **Who is liable to collect TCS ?**

Every Electronic Commerce Operator (ECO), not being an agent, has been mandated to collect tax at source (TCS) on the net value of taxable supplies [supplies net of returns if any] made through it by suppliers, where the ECO collects the consideration on behalf of the supplier for such supplies.

#### ❑ **Rate of TCS**

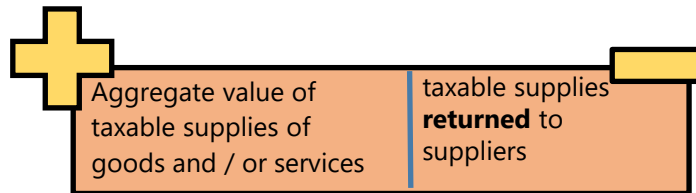
Half percent of the net value of intra-State taxable supplies. 1% of the net value of inter-State taxable supplies.



(3) Suppose a certain product is sold at ₹ 1,120 [including GST @12%] through an Operator by a supplier. The operator would collect tax @ 1% of the net value of ₹ 1,000 i.e. ₹ 10 in case of inter-State supplies.



## Net Value of Taxable Supplies



other than notified services under section 9(5) by all registered persons supplied through operator

Currently, services notified under section 9(5) of CGST Act, 2017 vide *Notification No. 17/2017 CT (R) dated 28.06.2017* / ***Notification No. 14/2017 IT (R) dated 28.06.2017*** as amended are given as below<sup>9</sup>:

- (a) services by way of transportation of passengers by a radio-taxi, motorcab, maxicab, motor cycle, ***omnibus or any other motor vehicle***;
- (b) services by way of providing accommodation in hotels, inns, guest houses, clubs, campsites or other commercial places meant for residential or lodging purposes, except where the person supplying such service through electronic commerce operator is liable for registration under section 22(1) of the CGST Act.
- (c) services by way of house-keeping, such as plumbing, carpentering etc, except where the person supplying such service through electronic commerce operator is liable for registration under sub-section 22(1) of the CGST Act.
- (d) ***supply of restaurant service other than the services supplied by restaurant, eating joints etc. located at specified premises.***

<sup>9</sup> The provisions relating to section 54 will be discussed in detail at Final level..



***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. The rate has been notified as 1% for tax collection at source under IGST.***

Further, the power conferred on the e-commerce operator to collect tax at source, is without prejudice to other modes of recovery from operator. The powers of e-commerce operator are restricted only to the extent of tax collection at source under circumstances specified therein and nothing more.

#### □ **Deposit of 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.



**(4)** If the TCS has been collected in the month of July, the amount has to be remitted into the Government Treasury on or before 10<sup>th</sup> August.

#### **ILLUSTRATION 1**

*Mr. X is a supplier selling his own products through a web site hosted by him. Does he fall under the definition of an "electronic commerce operator"? Whether he is required to collect TCS on such supplies?*

#### **ANSWER**

As per the definitions in Section 2(44) and 2(45) of the CGST Act, 2017, Mr. X will come under the definition of an "electronic commerce operator". However, according to Section 52 of the Act *ibid*, TCS is required to be collected on the net value of taxable supplies made through it by other suppliers where the consideration is to be collected by the ECO. In cases, where someone is selling their own products through a website, there is no requirement to collect tax at source as per the provisions of this Section. These transactions will be liable to GST at the prevailing rates.

### ILLUSTRATION 2

*If Mr. A purchase goods from different vendors and in turn Mr. A, is selling them on his own website under his own billing, Is TCS required to be collected on such supplies?*

### ANSWER

No. According to Section 52 of the CGST Act, 2017, TCS is required to be collected on the net value of taxable supplies made through E-commerce operator by other suppliers where the consideration is to be collected by the ECO. In this case, there are two transactions - Mr. A purchase the goods from the vendors, and those goods are sold through his own website. For the first transaction, GST is leviable, and will need to be paid to vendor, on which credit is available to Mr. A. The second transaction is a supply on own account of Mr. A, and not by other suppliers and there is no requirement to collect tax at source. The transaction will attract GST at the prevailing rates.

#### ❑ **Registration<sup>10</sup> [Rule 12 of CGST Rules, 2017]**

Any person required to collect tax in accordance with the provisions of section 52 shall electronically submit a registration application in prescribed form through the common portal. The proper officer shall, after due verification, grant registration within 3 working days from the date of the application.

Also, on a request or upon an enquiry or pursuant to any other proceeding under the Act, if the proper officer is satisfied that a person is no longer liable to deduct tax at source under section 52 then the said officer may cancel the said registration, following procedures as provided in Rule 22 of the CGST Rules for the cancellation of registration.

#### ❑ **Filing of Monthly & Annual Statements by ECO<sup>11</sup>**

- ✓ An **electronic statement** [Form GSTR 8] has to be filed by the ECO containing details of the outward supplies of goods and/ or services

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<sup>10</sup> The provisions relating to registration have already been discussed in Chapter-9 of this Module.

<sup>11</sup> The detailed provisions of monthly and annual statements have been discussed in Chapter 15: Returns.

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.

- ✓ Additionally, the ECO is also mandated to file an **Annual Statement** [Form GSTR 9B] on or before 31<sup>st</sup> day of December following the end of the financial year.
- ✓ The Commissioner has been empowered to extend the due date for furnishing of monthly and annual statement by the person collecting tax at source.

□ **Notice to the Operator seeking details**

- ✓ 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.
- ✓ The operator is required to furnish such details within 15 working days.
- ✓ In case an operator fails to furnish the information, besides being liable for penal action under section 122<sup>12</sup>, it shall also be liable for penalty up to ₹ 25,000.

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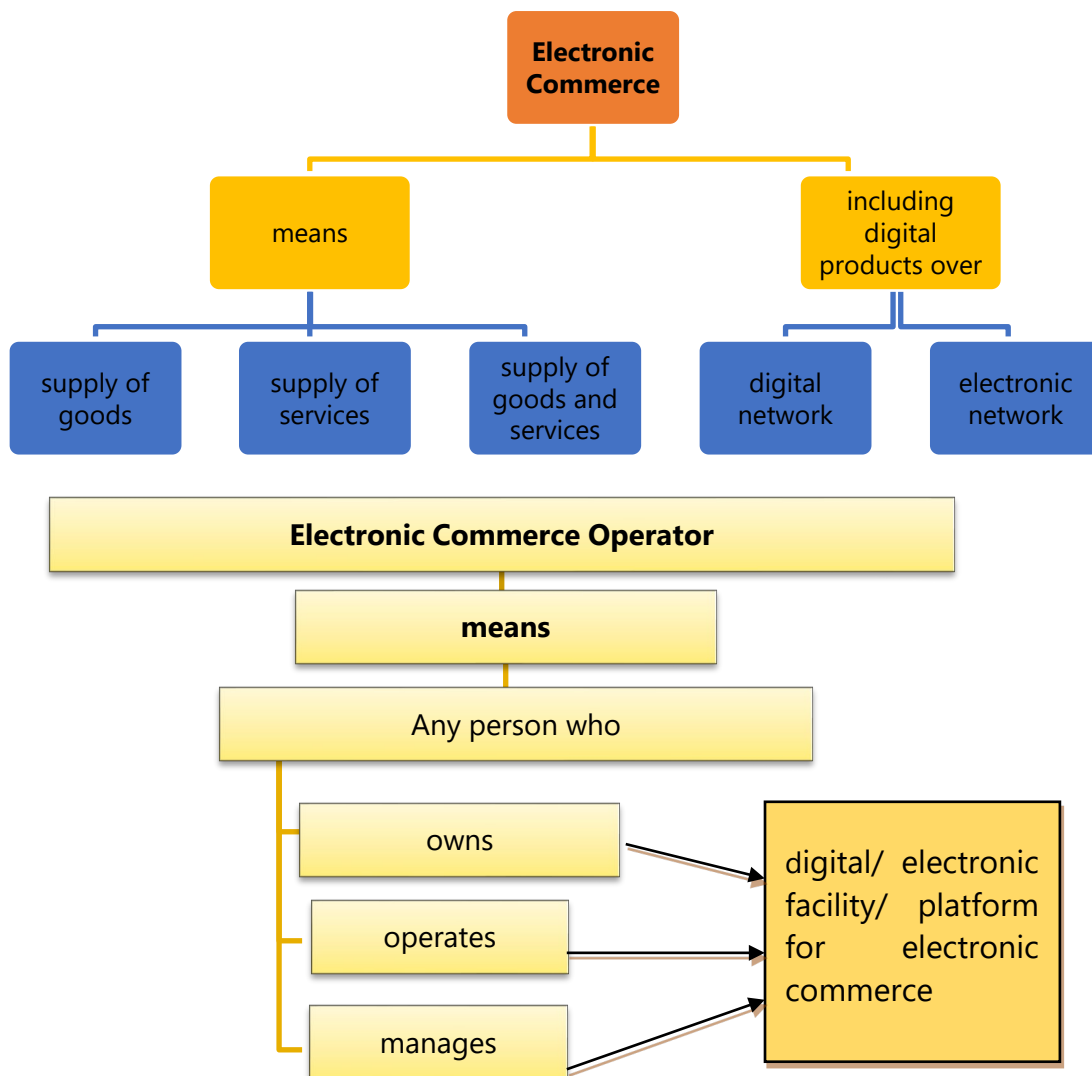
<sup>12</sup> The provisions relating to section 122 will be discussed in detail at Final level.



## LET US RECAPITULATE

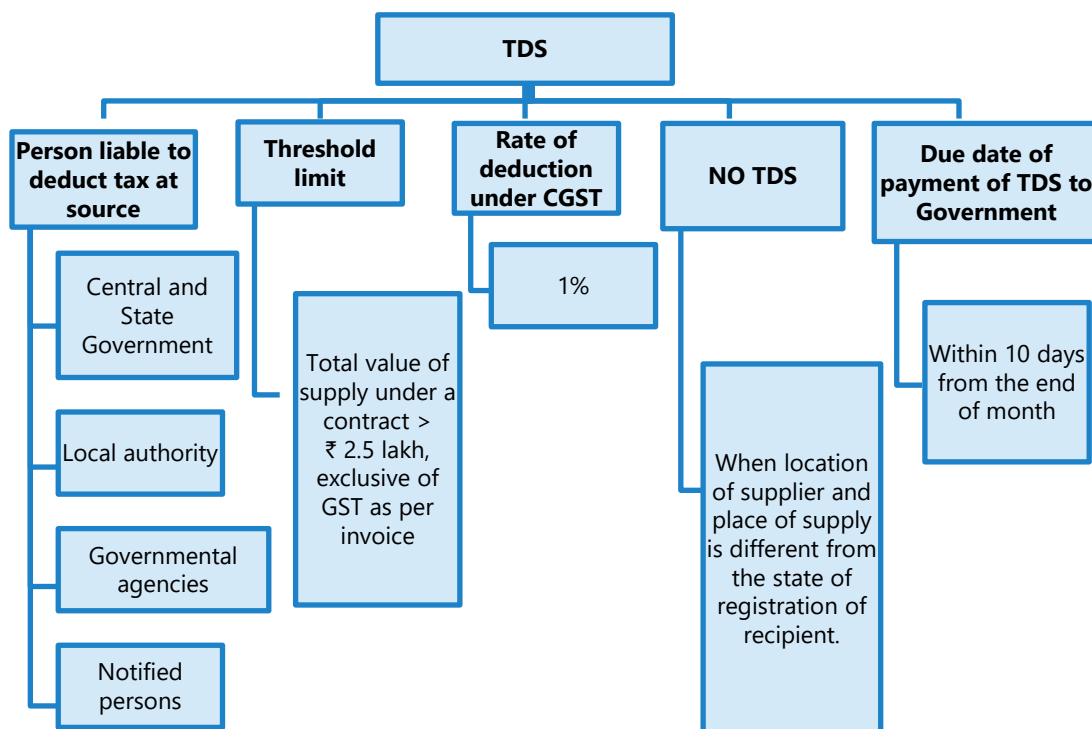
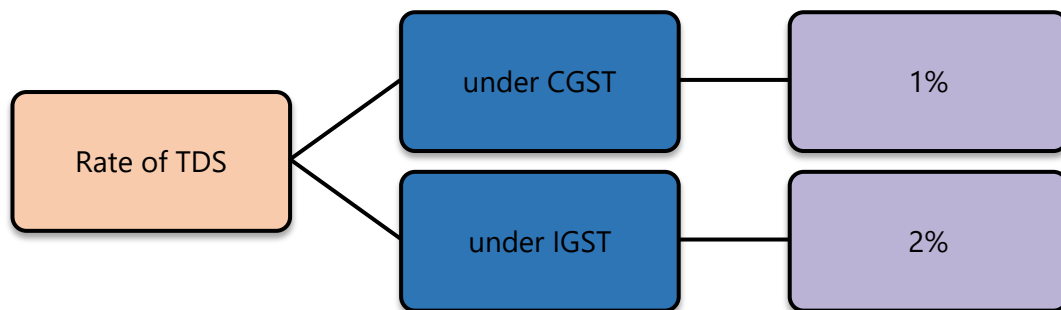
The provisions relating to TDS & TCS have been summarised by way of table and diagrams to help students remember and retain the provisions in a better and effective manner:-

### Definition of Key terms



# TDS

## Rate of TDS



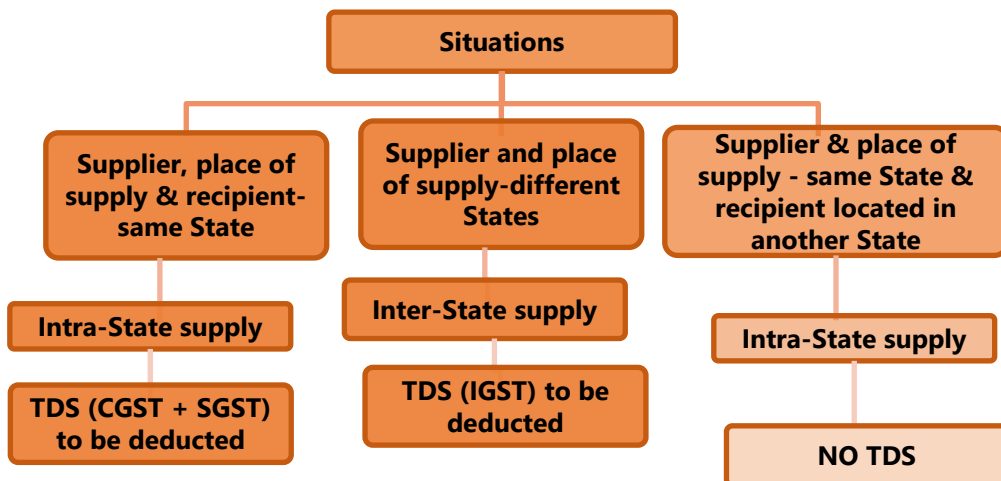
### **Manner of account of TDS by TDS deductor**

1.	Such deductor need to get compulsorily registered under section 24 of the CGST/SGST Act.
2.	They need to remit such TDS collected by the 10 <sup>th</sup> 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.

### **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**

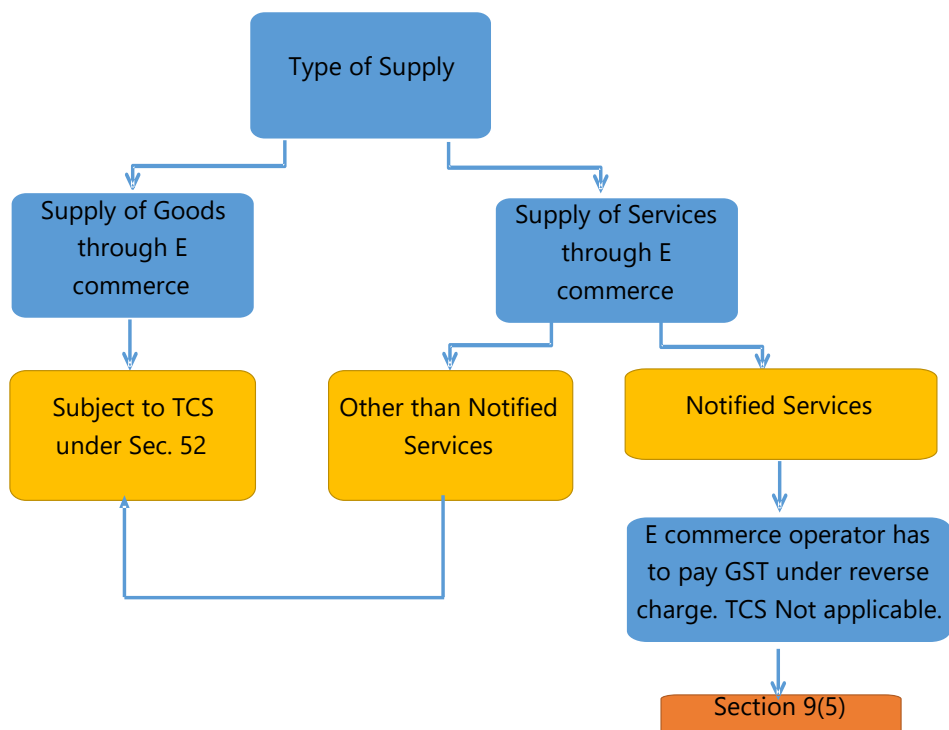


### Consequences of not complying with TDS provisions

S. No.	Event	Consequence
1.	TDS not deducted	Interest to be paid along with the TDS amount; else the amount shall be determined and recovered as per the law
2.	TDS deducted but not paid to the Government or paid later than 10th of the succeeding month	Interest to be paid along with the TDS amount; else the amount shall be determined and recovered as per the law

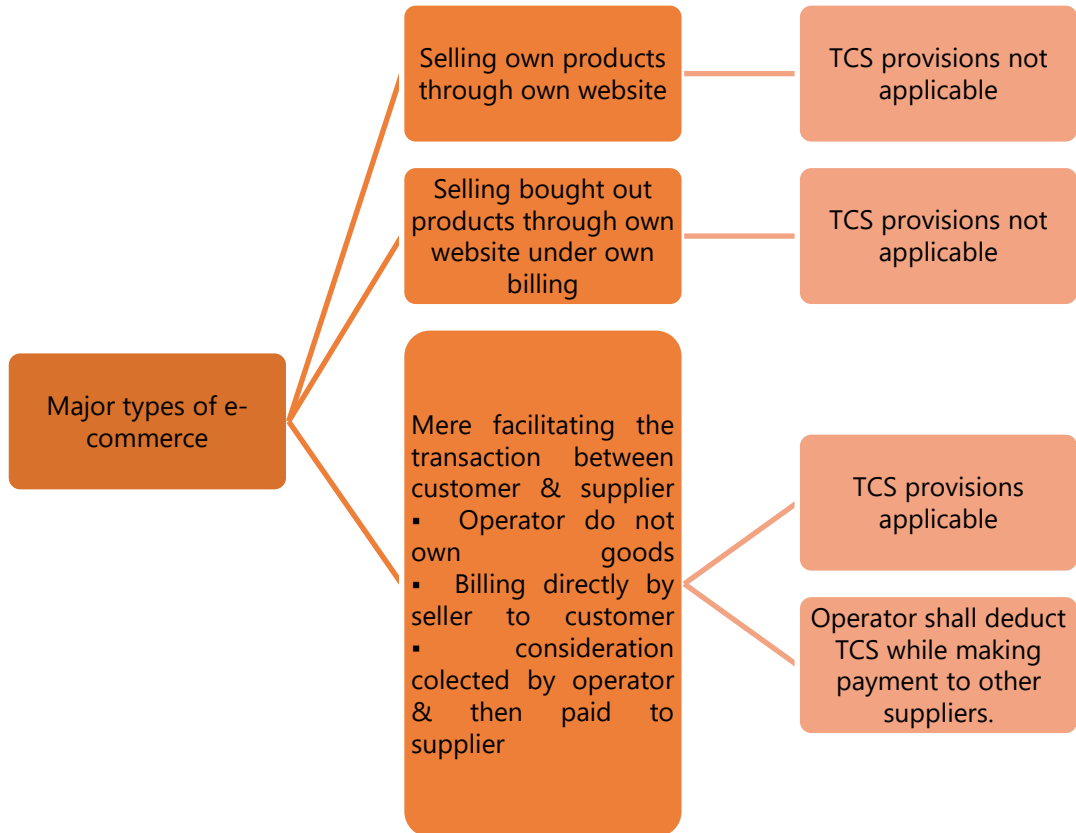
## TCS

### Type of supply liable to TCS

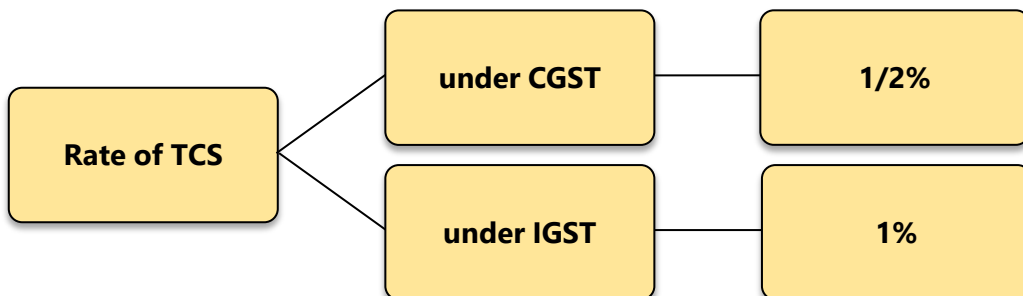




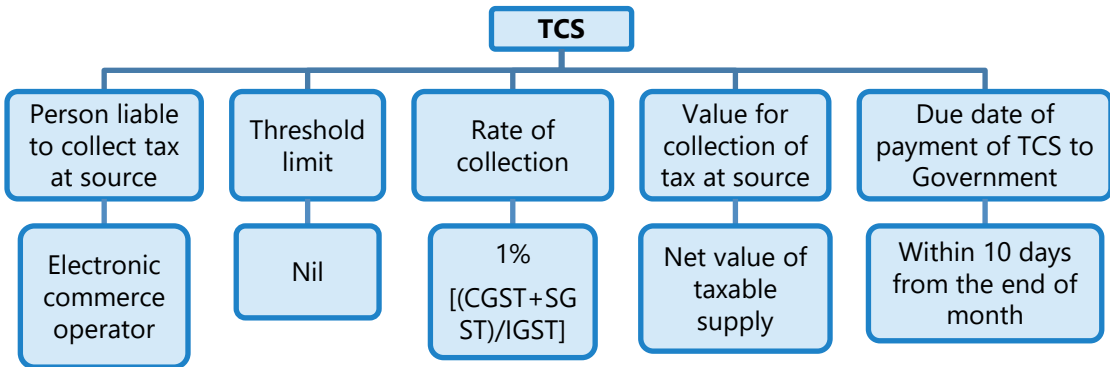
### TCS applicability in major types of E-commerce



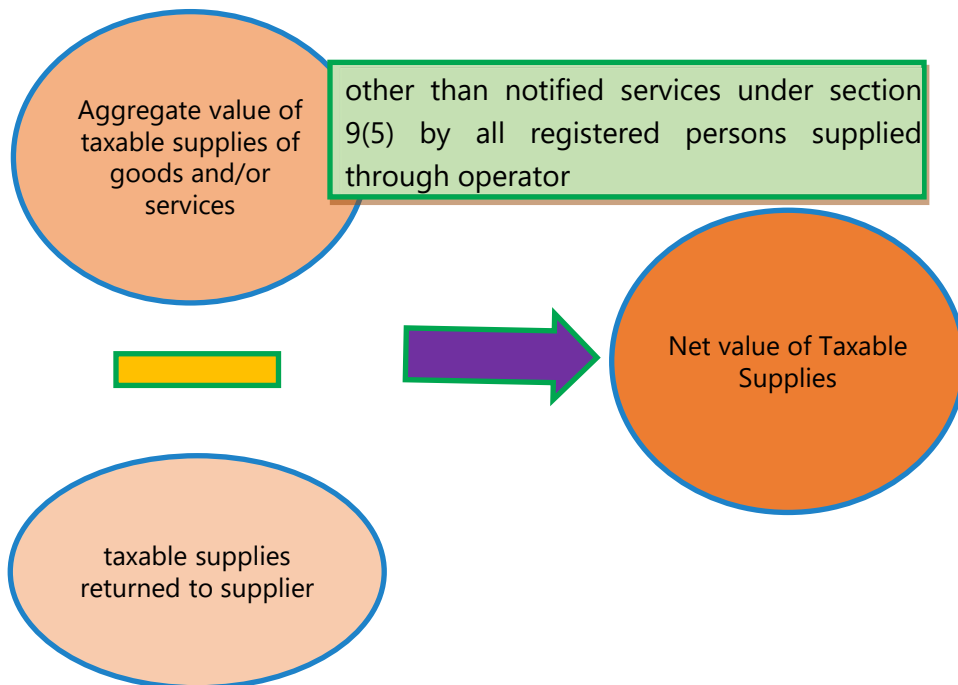
### Rate of TCS



### Significant aspects of TCS



### Net value of taxable supplies





## TEST YOUR KNOWLEDGE

1. *Whether the rate of tax of 1% notified under section 52 is CGST or SGST or a combination of both CGST and SGST?*
2. *Is every e-commerce operator required to collect tax on behalf of actual supplier?*
3. *State whether the provisions pertaining to tax collected at source under section 52 of CGST Act, will be applicable, if Fitan Ltd. sells watch on its own through its own website?*
4. *There is no onus of filing any monthly & annual statements by ECO. Examine the technical veracity of the statement by explaining relevant provisions.*
5. *State whether the provisions pertaining to tax collected at source under section 52 of CGST Act, will be applicable, if ABC limited who is dealer of Royul brand sells watches through Slipkart, an electronic commerce operator?*



## ANSWERS/HINTS

1. The rate of TCS as notified under CGST Act is payable under CGST and the equal rate of TCS is expected under the SGST Act also, in effect aggregating to 1%.
2. Yes, every e-commerce operator is required to collect tax where consideration with **respect to the supply is being collected by the e-commerce operator**.  
However, no TCS is required to be collected in the following cases:-
  - (i) on supply of services notified under section 9(5) of the CGST Act, 2017.
  - (ii) on exempt supplies
  - (iii) on supplies on which the recipient is required to pay tax on reverse charge basis.
3. As per Section 52, 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 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, provisions pertaining to tax collected at source (TCS) won't be applicable.

4. The given statement is invalid. 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.

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.

The Commissioner has been empowered to extend the due date for furnishing of monthly and annual statement by the person collecting tax at source.

5. As per Section 52, 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 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. If ABC limited who is dealer of Royul brand sells watches through Slipkart, then the provision of TCS will be applicable to Slipkart.

# RAPID FIRE QUIZ



1

•Is it correct or not that public sector undertakings is liable to deduct TDS from payments made to the suppliers of taxable goods?

2

•What is the implication of TDS in case services are supplied from a public sector undertaking (PSU) to another PSU?

3

•Mr. X contends that tax is liable to be deducted if total value of supply of taxable goods under a contract is ₹ 2,50,000 exclusive of tax. Is his contention valid in law or not?

4

•What is the implication of TDS in case supplier, place of supply and recipient are in the same state?

5

•What is the implication of TDS in case location of supplier is in State A and place of supply as well as registration of recipient are in State B?

6

•What is the implication of TDS if supplier as well as the place of supply are in State A and the recipient is located in State B. ?

7

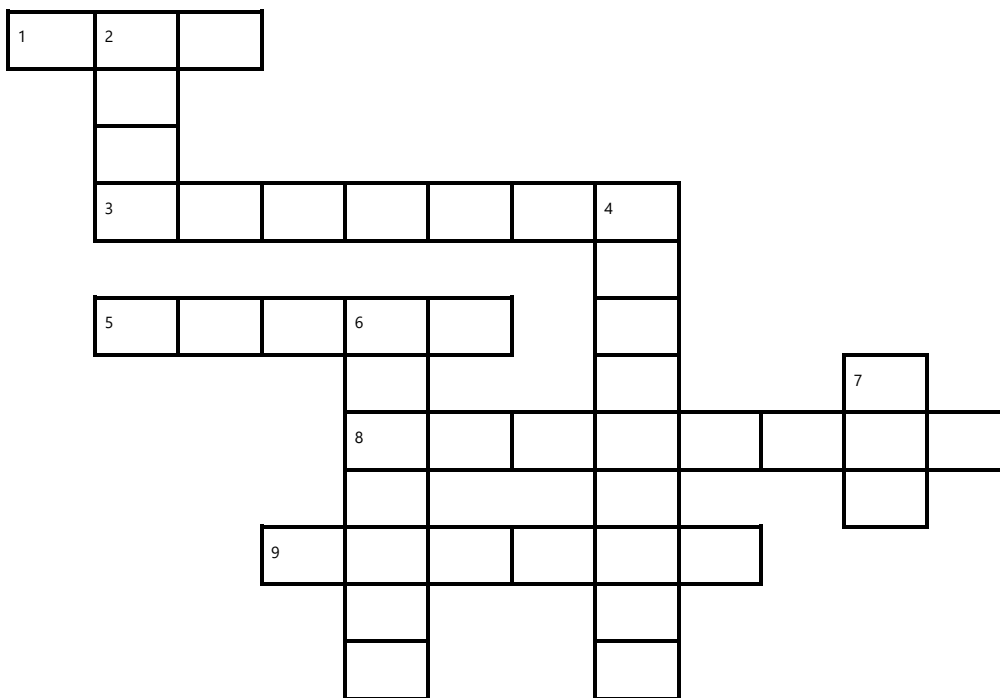
•What is the rate of TCS under CGST?

8

•Is it valid that services by way of transportation of passengers by motor cycle is to be included while computing net value of taxable supplies?



## CROSSWORD PUZZLE



### ACROSS

1. TDS is not attracted if services are supplied from a PSU to another -----  
(Acronym)
3. Value of supply shall----- tax & cess for the purpose of TDS under Section 51 of CGST Act, 2017.
5. The amount of tax deducted at source should be deposited to the Government account by 10th of the succeeding-----.
8. Net value of taxable supplies shall mean the aggregate value of taxable supplies of goods and/or services, 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-----  
----- to the suppliers during the said month.

9. ----- sector undertakings are notified to deduct tax at source from payments made to the suppliers.

**DOWNWARDS**

2. TDS would be deducted if supplier, place of supply and recipient are in the----- State.
4. The TDS deductees are the suppliers whose total value of supply of taxable goods under a contract exceeds ₹ 2,50,000 -----of tax & cess as per the invoice.
6. Every Electronic Commerce Operator (ECO), not being an agent, has been mandated to collect tax at source (TCS) on net value of taxable supplies made -----it by suppliers.
7. The TCS amount collected by the ECO has to be remitted to the Government Treasury within-----days after the end of the month in which the collection was made.

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Scan the following QR code for accessing the answers to Rapid Fire Quiz and Cross word puzzle of this chapter.



*Scan the code*