Lakshmikumaran & Sridharan attorneys

L&S Update

an e-update to clients from
Lakshmikumaran & **Sridharan**

L&S GST Update
No. 14 of 2018
20th September, 2018

Tax Deduction at Source (TDS) & Collection of Tax at Source (TCS) - Provisions to come into force from 1st October, 2018

Tax Deduction at Source (TDS)

- **Section 51 of CGST Act provides for deduction of tax (GST) at source. Government has notified October 1, 2018 as the date for implementing the provisions relating to deduction of tax at source (TDS) under GST law.** [Notification No. 50/2018- Central Tax, dated 13-09-2018].

- Following persons are required to deduct TDS:
  - A department or establishment of the Central / State Government;
  - Local authority;
  - Governmental agencies;
  - An authority or a board or any other body -
    - set up by an Act of Parliament or a State Legislature; or
    - established by any Government

    with 51% or more participation by way of equity or control, to carry out any function
  - Society established by Central or State Government or a Local Authority under the Societies Registration Act, 1860;
  - Public sector undertakings (PSUs)

Tax Deduction at Source (TDS) (Cont.)

- The provisions relating to TDS would not be attracted in the following cases-
  - where total value of supply, under a contract, does not exceed INR 2,50,000/- or
  - where the location of the supplier and the place of supply are in a State or Union territory which is different from the State or Union territory of registration of the recipient

- Rate of TDS : TDS is to be deducted at the rate of 1% [i.e. 2% for CGST+SGST/UTGST] from the payment made or credited to the supplier, to be calculated on the value of supply excluding CGST, CGST/UTGST, IGST and Cess indicated in the invoice.

- Registration : TDS deductors, whether or not separately registered, are required to compulsorily register under GST law irrespective of registration threshold limit. All DDOs in Government, who are performing the role as deductor, have to register with the common portal (GST portal).
- TDS Deposit & Return : TDS is to be deposited and a return in Form GSTR -7 is to be filed within 10 days after the end of the month in which such deduction is made.

Tax Deduction at Source (TDS) (Cont.)

- Supplier/Deductee would be made available a TDS certificate in Form GSTR-7A (made electronically available), within 5 days of crediting the amount so deducted to Government, mentioning therein:
  - contract value
  - rate of deduction
  - amount deducted
  - amount paid to the Government
  - Such other particulars in such manner as may be prescribed

- Credit in electronic cash ledger of supplier/deductee: The tax deducted and reflected in the return of the deductor furnished in the Form GSTR 7 shall be credited to the electronic cash ledger of the supplier.

- Auto Population of Data: The details furnished by the deductor in Form GSTR-7 shall be made available electronically to the supplier in Part C of Form GSTR-2A and Form-GSTR-4A on the common portal.

Collection of Tax at Source (TCS)

- **Section 52 of CGST Act provides for collection of tax at source (TCS). Government has notified October 1, 2018 as the date for implementing the tax collected at source (TCS) provisions under GST law.** [Notification No. 51/2018- Central Tax, dated 13-09-2018].

- Every electronic commerce operator (**“operator”**), not being an agent, shall collect TCS in respect of taxable supplies made through it by other suppliers where the consideration with respect to such supplies is collected by the operator.

- Rate of TCS: TCS is to be collected by the operator at the rate of 1% of the ‘net value of taxable supplies’ of the goods/services supplied through its electronic commerce platform. [Notification Nos. 52/2018-Central Tax & 2/2018-Integrated Tax, both dated 20-9-2018]

- Registration: Every operator is compulsorily required to get registered irrespective of registration threshold limit. As per CGST (Amendment) Act, 2018, compulsory registration is applicable to only those operators who are required to collect TCS [Amendment yet to be notified].

Collection of Tax at Source (TCS) (Cont.)

- TCS Deposit & Return : TCS is to be deposited and a return in Form GSTR-8 is to be furnished within 10 days after the end of the month in which such collection is made.

  An Annual statement in Form GSTR-9B is also required to be filed by the 31st of December following the end of every financial year.

- Credit in electronic cash ledger of Supplier: The tax collected by the operator shall be credited to the electronic cash ledger of the supplier who has supplied the goods/services through the operator.

- Matching of details of supplies : The details of supplies furnished by the operator shall be matched with the corresponding details of outward supplies furnished by concerned supplier in his returns.

  In case of discrepancy in the value of supplies, both of them will be informed. If the same is not rectified, then such amount would be added to the output tax liability of such supplier and differential amount of output tax along with interest will be payable.

Lakshmikumaran & Sridharan attorneys

NEW DELHI
5 Link Road, Jangpura Extension,
Opp. Jangpura Metro Station,
New Delhi 110014
Phone : +91-11-4129 9800

B-6/10, Safdarjung Enclave
New Delhi - 110 029
Phone : +91-11-4129 9900
E-mail : lsdel@lakshmisri.com

MUMBAI
2nd floor, B&C Wing,
Cnergy IT Park,
Appa Saheb Marathe Marg, (Near Century Bazar)
Prabhadevi, Mumbai - 400025.
Phone : +91-22-2439 2500
E-mail : lsbom@lakshmisri.com

CHENNAI
2, Wallace Garden, 2nd Street
Chennai - 600 006
Phone : +91-44-2833 4700
E-mail : lsmds@lakshmisri.com

BENGALURU
4th floor, World Trade Center
Brigade Gateway Campus
26/1, Dr. Rajkumar Road,
Malleswaram West,
Bangalore-560 055.
Ph: +91-80-4933 1800
E-mail : lsblr@lakshmisri.com

HYDERABAD
'Hastigiri', 5-9-163, Chapel Road
Opp. Methodist Church, Nampally
Hyderabad - 500 001
Phone : +91-40-2323 4924
E-mail : lshyd@lakshmisri.com

AHMEDABAD
B-334, SAKAR-VII,
Nehru Bridge Corner,
Ashram Road,
Ahmedabad - 380 009
Phone : +91-79-4001 4500
E-mail : lsahd@lakshmisri.com

PUNE
607-609, Nucleus, 1 Church Road,
Camp, Pune – 411 001
Phone : +91-20-6680 1900
E-mail : lspune@lakshmisri.com

KOLKATA
2ND Floor, Kanak Building
41, Chowringhee Road,
Kolkatta-700071
Phone : +91-33-4005 5570
E-mail : lskolkata@lakshmisri.com

CHANDIGARH
1st Floor, SCO No. 59,
Sector 26,
Chandigarh - 160026
Phone : +91-172-492 1700
E-mail : lschd@lakshmisri.com

GURGAON
OS2 & OS3, 5th Floor, Corporate Office Tower, AMBIENCE Island, Sector 25-A,
Gurgaon - 122001
Phone : +91-124-477 1300
E-mail :lsgurgaon@lakshmisri.com

ALLAHABAD
3/1A/3, (opposite Auto Sales), Colvin Road, (Lohia Marg),
Allahabad -211001 (U.P.)
Phone no. : (0532) – 2421037, 2420359
Email: lsallahabad@lakshmisri.com

 www.lakshmisri.com www.gst.lakshmisri.com