

GOVERNMENT OF ODISHA
FINANCE DEPARTMENT

Memo No. FIN-CT1-TAX-0045-2017- 21985 /F

The 22nd July, 2017

To

All Departments of Government/
All Heads of Department

Sub: **Works Contracts and Tax Deduction at Source (TDS) under GST.**

The Goods and Services Tax has come into force w.e.f. 1st July, 2017. Central Taxes like Central Excise Duty, Service Tax, Additional Duties of Excise, Additional Duties of Excise (Textile and Textile products), Special Duties of Customs etc. and State taxes like VAT, Entry Tax, CST, Entertainment Tax etc. are subsumed in GST. GST has two components; Central GST (CGST) is collected by the Centre and State GST (SGST) is collected by the State. Integrated GST is collected on inter-State supply of Goods and Services.

2. TDS is to be made on supply of both goods and services. Supply of service includes works contract as works contract is a composite service under GST. GST Act stipulates that the Government Departments or establishments or Local Authority or Government agencies are required to deduct GST @1% under CGST Act and @1% under OGST Act from the payment made or credited to the supplier of taxable goods or services or both. Provision of section-51 of OGST Act is as follows:

“51. (1) Notwithstanding anything to the contrary contained in this Act, the Government may mandate,-

- (a) A department or establishment of the Central Government or State Government; or
- (b) Local authority; or
- (c) Government agencies; or
- (d) Such persons or category of persons as may be notified by the Government on the recommendations of Council,

(hereafter in this section referred to as the “deductor”), to deduct at the rate of one percent from the payment made or credited to the supplier (hereafter in this section referred to as “the 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:”

3. The person in charge of making payment (DDO) is required to be registered under OGST Act or CGST Act. He is to apply in FORM GST REG-7 for registration through GSTN portal. The DDO is required to have Tax Deduction and Collection Account Number (TAN), e-mail ID and Mobile Number to apply for registration. He will be issued Certificate of Registration in FORM GST REG-6. The DDO may take assistance of Help Desk available in 45 commercial tax offices of the State for the purpose of registration, filing of return etc. under GST.

4. The DDOs shall deposit the TDS with the Government within ten days after the end of the month, in which such deduction is made. The deductor shall furnish a certificate in FORM GSTR-7A to the deductee within five days after making deduction. Failure to furnish Certificate within five days attracts penalty of Rs. 100/- per day subject to maximum Rs.5000/-. The deductor shall furnish a return in FORM GSTR-7 within ten days in the succeeding month. Failure to file return within the stipulated date attracts interest @ 18% on the amount of tax deducted.

5. The TDS has been deferred by two months, but DDOs should be registered by 31st August 2017. The Departments are advised to instruct their DDOs to take registration by 31st August, 2017. The deductor may be instructed that if the invoice has been issued prior to 1st July, 2017 and payment is made after 1st July, 2017, no deduction under GST shall be made upto 31.08.2017.

6. Under GST, works contract is a composite service, taxable at 18% (CGST 9%+ SGST 9%). The works contractor will avail Input Tax Credit (ITC) on the inputs used for execution of works contract. For example, in case of a building contract, he will pay tax at the rate of 18%, but he will avail of tax paid on inputs such as cement (28%), sanitary fittings (28%), iron rod (18%), on input services like architect's charges (18%), etc. The works contractor may purchase materials from inside or outside the state. Since taxes like Excise Duty, Service Tax, VAT and Entry Tax have been subsumed in GST, the contractor will pay only the GST on the inputs of both goods and services, which do not contain any other tax element. The contractor is entitled to take credit of taxes paid on inputs. The cost of material is likely to be less in post-GST regime. Accordingly the Schedule Rate for goods used in works contract need to be revised.

7. All subordinate offices under the control of respective Departments of Government may accordingly be instructed to ensure strict compliance of statutory provisions of OGST Act, 2017.


Principal Secretary to Government

Memo No. 21986 Date 22/7/2017

Copy forwarded to the Commissioner of Commercial Taxes, Odisha, Cuttack for information and necessary action. All JCCT of the Ranges and DCCT of the Circles may be instructed to provide assistance to DDOs for registration, filing of return etc. under GST through Help Desk.


Additional Secretary to Government

Memo No. 21987 Date 22/7/2017

Copy forwarded to the Director of Treasuries & Inspection, Odisha/Director of Local Fund Audit, Odisha/Controller of Accounts, Odisha/Director, MDRAFM/Chairman, OSTT, Cuttack for information and necessary action.


Additional Secretary to Government

Memo No. 21988 Date 22/7/2017

Copy forwarded to All officers / All branches of Finance Department for information and necessary action.


Additional Secretary to Government