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FREQUENTLY ASKED QUESTIONS ON TCS UNDER GST

LAW COMMITTEE
GST COUNCIL
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Frequently Asked Questions on TCS

Sr. no.	Question	Answer
1.	**What is Electronic Commerce?**	As per Section 2(44) of the CGST Act, 2017, electronic Commerce means the supply of goods or services or both, including digital products over digital or electronic network.
2.	**Who is an e-commerce operator?**	As per Section 2(45) of the CGST Act, 2017, electronic Commerce operator means any person who owns, operates or manages digital or electronic facility or platform for electronic commerce.
3.	**What is Tax Collection at Source (TCS)?**	As per Section 52 of the CGST Act, 2017 the e-commerce operator, not being an agent, is required to collect an amount calculated at the 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).
4.	**What is the rate of TCS notified by Government?**	Rate of TCS is 0.5% under each Act (i.e. the CGST Act, 2017 and the respective SGST Act / UTGST Act respectively) and the same is 1% under the IGST Act, 2017. Notifications No. 52/2018 – Central Tax and 02/2018-Integrated Tax both dated 20th September, 2018 have been

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		issued in this regard. Similar notifications have been issued by the respective State Governments also.
5.	**Is it mandatory for e-commerce operator to obtain registration?**	Yes. As per section 24(x) of the CGST Act, 2017, every electronic commerce operator has to obtain compulsory registration irrespective of the value of supply made by him.
6.	**Whether a supplier of goods or services supplying through e-commerce operator would be entitled to threshold exemption?**	As per Section 24(ix) of the CGST Act, 2017, every person supplying goods through an e-commerce operator shall be mandatorily required to register irrespective of the value of supply made by him. However, a person 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 does 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 15th November, 2017 in this regard.
7.	**Whether e-Commerce operator is required to obtain registration in every State/UT in which suppliers listed on their e-commerce platform are located to undertake the**	As per the extant law, registration for TCS would be required in each State / UT as the obligation for collecting TCS would be there for every intra-State or inter-State supply. In order to facilitate the obtaining of registration in each State / UT, the e-commerce operator may declare the Head Office as its place of business

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

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		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 said month.
11.	**Whether value of net taxable supplies to be calculated at gross level or at GSTIN level?**	The value of net taxable supplies is calculated at GSTIN level.
12.	**Is every e-commerce operator required to collect tax on behalf of actual supplier?**	Yes, every e-commerce operator is required to collect tax where the supplier is supplying goods or services through e-commerce operator and consideration with respect to the supply is to be collected by the said e-commerce operator.
13.	**At what time should the e-commerce operator collect TCS?**	TCS is to be collected once supply has been made through the e-commerce operator and where the business model is that the 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 30th 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.

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14.	**Whether TCS to be collected on exempt supplies?**	No, TCS is not required to be collected on exempt supplies.
15.	**Whether TCS to be collected on supplies on which the recipient is required to pay tax on reverse charge basis?**	No, TCS is not required to be collected on supplies on which the recipient is required to pay tax on reverse charge basis.
16.	**Whether TCS is to be collected in respect of supplies made by the composition taxpayer?**	As per section 10(2)(d) of the CGST Act, 2017, a composition taxpayer cannot make supplies through e-commerce operator. Thus, question of collecting TCS in respect of supplies made by the composition taxpayer does not arise.
17.	**Whether TCS is to be collected on import of goods or services or both?**	TCS is not liable to be collected on any supplies on which the recipient is required to pay tax on reverse charge basis. As far as import of goods is concerned since same would fall within the 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 exemption on Gold, owing to the fact that rate of GST is only 3% and TCS on it would erode the margin for the seller?**	No such exemption from TCS has been granted.

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19.	**Whether payment of TCS through Input Tax Credit of operator for depositing TCS as per Section 52 (3) of the CGST Act, 2017 is allowed?**	No, payment of TCS is not allowed through Input Tax Credit of e-Commerce operator.
20.	**It is very common that customers of e-commerce companies return goods. How these sales returns are going to be adjusted?**	An e-commerce company is required to collect tax only on the net value of taxable supplies made through it. In other words, value of the supplies which are returned (supply return) may be adjusted from the aggregate value of taxable 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 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-commerce operator collects TCS at the net of returns. Sometimes sales return is more than sales and hence can negative amount be reported?**	Negative amount cannot be declared. There will be no impact in next tax period also. In other words, if returns are more than the supplies made during any tax period, the same would be ignored in current as well as future tax period(s).

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22.	**What is the time within which such TCS is to be remitted by the e-commerce operator to the Government account?**	The amount collected by the operator is to be paid to appropriate government within 10 days after the end of the month in which the said amount was so collected.
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.
24.	**How is TCS to be 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 e-commerce 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 e-commerce 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.

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25.	**Is the e-commerce operator required to submit any statement? What are the details that are required to be submitted in the statement?**	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 amount collected by it as TCS during a month within 10 days after the end of such month in **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 would be applicable on non-collection of TCS?**	As per section 52(6) of the CGST Act, 2017, interest is applicable on omission as well in case of incorrect particulars noticed. In such a case, interest is applicable since it is a case of omission. Further penalty under section 122(vi) of the CGST Act, 2017 would also be leviable.
27.	**What will be the place of supply for e-commerce operator 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?**	As per section 12(11) of the IGST Act, 2017, the address on record of the customer with the supplier of services is the place of supply.

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28.	**Under multiple e-commerce model, Customer books a Hotel via ECO-1 who 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?**	TCS is to be collected by that e-Commerce operator who is making payment to the supplier for the particular supply happening through it, which is in this case will be ECO-2.
29.	**Are there any additional powers available to tax officers under this Act?**	As per section 52(12) of the CGST Act, 2017, any authority not below the rank of Deputy Commissioner may serve a notice requiring the operator to furnish the details of their supplies 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.

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