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FAQ: E-Commerce

Question 1: What is Electronic Commerce?

Answer: Electronic Commerce has been defined in Sec. 2(44) of the CGST Act, 2017 to mean the supply of goods or services or both, including digital products over digital or electronic network.

Question 2: Who is an e-commerce operator?

Answer: Electronic Commerce Operator has been defined in Sec. 2(45) of the CGST Act, 2017 to mean any person who owns, operates or manages digital or electronic facility or platform for electronic commerce.

Question 3: Is it mandatory for e-commerce operator to obtain registration?

Answer: Yes. As per Section 24(x) of the CGST Act, 2017 the benefit of threshold exemption is not available to e-commerce operators and they are liable to be registered irrespective of the value of supply made by them.

Question 4: Whether a person supplying goods or services through e-commerce operator would be entitled to threshold exemption?

Answer: No. Section 24(ix) of the CGST Act, 2017 lays down that the threshold exemption is not available to such persons and they would be liable to be registered irrespective of the value of supply made by them. This requirement is, however, applicable only if the supply is made through such electronic commerce operator who is required to collect tax at source under section 52 of the CGST Act, 2017. However, where the e-commerce operators are liable to pay tax on behalf of the suppliers under a notification issued under section 9 (5) of the CGST Act, 2017, the suppliers of such services are entitled for threshold exemption.

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Question 5: Will an e-commerce operator be liable to pay tax in respect of supply of goods or services made through it, instead of actual supplier?

Answer: Yes, but only in case of services notified under Sec. 9(5) of the CGST Act, 2017. In such cases tax shall be paid by the electronic commerce operator if such services are supplied through it and all the provisions of the Act shall apply to such electronic commerce operator as if he is the supplier liable to pay tax in relation to the supply of such services. A similar provision for inter-State supply is provided for in Sec. 5(5) of the IGST Act, 2017. (Refer to Notification No. 17/2017-Central Tax (Rate) and 14/2017- Integrated Tax (Rate) dated 28.06.2017).

Question 6: Will threshold exemption be available to electronic commerce operators liable to pay tax on notified services?

Answer: No. Threshold exemption is not available to e-commerce operators who are required to pay tax on notified services supplied through them.

Question 7: What is Tax Collection at Source (TCS)?

Answer: The e-commerce operator is required to collect an amount at the rate of one percent (0.5% CGST + 0.5% SGST) 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). (Refer to Section 52(1) of the CGST Act, 2017).

Question 8: It is very common that customers of e-commerce companies return goods. How these returns are going to be adjusted?

Answer: An e-commerce company is required to collect tax only on the net value of taxable supplies. In other words, the value of supplies which are returned are adjusted in the aggregate value of taxable supplies. (Refer to Explanation to Sec. 52(1) of the CGST Act, 2017).

Question 24: I am a supplier selling my own products through a web site hosted by me. Do I fall under the definition of an “electronic commerce operator”? Am I required to collect TCS on such supplies?

Answer: As per the definitions in Section 2 (44) and 2(45) of the CGST Act, 2017, you will come under the definition of an “electronic commerce operator”. However, according to Section 52 of the Act ibid, TCS is required to be collected on the net value of taxable supplies made through it by other suppliers where the consideration is to be collected by the ECO. In cases where someone is selling their own products through a website, there is no requirement to collect tax at source as per the provisions of this Section. These transactions will be liable to GST at the prevailing rates.

Question 25: We purchase goods from different vendors and are selling them on our website under our own billing. Is TCS required to be collected on such supplies?

Answer: No. According to Section 52 of the CGST Act, 2017, TCS is required to be collected on the net value of taxable supplies made through it by other suppliers where the consideration is to be collected by the ECO. In this case, there are two transactions - where you purchase the goods from the vendors, and where you sell it through your website. For the first transaction, GST is leviable, and will need to be paid to your vendor, on which credit is available for you. The second transaction is a supply on your own account, and not by other suppliers and there is no requirement to collect tax at source. The transaction will attract GST at the prevailing rates.

Note: Reference to CGST Act, 2017 includes reference to SGST Act, 2017 and UTGST Act, 2017 also.

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Question 21: There are cases in which the ECO does not provide invoicing solution to the seller. In such cases, invoice is generated by the seller and received by the buyer without ECO getting to know about it. The payment flows through the ECO. In such cases, on what value is TCS to be collected? Can TCS be collected on the entire value of the transaction?

Answer: Section 52(1) of the CGST Act, 2017 mandates that TCS is to be collected on the net taxable value of such supplies in respect of which the ECO collects the consideration. The amount collected should be duly reported in GSTR-8 and remitted to the Government. Any such amount collected will be available to the concerned supplier as credit in his electronic cash ledger.

Question 22: GST requires a dealer to maintain a consecutive serial number for invoices. If we are supplying from multiple locations, do we need to centrally maintain the invoice numbers serially?

Answer: Section 46 of the CGST Rules, 2017 provides that invoice may have “a consecutive serial number not exceeding sixteen characters, in one or multiple series, containing alphabets or numerals or special characters hyphen or dash and slash symbolised as “-” and “/” respectively, and any combination thereof, unique for a financial year”. Therefore, a supplier can have multiple series for the same year, so long as the same series is not used across financial years. Therefore, you may have a different invoice series for each location having consecutive serial numbers running across that series.

Question 23: There are sellers who are selling exempted or zero-tax goods like books through ECOs. Will marketplaces be required to collect TCS on such supplies?

Answer: As per Section 52(1) of the CGST Act, 2017 TCS is to be collected on “the net value of taxable supplies” made through an ECO. When the supply itself is not taxable, the question of TCS does not arise.

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Question 9: What is meant by “net value of taxable supplies”?

Answer: The “net value of taxable supplies” means the aggregate value of taxable supplies of goods or services or both, other than the services on which entire tax is payable by the e-commerce operator, made during any month by all registered persons through such operator reduced by the aggregate value of taxable supplies returned to the suppliers during the said month. (Refer to Explanation to Section 52(1) of the CGST Act, 2017).

Question 10: Is every e-commerce operator required to collect tax on behalf of actual supplier?

Answer: Yes, every e-commerce operator (other than an operator required to pay tax under section 9(5) of the CGST Act, 2017) is required to collect tax where consideration with respect to a taxable supply is collected by such e-commerce operator. (Refer to Section 52(1) of the CGST Act, 2017).

Question 11: What time should the e-commerce operator make such collection?

Answer: The e-commerce operator should make the collection during the month in which the consideration amount is collected from the recipient.

Question 12: What is the time within which such TCS is to be remitted by the e-commerce operator to Government?

Answer: The amount collected by the operator is to be paid to the government within 10 days after the end of the month in which amount was so collected. (Refer to Section 52(3) of the CGST Act, 2017).

Question 13: How can actual suppliers claim credit of this TCS?

Answer: The amount of TCS paid by the operator to the government will be reflected in the GSTR-2 of the actual registered supplier (on whose account such collection has been made) on the basis of the statement filed by the operator. The same can be used at the time of discharge of tax liability in respect of the supplies made by the actual supplier. (Refer to Section 52(7) of the CGST Act, 2017).

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Question 14: Is the e-commerce operator required to submit any statement? What are the details that are required to be submitted in the statement?

Answer: 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 ten days after the end of such month. The statement will be filed 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. (Refer to Section 52(4) and Section 52(5) of the CGST Act, 2017).

Question 15: What is the concept of matching in e-commerce provisions and how it is going to work?

Answer: The details of supplies furnished by every operator in his statement for the month will be matched with the corresponding details of outward supplies furnished by the concerned supplier in his valid return for the same month or any preceding month. Where the details of outward supplies declared by the operator in his statement do not match with the corresponding details declared by the supplier, the discrepancy shall be communicated to both persons. (Refer to Section 52(8) and Section 52(9) of the CGST Act, 2017).

Question 16: What will happen if the details remain mismatched?

Answer: The amount in respect of which any discrepancy is communicated and which is not rectified by the supplier in his valid return or the operator in his statement for the month in which discrepancy is communicated shall be added to the output liability of the said supplier in his return for the month succeeding the month in which the discrepancy is communicated. The concerned supplier in whose output tax liability any amount has been added, shall be liable to pay the tax payable in respect of such supply along with interest on the amount so added from the date such tax was due till the date of its payment. (Refer to Section 52(10) and Section 52(11) of the CGST Act, 2017).

Question 17: Are there any powers given to tax officials under the GST Act to seek information on supply/stock details from e-commerce operators?

Answer: Yes. Any officer not below the rank of Deputy Commissioner may issue a notice to the electronic commerce operator to furnish such details within a period of 15 working days from the date of service of such notice. (Refer to Section 52(12), (13) and (14) of the CGST Act, 2017).

Question 18: The sellers supplying goods through e-Commerce operators (ECO) may have common places of business, especially if their goods are stored in a shared facility operated by the ECO. This will result in the same additional place of business being registered by multiple suppliers. Is this allowed?

Answer: Yes, this is allowed. Any registered person can declare a premises as a place of business if he has requisite documents for use of the premises as his place of business (like ownership document, agreement with the owner etc.) and there is no restriction about use of a premises by multiple persons. The registered person shall have to comply with the requirements of maintaining records as per section 35 of the CGST Act, 2017 and Rules 56 to 58 of the CGST Rules, 2017.

Question 19: Do travel agents providing services through digital or electronic platform qualify as ECOs? Will they be required to collect tax at source as per the provisions of Section 52 of the GST Act?

Answer: Online travel agents providing services through digital or electronic platform will fall under the category of ECOs liable to deduct TCS under Section 52 of the CGST Act, 2017.

Question 20: There are transactions in which two or more ECOs are involved. In such cases who would deduct the TCS?

Answer: In such cases, each transaction needs to be treated separately and examined according to the provisions of Section 52 of the CGST Act, 2017. The TCS will be deducted accordingly.

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