

Supplies to Government & It's Agencies Attracts TDS under GST w.e.f 1st Oct'2018 :

A detailed Analysis



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The concept of TDS is a simple concept incorporated under GST with the intent to tap the possible chances of revenue leakage and Prevent Tax Evasion. Under the Scheme the recipient deducts tax at the notified rate from the payment due to the supplier and deposits the tax into the government treasury on behalf of the supplier. When the supplier files return, he can claim credit of the tax paid by the recipient on his behalf. Section 51 of the CGST Act deals with the issue of TDS. Let us discuss in this article detailed analysis of TDS provisions.

Governing Provisions of TDS under GST

Sec 51 of CGST Act, 2017

Rule 60(6) of CGST Rule, 2017

Rule 66 of CGST Rule, 2017

With the Notification 50/2018 (Central Tax) Dated 13.09.2018, **TDS under section 51 of the CGST Act is coming into force from 01.10.2018**. Further Circular No. 65/39/2018-DOR, Dated the 14th September, 2018 issued regarding procedural aspects.

Who will deduct the TDS :

As per Sec 51. (1) of CGST Act & Notification No. 50/2018 – Central Tax; 13th September, 2018, following persons are required to deduct TDS w.e.f 1st October 2018.

TDS Applicability

[Sec 51. \(1\) of CGST Act & Notification No. 50/2018 – Central Tax; 13th September, 2018](#)

Following persons are required to deduct TDS w.e.f 1st October 2018:



Sec 2(69) of CGST Act Defines “local authority” as—

- (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;

(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 of the Constitution;

or

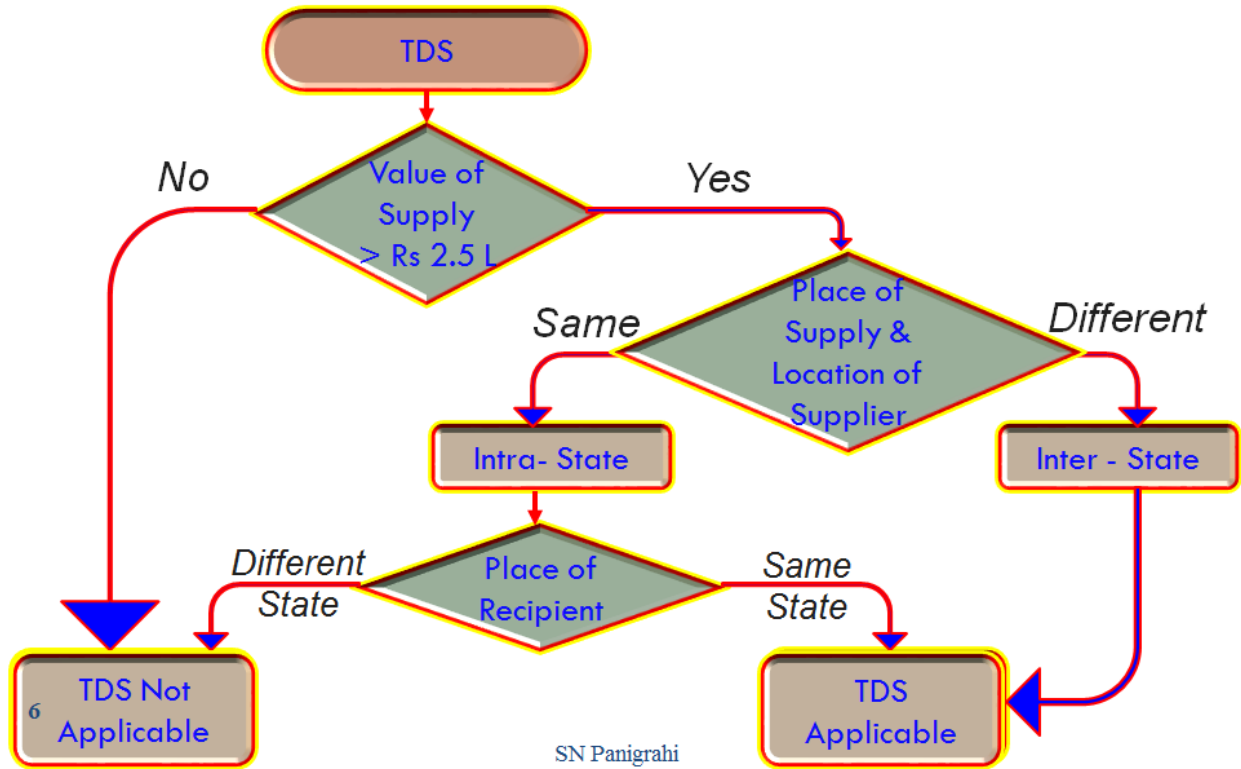
(g) a Regional Council constituted under article 371A of the Constitution;

TDS Applicability :

As per Sec 51 of CGST Act TDS shall be deducted where the total value of supply of taxable goods or services or both 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.

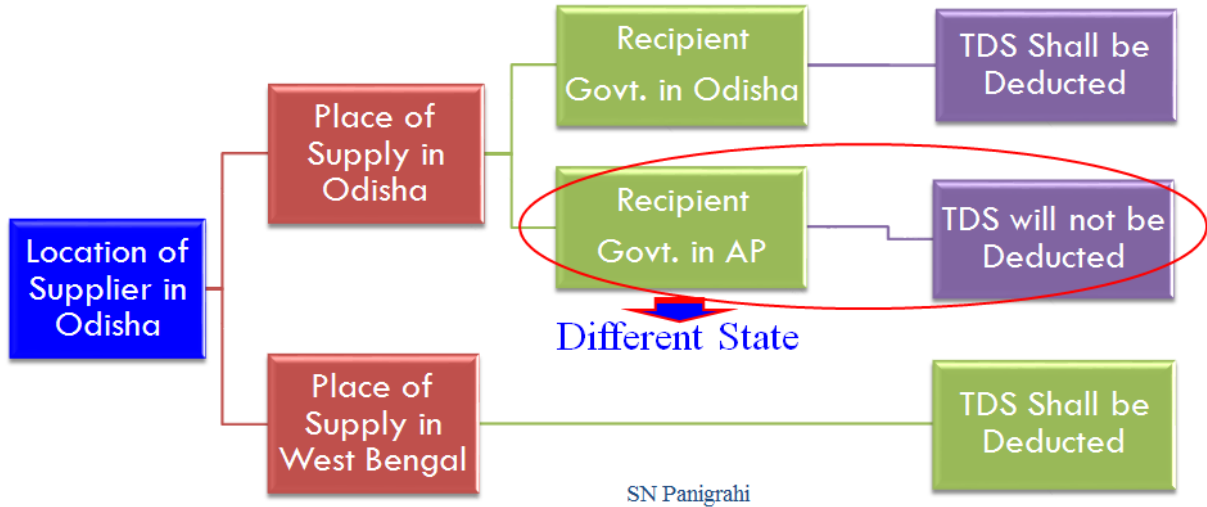
For the purpose of deduction of tax specified above, the value of supply shall be taken as the amount excluding the central tax, State tax, Union territory tax, integrated tax and cess indicated in the invoice.

TDS Applicability



TDS Applicability - Example

Provisio to Sec 51(1) of CGST Act:



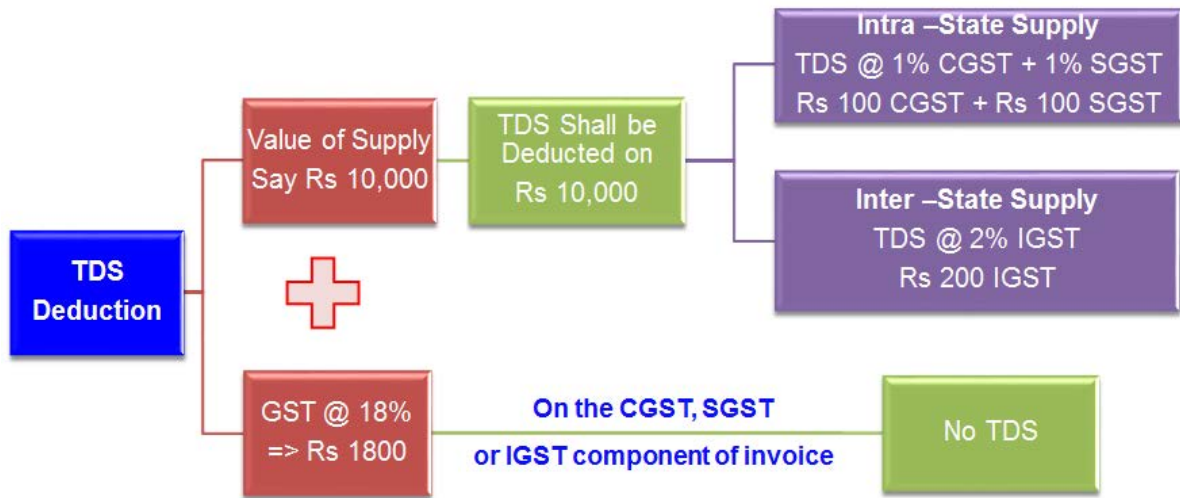
Value of Supply on Which TDS shall be Deducted & Rate of TDS

As Explanation in Sec 51(1) of CGST Act, For purpose of deduction of TDS, the value of supply is to be taken as the **amount excluding the tax indicated on the invoice**. This means TDS shall not be deducted on the CGST, SGST or IGST component of invoice.

Rate of TDS

As per Sec 51(1) of CGST Act, CGST of 1% plus SGST of 1% or IGST of 2% will be deducted from the payment made or credited to the deductee.

Value of Supply on Which TDS shall be Deducted & Rate of TDS

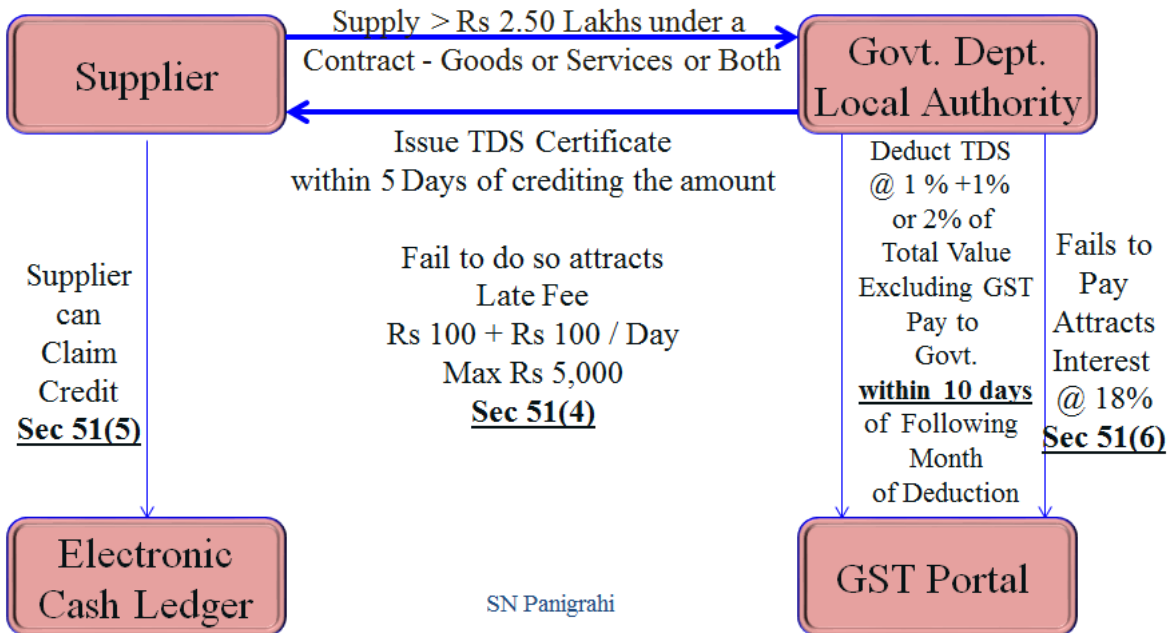


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TDS Deduction & Credit Process :

TDS Process

Sec 51 of CGST



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Filling TDS Return - Options:

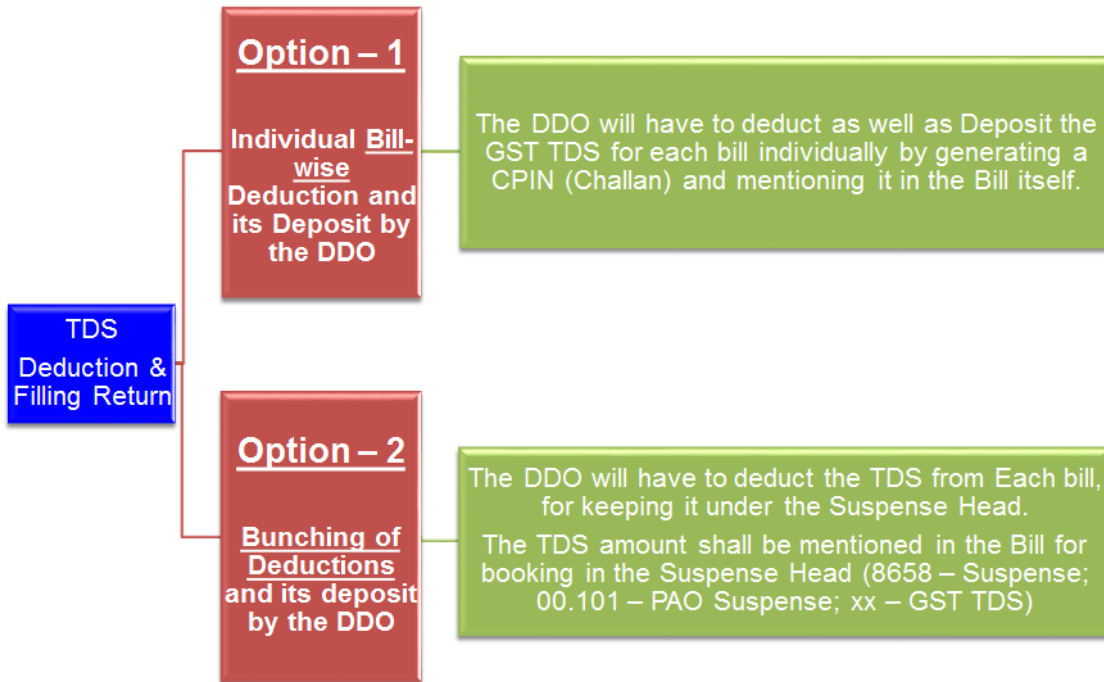
Circular No. 65/39/2018-DOR, Dated the 14th September, 2018, prescribes Two Options for TDS Deduction and filling Returns

- **Option – 1** : Individual Bill-wise Deduction and its Deposit by the DDO (Drawing And Disbursing Officer)
- **Option – 2** : Bunching of Deductions and its deposit by the DDO (Drawing And Disbursing Officer)

The details can be seen in the Video link provided below.

Filling of TDS Return

Circular No. 65/39/2018-DOR, Dated the 14th September, 2018



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Penal Provisions for Failure or Default : Consequences of Non-compliances

Penal Provisions for Failure or Default consequences of non-compliances

Se 51 (4)

If any Deductor Fails to furnish TDS Certificate to the deductee Within 5 Days from the Date of TDS Return

- Shall Pay, by way of a Late Fee, Rs 100 + Rs 100 per day from the day after the expiry of such 5 days period until the failure is rectified, subject to a maximum amount of Rs 5,000.

Sec 51(6)

If any Deductor Fails to Pay to the Government the amount deducted as Tax under 51(1)

- Shall Pay Interest (18%) in accordance with the provisions of sub-section (1) of section 50, in addition to the amount of tax deducted

Sec 51(7)

The determination of the amount in default under this section

- Shall be made in the manner specified in section 73 or section 74.

Summary of TDS Provisions

| TDS under GST | | |
|---|---|--|
| Deductor | Govt. Department / Board / Society / Special Establishment; Local Authority, PSU | |
| Value | Contract of Supply of Goods or Services or Both > Rs 2.5 Lakhs <u>Excluding GST</u> | |
| Time of Deduction | Date of Payment or Credit, which ever is Earlier | |
| TDS Rate | Intra-State : 1% CGST + 1% SGST | |
| | Inter-State : 2% | |
| Return to be filed in <u>GSTR-7</u> on or before the <u>10th of the following month</u> | Deductor has to issue the <u>TDS certificate</u> to the deductee in <u>FORM GSTR-7A</u> within <u>5 days of crediting</u> the amount to the government | Effective Date of TDS Applicability <u>1st Oct'2018</u> |
| Fails to Pay TDS attracts interest @ 18% | Late fee of INR 200/- per day (CGST+SGST/UGST) from the day after the expiry of five days period until the failure is rectified, subject to a maximum amount of INR 5,000/. | Registration for TDS through REG-07 |

For more details on Registration Process of TDS Deductor, TDS Certificate, Records to be maintained by the TDS Deductor, refund of Excess deduction of TDS etc may be seen in the Video.

More Details can be viewed @ YouTube:

<https://www.youtube.com/watch?v=xg3mnbQc5eQ>

Disclaimer : The views and opinions; thoughts and assumptions; analysis and conclusions expressed in this article are those of the authors and do not necessarily reflect any legal standing.

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