प्रेषक.

कमिश्नर, वाणिज्य कर, उत्तर प्रदेश, लखनऊ।

सेवा में,

निदेशक, कोषागार, जवाहर भवन, लखनऊ।

(जी०एस०टी० अनुभाग)

लखनऊ : दिनांक 15 ,अक्टूबर 2018

विषय:- उत्तर प्रदेश माल एवं सेवा कर अधिनियम, 2017 की धारा-51 के अन्तर्गत स्रोत पर कर की कटौती (टी.डी.एस.) विषयक।

महोदय.

आपको विदित है कि समस्त सरकारी विभागों, सरकारी एजेन्सियों एवं स्थानीय निकायों द्वारा रू० 2.50 लाख से अधिक के क्रय आदेश के विरूद्ध किये गये भुगतान पर एक प्रतिशत की दर से एस.जी.एस.टी. एवं एक प्रतिशत की दर से सी.जी.एस.टी. की कटौती किया जाना अपेक्षित है तथा सप्लायर के प्रान्त बाहर का होने की स्थित में 2 प्रतिशत की दर से आई.जी.एस.टी. की कटौती किया जाना अपेक्षित है। जी.एस.टी. में स्रोत पर कटौती की व्यवस्था धारा—51 के अन्तर्गत की गयी है एवं उक्त व्यवस्था दिनांक 01.10.2018 से प्रभावी हो गयी है।

स्रोत पर कर कटौती (टी.डी.एस.) से सम्बन्धित स्टैण्डर्ड ऑपरेटिंग प्रोसिज़र (SOP) जी.एस.टी. काउंसिल के ई—मेल के माध्यम से दिनांक 28.09.2018 को प्राप्त हुआ है, जो कि इस पत्र के साथ संलग्न कर आपको इस अनुरोध के साथ प्रेषित किया जा रहा है कि आप अपने अधीनस्थ अधिकारियों, सरकारी विभागों के आहरण वितरण अधिकारियों एवं लेखाकारों, सरकारी एजेन्सियों व स्थानीय निकायों एवं अन्य कार्यदायी संस्थाओं के भुगतानकर्ता प्राधिकारियों व लेखाकारों को उक्त के सम्बन्ध में अवगत कराना एवं अनुपालन कराना सुनिश्चित करें।

संलग्नक:- उपरोक्तानुसार।

भवदीय, (विवेक कुमार) एडीशनल कमिश्नर (जी.एस.टी.), वाणिज्य कर, उत्तर प्रदेश। Subject: [Gstc-NodalOfficers] Documents for Circulation as approved by GST Council in

its 30th meeting - FAQ on TCS and SOP on TDS

To: gstc-nodalofficers@lsmgr.nic.in

Date: 09/28/18 07:17 PM

From: qstc.secretariat@gov.in

Sender: gstc-nodalofficers-bounces@smgr.n

28092018- FAQs on TCS.pdf (367kB)

28092018 SOP ON TDS.pdf (1.2MB)

Dear Madam/Sir.

Please refer to trailing mail and attached documents (ii) Standard Operating Procedure on TDS (ii) Frequently Asked Questions on TCS).

As discussed and decided during the 30th GST Council Meeting, the same is being forwarded for information and necessary action please.

Sincerely

Rahul Raja

Under Secretary, GST Council

From: asim.anand@gov.in <asim.anand@gov.in>

Sent: 28 September 2018 18:44

To: Manish Sinha <gstc.secretariat@gov.in>; Rahul Raja <rahul.raja@gov.in>; Shashank Priya <spriya@nic.in>

Cc: Upender Gupta <upender.gupta@nic.in>; Ravneet Khurana <ravneet.khurana@nic.in>; Himani Bhayana <himani.bhayana@nic.in>;

meghaa.gupta@gov.in

Subject: Documents for Circulation as approved by GST Council in its 30th meeting - FAQ on TCS and SOP on TDS

Respected Sir,

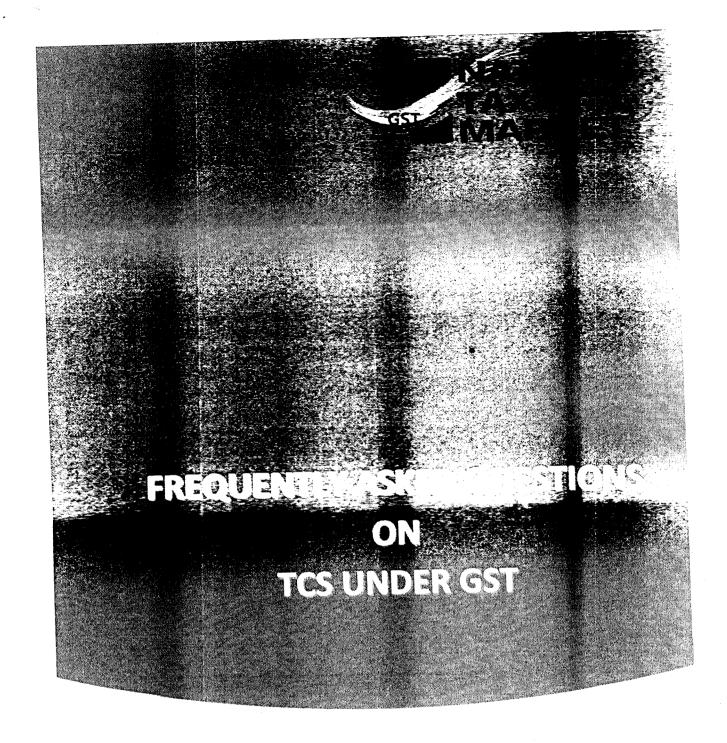
Please find the following documents attached with the mail:-

- (i) Standard Operating Procedure on TDS
- (ii) Frequently Asked Questions on TCS
- 2. These documents have been approved by the Hon'ble GST Council in its 30th meeting held on 28.09.2018
- 3. It is requested that the same may be circulated to the States & Union Territories for further necessary action and dissemination.

Regards Kumar Asim Anand Assistant Commissioner GST Policy Wing

J. C. Ch.S. "

Miel CTO



GST COUNCIL

28TH SEPTEMBER, 2018

Answer Question Sr. no. As per Section 2(44) of the CGST Act, 2017 Electronic 1. What electronic Commerce means the supply of Commerce? goods or services or both, including digital products over digital or electronic network. As per Section 2(45) of the CGST Act, 2017, Who is 2. electronic Commerce operator means any commerce operator? person who owns, operates or manages digital or electronic facility or platform for electronic commerce. As per Section 52 of the CGST Act, 2017 the e-Tax 3. What is Collection at Source commerce operator, not being an agent, is required to collect an amount calculated at the (TCS)? rate not exceeding one per cent., as notified by the Government on the recommendations of the Council, of the net value of taxable supplies made through it, where the consideration with respect to such supplies is to be collected by such operator. The amount so collected is called as Tax Collection at Source (TCS). Rate of TCS is 0.5% under each Act (i.e. the What is the rate **TCS** CGST Act, 2017 and the respective SGST Act notified by / UTGST Act respectively) and the same is 1% Government? under the IGST Act, 2017. Notifications No. 52/2018 – Central Tax and 02/2018-Integrated Tax both dated 20th September, 2018 have been

Frequently Asked Oues

		issued in this regard. Similar notafications have
		been issued by the respective State
		Governments also.
5.	Is it mandatory for e-	Yes. As per section 24 x of the CGST Act,
	commerce operator to	2017, every electronic commerce operator has
İ	obtain registration?	to obtain compulsory registration irrespective
		of the value of supply made by him.
6.	Whether a supplier of	As per Section 24(ix) of the CGST Act, 2017,
	goods or services	every person supplying goods through an e-
	supplying through e-	commerce operator shall be mandatorily
	commerce operator	required to register irrespective of the value of
	would be entitled to	supply made by him. However, a person
	threshold exemption?	supplying services, other than supplier of
		services under section 9 (5) of the CGST Act,
		2017, through an e-commerce platform are
		exempted from obtaining compulsory
:		registration provided their aggregate turnover
		dies not exceed INR 20 lakhs (or INR 10 lakhs
		in case of specified special category States) in a
		financial year. Government has issued the
		notification No. 65/2017 – Central Tax dated
		15 th November, 2017 in this regard.
7.	Whether e-Commerce	As per the extant law, registration for TCS
	operator is required to	would be required in each State / UT as the
	obtain registration in	obligation for collecting TCS would be there for
	every State/UT in	every intra-State or inter-State supply. In order
	which suppliers listed	to facilitate the obtaining of registration in each
	on their e-commerce	State / UT, the e-commerce operator may
	platform are located	declare the Head Office as its place of business
	to undertake the	

		for obtaining registration in that State UT
	as mandated under	where it dies not have physical presence.
1	the law?	
8.	Foreign e-commerce	Where registered supplier is supplying goods or
	operator do not have	services through a foreign e-commerce
:	place of business in	operator to a customer in India, such foreign e-
	India since they	commerce operator would be liable to collect
	operate from outside.	TCS on such supply and would be required to
	But their supplier and	obtain registration in each State / UT. If the
	customers are located	foreign e-commerce operator does not have
	in India. So, in this	physical presence in a particular State / UT, he
	scenario will the TCS	may appoint an agent on his behalf.
	provision be	
	applicable to such e-	
	commerce operator	
	and if yes, how will	
	foreign e-commerce	
	operator obtain	
	registration?	
9.	Is it necessary for e-	E-Commerce operator has to obtain separate
	Commerce operators	registration for TCS irrespective of the fact
	who are already	whether e-Commerce operator is already
	registered under GST	registered under GST as a supplier or otherwise
	and have GSTIN, to	and has GSTIN.
	have separate	
	registration for TCS	
	as well?	
10	. What is meant by "net	The "net value of taxable supplies" means the
	value of taxable	aggregate value of taxable supplies of goods or
	supplies"?	services or both, other than the services on

	T**	
		which entire tax is payable by the e-commerce
		operator, made during any month by a
		registered supplier through such operator
		reduced by the aggregate value of taxable
		supplies returned to such supplier during the
1		said month.
11.	Whether value of net	The value of net taxable supplies is calculated at
	taxable supplies to be	
	calculated at gross	
	level or at GSTIN	
	level?	
12.	Is every e-commerce	Yes, every e-commerce operator is required to
		collect tax where the supplier is supplying goods
	ł .	or services through e-commerce operator and
	actual supplier?	consideration with respect to the supply is to be
		collected by the said e-commerce operator.
13.	At what time should	TCS is to be collected once supply has been
		made inrough the e-commerce operator and
		where the business model is that the
	1	
		consideration is to be collected by the e-
		commerce operator irrespective of the actual
		collection of the consideration. For example, if
		the supply has taken place through the e-
		commerce operator on 30 th October, 2018 but
		the consideration for the same has been
		collected in the month of November, 2018,
-		then TCS for such supply has to be collected
		and reported in the statement for the month of
}		October, 2018.

14.	Whether TCS to be	No. TCS is not required to be collected on
	collected on exempt	exempt supplies.
	supplies?	
15.		No, TCS is not required to be collected on
10.		supplies on which the recipient is required to
	• •	• •
i		pay tax on reverse charge basis.
	is required to pay tax	
	on reverse charge	
	basis?	
16.		As per section 10(2)(d) of the CGST Act, 201 ⁻ ,
	collected in respect of	a composition taxpayer cannot make supplies
	supplies made by the	through e-commerce operator. Thus, question
	composition	of collecting TCS in respect of supplies made
	taxpayer?	by the composition taxpayer does not arise.
17.	Whether TCS is to be	TCS is not liable to be collected on any supplies
	collected on import of	on which the recipient is required to pay tax on
	goods or services or	reverse charge basis. As far as import of goods
	both?	is concerned since same would fall within the
Ì		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.
18.	Is there any	No such exemption from TCS has been
	exemption on Gold,	granted.
	owing to the fact that	
	rate of GST is only 3%	
	and TCS on it would	
	erode the margin for	
	the seller?	

19.	Whether payment of	No, payment of TCS is not allowed through
	TCS through Input	Input Tax Credit of e-Commerce operator.
	Tax Credit of operator	
	for depositing TCS as	
	per Section 52 (3) of	
	the CGST Act, 2017 is	
	allowed?	
20.	It is very common that	An e-commerce company is required to collect
	customers of e-	tax only on the net value of taxable supplies
	commerce companies	made through it. In other words, value of the
	return goods. How	supplies which are returned (supply return) may
	these sales returns are	be adjusted from the aggregate value of taxable
	going to be adjusted?	supplies made by each supplier (i.e. on GSTIN
		basis). In other words, if two suppliers "A" and
		"B" are making supplies through an e-
		commerce operator, the "net value of taxable
!	·	supplies" would be calculated separately in
		respect of "A" and "B". If the value of returned
	1	supplies is more than supplies made on behalf
		of any of such supplier during any tax period,
		the same would be ignored in his case.
21.	Under Section 52, e-	Negative amount cannot be declared. There will
	commerce operator	be no impact in next tax period also. In other
	collects TCS at the net	words, if returns are more than the supplies
	of returns. Sometimes	made during any tax period, the same would be
	sales return is more	ignored in current as well as future tax period(s).
	than sales and hence	
	can negative amount	
	be reported?	

What 22. the time within which by the e-commerce amount was so collected. operator to the Government account?

The amount collected by the operator is to be such paid to appropriate government within 10 days TCS is to be remitted after the end of the month in which the said

23. How can actual suppliers claim credit of TCS?

The amount of TCS deposited by the operator with the appropriate Government will be reflected in the electronic cash ledger of the actual registered supplier (on whose account such collection has been made) on the basis of the statement filed by the operator in FORM GSTR-8 in terms of Rule 67 of the CGST Rules, 2017. The said credit can be used at the time of discharge of tax liability by the actual supplier.

TCS to be 24. How is credited in cash ledger? Whether the refund of such TCS credit lying in the ledger would be allowed at par with the refund provisions contained in section 54(1) of the CGST Act, 2017?

TCS collected is to be deposited by the ecommerce operator separately under the respectvive tax head (i.e. Central tax / State tax / Union territory tax / Integrated tax). Based on the statement (FORM GSTR-8) filed by the ecommerce opertaor, the same would be credited to the electronic cash ledger of the the actual supplier in the respective tax head. If the supplier is not able to use the amount lying in the said cash ledger, the actual supplier may claim refund of the excess balance lying in his electronic cash ledger in accordance with the provisions contained in section 54(1) of the CGST Act, 2017.

25.	Is the e-commerce	Yes, every operator is required to furnish a
		statement, electronically, containing the details
	•	of outward supplies of goods or services
		effected through it, including the supplies of
		goods or services returned through it, and the
1	required to be	,
	submitted in the	1.
	statement?	FORM GSTR-8. The operator is also required
		to file an annual statement by 31st day of
		December following the end of the financial
		year in which the tax was collected in FORM
	· ·	GSTR-9B.
26.	Whether interest	As per section 52(6) of the CGST Act, 2017,
	would be applicable	interest is applicable on omission as well in case
	on non-collection of	of incorrect particulars noticed. In such a case,
	TCS?	interest is applicable since it is a case of
l		omission. Further penalty under section 122(vi)
		of the OGST Act, 2017 would also be leviable.
27.	What will be the place	As per section 12(11) of the IGST Act, 2017,
	of supply for e-	the address on record of the customer with the
	commerce operator	supplier of services is the place of supply.
	for recharge of talk	
	time of the Telecom	
	Operator / recharge	
	of DTH / in relation	
	to convenience fee	
	charged from the	
	customers on booking	
	of air tickets, rail	
	supplied through its	
	online platform?	

28. Under multiple TCS is to be collected by that e-Commerce commerce model, operator who is making payment to the supplier Customer books for the particular supply happening through it, Hotel via ECO-1 who which is in this case will be ECO-2. in turn is integrated with ECO-2 who has agreement with the hotelier. In this case, ECO-1 will not have any GST information of the hotelier. Under such circumstances, which e-commerce operator should be liable to collect TCS? 29. Are there any As per section 52'12) of the CGST Act, 2017, additional any authority not below the rank of Deputy powers available to Commissioner may serve a notice requiring the tax officers operator to furnish the details of their supplies under this Act? of goods or services or both as well as stock of goods held by the suppliers within 15 working days of the date of service of such notice.
