

Government of Jammu and Kashmir
Finance Department
Civil Secretariat, Jammu/Srinagar

Subject: Guidelines for Deductions and Deposits of TDS by the DDOs under Goods and Services Tax Law.

C I R C U L A R

Instances have come to the notice of the Finance Department that some DDOs are not following the provisions of TDS as envisaged under Goods & Services Law (J&K GST Act 2017/ CGST Act 2017/ IGST Act 2017). Accordingly, the following comprehensive guidelines are issued for strict compliance by all the Government Departments of Union Territory of Jammu & Kashmir.

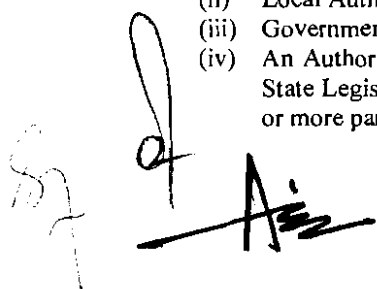
2. Section 51 of the Jammu and Kashmir GST Act, 2017 provides for deduction of tax by the Government Agencies (Deductor) or any other person to be notified in this regard, from the payment made or credited to the supplier (Deductee) of taxable goods or services or both, where the total value of such supply, under a contract, exceeds two lakh and fifty thousand rupees. 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 along with a return in Form GSTR-7 giving the details of deductions and deductees.

3. In order to comply with the provisions of the said Act for the purpose of TDS, the following steps are required to be taken by the DDOs:

- A. Registration as Tax Deductors in the GST common portal.
- B. Deduction of TDS amount as per the provisions from the bills to be paid to the suppliers/deductees.
- C. Deposit the TDS amount in to appropriate Government account(s).
- D. File tax Returns for TDS within the prescribed time limit.

4. As per section 51 of the Act, the following entities are required to comply with the provisions of TDS and thus are required to register themselves as Tax Deductor under section 24 (vi) of the said Act:

- (i) Central and State Government Departments / Establishments (e.g. Departments, Heads of Departments, Collectorates, other sub-ordinate / field offices etc.)
- (ii) Local Authority (e.g. Municipalities, Panchayati Raj Institutions etc.)
- (iii) Government Agencies.
- (iv) An Authority / Board / Any other Body set up by an Act of Parliament / State Legislature or established by any Government with fifty-one percent or more participation by way of equity or control to carry out a function.



7.1 Conditions for & amount of deduction:

Tax deduction is required if all the following conditions are satisfied:

- a) Total value of taxable supply > Rs.2.5 Lakh under a single contract. This value shall exclude taxes & cess leviable under GST.
- b) If the contract is made for both taxable supply and exempted supply, deduction will be made of the total value of taxable supply in the contract > Rs.2.5 Lakh. This value shall exclude taxes & cess leviable under GST.
- c) Where the location of the supplier and the place of supply are in the same State/UT, it is an intra-State supply and TDS @ 1% each under CGST Act and SGST/ UTGST Act is to be deducted if the deductor is registered in that State or Union Territory without legislature.
- d) Where the location of the supplier is in State A and the place of supply is in State or Union Territory without legislature - B, it is an inter-State supply and TDS @ 2% under IGST Act is to be deducted if the deductor is registered in State or Union territory without legislature-B.
- e) Where the location of the supplier is in State A and the place of supply is in State or Union Territory without legislature B, it is an inter-State supply and TDS @ 2% under IGST Act is to be deducted if the deductor is registered in State A.
- f) When advance is paid to a supplier (on or after 01.10.2018) for supply of taxable goods or services or both under a contract, TDS will be applicable where contract value exceeds 2.5 lakh (excluding GST).

7.2 Illustrations of various situations requiring deduction of tax:

Situations/Contracts	Deduction required YES/ NO	Remarks
Finance Department is making a payment of Rs.3 lakh to a supplier of 'printing & stationery'.	Yes	Where the total contract value of taxable supply is more than Rs.2.5 lakh deduction is mandatory.
Education Department is making payment of Rs.5 lakh to a supplier of 'printed books and printed or illustrated post cards' where payment for books is Rs.2 lakh and Rs.3 lakh is for other printed or illustrated postcards.	Yes, deduction is required in respect of payment of Rs.3 lakh only i.e. for payment in respect of taxable supply.	Books are exempted goods; no deduction is required in respect of supply of books. However, payment involving 'printed or illustrated postcards' is for supply of taxable goods and value of such supply is > Rs.2.5 lakh; so deduction is required.

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A.E.

4.66- Illustrations of TDS

Finance Department is making payment of Rs.1.5 lakh to a supplier of 'car rental service'.	No.	Deduction is mandatory in case the total value of taxable supply under the contract >Rs.2.5 lakh irrespective of the amount paid. However, if the total value of supply under a contract is < Rs.2.5 lakh, deduction is not required.
Municipal Corporation purchases a heavy generator from a supplier in Delhi. Now, it is making payment of Rs.5 lakh and IGST @18% on Rs.5 Lakh for such purchase.	Yes, deduction is required@2%	Deduction is required in case of inter-State supply and if the value of taxable supply under a contract exceeds Rs.2.5 lakh.
Health Department executed a contract with a local supplier to supply "medical grade oxygen" of Rs.2.6 lakh (including GST) and is making full payment.	No	Total value of supply as per the contract is Rs.2.6 lakh (including GST). Tax rate is 12%. So, taxable value of supply (excluding GST) stands at Rs.2.6 lakh X 100/112 =Rs.2.32 lakh < Rs.2.5 lakh Hence, deduction is not required.

Situation (in all cases where taxable contract value is over Rs.2.5 lakh)	Location of Supplier	Place of Supply	State of registration of recipient	Type of Supply	Tax	TDS deduction
Govt. of J&K purchases taxable goods from a local supplier	Jammu	Jammu	Jammu	Intra State	CGST+JKGST	Yes
Govt. of J&K purchases taxable goods from a supplier in Delhi	Delhi	J&K	J&K	Inter State	IGST	Yes

7.3 Illustration of various situations requiring determination of value of supply for deduction of tax:

7.3.1 Supplier is registered and contract value is excluding GST:

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Example 1: Supplier X makes taxable supply worth Rs. 10,000/- to a Municipality where contract for supply is for Rs.15,00,000/-.The rate of GST is 18%. Supplier and the Deductor are in the same State. Following payment is being made by this Municipality to X:

Rs.10,000 (value of supply) + Rs900 (Central Tax) + Rs 900 (State Tax).

Value of supply = Rs.10,000/-

Tax to be deducted from payment:

Central Tax=1% on Rs.10,000/- = Rs.100/-; State Tax = 1% on Rs.10,000/- = Rs.100/-

Payment due to X after TDS as per GST provisions: Rs. 11600/-

7.3.2 Supplier is registered and contract value is inclusive of GST:

Example 2: Supplier Y of Mumbai makes taxable supply worth Rs. 10,000/- & exempted supply worth Rs. 20,000/- in an invoice/ bill of supply to Finance Department of GoI located in J&K where contract for supply is for Rs.6,00,000/- (Rs.2,60,000 for taxable supply including GST and Rs.3,40,000 for exempted supply). The rate of GST is 18%. Following payment is being made by GoI to Y: Rs.10,000/- (value of taxable Supply) + Rs.1,800 (Integrated Tax) + Rs.20,000/-(value of exempted Supply).

7.3.3 Supplier is registered under composition scheme:

Example3: Supplier ZA is a person registered under the composition scheme in J&K who makes taxable supply worth Rs.10,000/- to a Local Authority of J&K where value of taxable supply under the contract is for Rs.2, 55,000/-

Following payment is being made by the Local Authority of J&K to ZA: Rs.10,000/-

Value of taxable supply under the contract is Rs.2, 55, 000/- which is more than Rs.2.5 Lakh and hence deduction of tax is required.

8. Deposit of GST TDS and TDS Certificate

The amount of TDS deducted should be deposited with the Government by the deductor by the 10th of the next month in Form GSTR 7 through the online portal gst.gov.in. The deductor would be liable to pay interest if the tax deducted is not deposited within the prescribed time limit as mentioned above.

TDS Certificate in form GSTR7-A will only be generated on the system once the deductor (DDO) furnishes a return in Form GSTR7 on the GST portal.

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The TDS so deducted would also be visible to the suppliers in Form GSTR 2A and the supplier can include and avail the same in GSTR 2. The supplier can take this amount as credit in his electronic cash register and use the same for payment of tax or any other liability.

9. Penalty for not complying with provisions of TDS on GST

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 law.
2.	TDS Deducted but not paid to the Govt. or paid later than 10 th of the succeeding month.	Interest to be paid along with the TDS amount, else the amount shall be determined and recovered as per law.
3.	Late filing of TDS Return	Late fees of Rs. 100 per day for each day for which the failure continues subject to a maximum of Rs. 5000.

10. In order to comply with the provisions of TDS under the GST law, it is enjoined upon all Departments in Government to instruct their DDOs to follow the above guidelines in letter & spirit.

11. Difficulty, if any, in implementation of this circular may please be brought to the notice of State Taxes Department, J&K.

Sd/-
(Vivek Bharadwaj), IAS
 Financial Commissioner,
 (Additional Chief Secretary)
 Finance Department

No: FD-ST/93/2022-03


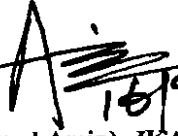
Dated: 16.09.2022

Copy to the:-

1. All Financial Commissioners (Additional Chief Secretaries).
2. Director General of Police, J&K.
3. All Principal Secretaries to the Government.
4. Principal Secretary to the Hon'ble Lieutenant Governor.
5. All Commissioner/ Secretaries to the Government.
6. Chief Electoral Officer, J&K.
7. Director General, J&K IMPARD.
8. Divisional Commissioner, Jammu/Kashmir.
9. Director Information, J&K.
10. Chairperson, J&K Special Tribunal.
11. Commissioner, State Taxes Department, J&K.
12. Commissioner, Excise Department, J&K.
13. All District Development Commissioners.

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- 14. All Heads of Departments/Managing Directors/Secretary, Advisory Boards.
- 15. Secretary, J&K Public Service Commission/SSB/BoPEE.
- 16. Director, Archives, Archaeology and Museums.
- 17. Secretary J&K Academy of Art, Culture & Languages.
- 18. General Manager, Government Press, Srinagar/Jammu.
- 19. Private Secretary to Advisor (B) to the Hon'ble Lieutenant Governor.
- 20. Private Secretary to the Chief Secretary.
- 21. Private Secretary to the FC (Additional Chief Secretary), Finance Department.
- 22. ✓/c Website GAD/Finance Department.

 
16/9/2022
(Mohammad Amin), JKAS,
Deputy Secretary to the Government
Finance Department



