

FAM BULLETIN

17th October 2024

TDS ON GST VIDE SECTION 51 OF CGST ACT 2017

The Ministry of Finance issued Notification No. 25/2024-Central Tax on October 9, 2024, amending the earlier Notification No. 50/2018-Central Tax to clarify the Tax Deduction at Source (TDS) provisions under Section 51 of the CGST Act, 2017.

The amendment is reproduced below:

A new clause (d) has been added after clause (c) and before the first proviso. This clause extends the scope of TDS to include:

“(d) any registered person receiving supplies of metal scrap falling under Chapters 72 to 81 in the First Schedule to the Customs Tariff Act, 1975 (51 of 1975), from other registered persons”

The third proviso of the notification has been substituted with the following:

“Provided also that nothing in this notification shall apply to the supply of goods or services or both, which takes place between one person to another person specified under clauses (a), (b), (c) and (d) of sub-section (1) of Section 51 of the said Act, except the person referred to in clause (d) of this notification.”

The amendment introduces several significant changes to the TDS provisions for metal scrap transactions under the CGST Act, 2017.

The 54th GST council meeting held on 09/09/2024 mentioned

“A TDS of 2% will be applicable on supply of metal scrap by registered person in B-to-B supply.”

However, no clarity was given on this point further.

The amendment is applicable to metal scraps falling under Chapters 72 to 81 of the First Schedule to the Customs Tariff Act, 1975 only.

The relevant chapter of Customs Tariff Act 1975 include the following materials:

Chapter 72 – Iron and Steel

Chapter 73 – Articles of Iron and Steel

Chapter 74 – Copper and Articles thereof

Chapter 75 – Nickel and Articles thereof

Chapter 76 – Aluminium and Articles thereof

Chapter 78 – Lead and Articles thereof

Chapter 79 – Zinc and Articles thereof

Chapter 80 – Tin and Articles thereof

Chapter 81 – Other Base Metals; Cermet's; Articles thereof.

Significant impact which the metal and scrap dealers will have due to this amendment is mentioned below. Here's a breakdown of the key points:

✓ **TDS Applicability to Metal Scrap Transactions:**

Registered Persons: The amendment extends the scope of TDS to include registered persons receiving metal scrap classified under Chapters 72 to 81 of the Customs Tariff Act, 1975. This means that businesses registered under the GST Law and dealing with metal scrap are now subject to TDS obligations.

TDS Rate: A TDS rate of 2% is applicable for metal scrap transactions where the taxable value exceeds **₹2,50,000 per transaction**.

TDS Rate Breakdown:

CGST = 1%

SGST = 1% (for intra-state transactions)

IGST = 2% (for inter-state transactions)

Deduct TDS: When receiving metal scrap supplies from other registered persons, they must withhold a portion of the payment as TDS. TDS deduction to happen in the month of supply even if payment is executed in later months.

Accounting and Reporting: They should update their accounting systems to accurately track TDS deductions and ensure compliance with the relevant reporting requirements.

✓ **Separate GST Registration for TDS Deduction:**

Form REG-07: Buyers of metal scrap must mandatorily obtain a separate GST registration (**Form REG-07**) specifically for the purpose of deducting TDS.

Documents Required for Registration: While the notification does not specify the exact documents required for this registration, generally, the following may be required:

1. PAN card of the entity.
2. Proof of Business Address (such as utility bills, property tax receipts).
3. Bank Account Details.
4. Authorization Letter in case of a company/LLP.

This ensures that the buyer has the necessary authority to withhold and remit the TDS to the government.

(Functionality for the registration will be soon available on the GST common portal)

✓ **TDS Credit for Suppliers and filing of GSTR-07:**

Monthly Credit: The TDS deducted by the buyer will be credited to the supplier's cash ledger on a monthly basis. This provides the supplier with timely liquidity.

The buyer (who has deducted the TDS) is required to file Form GSTR-7 monthly, no later than the 10th of the subsequent month.

✓ **Clarification on Exemptions:**

Metal Scrap Not Exempted: The amendment clarifies that while supplies between certain entities may be exempt from TDS, transactions involving metal scrap are not exempt. This ensures that TDS is applied consistently to metal scrap transactions.

✓ **Effective Date and Compliance Requirements:**

Effective Date: **The amendment is effective from October 10, 2024.**

Compliance: Both buyers and sellers of metal scrap must ensure compliance with the updated GST TDS provisions. This includes timely filing of GSTR-7 (quarterly return for TDS deducted) and obtaining TDS certificates (GSTR-7A).

✓ **Exemption for Certain Categories of Persons:**

Sub-section (1) of Section 51: The CGST Act provides for exemptions from TDS for certain categories of persons specified in clauses (a), (b), (c), and (d) of sub-section (1) of Section 51.

Metal Scrap Included in Clause (d): The substitution clarifies that the exemption for TDS does not apply to registered persons receiving metal scrap, which is now specifically included in clause (d).

✓ **Impact on Metal Scrap Transactions:**

TDS Applicability: As a result of the substitution, metal scrap transactions between registered persons are now subject to TDS under Section 51 of the CGST Act. This means that buyers of metal scrap from other registered persons are required to deduct TDS at the specified rate.

✓ **No Impact on Other Exempt Categories:**

Existing Exemptions Remain: The substitution does not affect the existing exemptions for TDS in clauses (a), (b), and (c) of sub-section (1) of Section 51. These exemptions continue to apply to transactions between the specified categories of persons other than registered persons receiving metal scrap.

This means that buyers purchasing any metal scrap categorized under these chapters must deduct GST TDS on qualifying transactions.

Conclusion: *From 10th October 2024, a TDS of 2% is required to be deducted by the recipient (buyer) of goods, under GST, when purchasing metal scrap where the taxable value of supply will exceed Rs 2,50,000 per transaction.*

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for all TAX related matter

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