

GOVERNMENT OF NCT OF DELHI
OFFICE OF THE PRINCIPAL SECRETARY (FINANCE)
4th LEVEL, DELHI SECRETARIATE: NEW DELHI

Diary No. 329
9 1 11 2013
Pitam Pura, Near T.V. Tower
DELHI-110081

F.3(10)/Fin(Rev-I)/2012-13 / ds VL / 49-56

Dated: 17/1/2013

CIRCULAR

Sub: Correct Deduction of Tax at Source (TDS) and its Timely Payment in cases of Works Contracts

1. Attention is invited to Section 36A of Delhi Value Added Tax (DVAT) Act, 2004 which provides for deduction of tax at source (TDS) on account of VAT liability on execution of works contract and its timely deposition in appropriate Government treasury by every person, including Central/ State Governments, Union Territory Administrations, Government Departments including PWD, CPWD etc., Government Undertakings, Government Authorities/ Boards, Local Bodies, Railways, Cantonment Boards, Hospitals etc., who is responsible for making any payment to any contractor/ operator for execution of Works Contract.

2. Works contract is an integrated contract for supply of goods, and labour/ services at a lumpsum price, and is distinct from normal sale of goods. In normal sale, the contractor transfers ascertained goods to contractee. In works contract, the predominant intention of the parties is not sale/ purchase goods but to carry out certain work that involves supply of certain goods. Works contracts in relation to any movable and immovable goods/ property include the following activities:

- Civil construction, whether residential or commercial or public, including electrification, water & sewerage works, sanitary works, etc.
- Fabrication & fixing of shutters/ doors/ gates, windows/ grills, furniture, fixtures, fitting outs and other similar contracts.
- Flooring, plastering, white-washing, painting, polishing, Carpentry, interior decoration, etc.
- Renovation/ improvement and/or alteration/ modification to a good/ property.
- Repair & maintenance, including those of vehicles.
- Annual Maintenance Contracts (AMCs) of equipments, such as air conditioners, photocopiers, printers, lifts, etc., where contractor is responsible for supply of spare parts and other material required for repairs, etc.
- Procurement, erection, fabrication, installation, commissioning, repair & maintenance of any plant, machinery, transformers, generators, lifts, escalators, equipment, weighing machines, air conditioners, air coolers, fire-fighting systems, audio-visual systems, security systems, computer systems, EPABX/ telecommunication system and other similar contracts.
- Sanitation contracts
- Construction and maintenance of green houses.
- Manufacturing and processing.
- Assembling, erection, fitting out, etc. of any good.

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works contract shall be deducted by the Client. However, for other composition schemes, the TDS shall be deducted at the normal rate of 2%.

d. Mandatory Compliances and Penalties for Non-Compliance:

S. No.	Requirement	Time-Limit	Form (DVAT Rules, 2005)	Penalties on Client
1	Applying for Tax Deduction Account Number (TAN)	Within 7 days from date on which the tax was deducted or deductible	Form DVAT-44	U/s 36(12) of DVAT Act: ₹ 200/ day from the day on which requirement arose until the failure is rectified. Max. Penalty: ₹ 20,000/-
	Deposit of TDS amount in appropriate Government Treasury	Deduction at the time of making payment and deposit within 15 days from end of the month in which TDS was deducted. • Tax shall be deposited online by filling TAN of Client	Form DVAT-20	U/s 36(8) of DVAT Act: Penalty of a sum upto twice the amount deductible as TDS, besides due TDS. + U/s 36(9) of DVAT Act: Simple interest @ 15% for delayed deposit.
3	Issue of T.D.S. Certificate by Client to Contractor	Within 7 days of making the payment along with copy of Challan (certificate should specify that the amount of deductee has been included in the Challan amount)	Form DVAT-43	U/s 36(5A) of DVAT Act: ₹ 100/day from day of making payment to contractor until failure is rectified. Max. Penalty: ₹ 20,000/-
4	Filing of T.D.S. Return with VAT Department	Within 28 days from end of quarter in which tax was deducted	Form DVAT-48	U/s 36(12) of DVAT Act: ₹ 200/ day from the day on which requirement arose until failure is rectified. Max. Penalty: ₹ 20,000/-

U/s 36(10) of DVAT Act, 2004, where the TDS is not deposited into appropriate Government Treasury after deduction, such amount together with Interest and penalty shall be a charge

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GOVERNMENT OF NATIONAL CAPITAL TERRITORY OF DELHI
DEPARTMENT OF TRADE & TAXES
OFFICE OF THE COMMISSIONER VALUE ADDED TAX
WAPAR BHAWAN, LP. ESTATE, NEW DELHI - 110 002

CIRCULAR

Subject: Guidelines for tax deduction at source (TDS) by Government and Government Departments / Government Undertakings/ Government Authorities/ Boards awarding works contracts:

1. As per Section 36A of the Delhi VAT (DVAT) Act, 2004 every person, including Central / State Governments, Union Territory Administrations, Government Departments, including, PWD, CPWD, etc., Government Undertakings, Government Authorities /Boards, Local Bodies / Authorities, Railways, Cantonment Boards, Hospitals, etc., hereinafter called 'Client', are responsible for making any payment to any contractor / operator for Works Contract, is mandatorily liable to deduct TDS. The TDS for works contract under the DVAT Act, is in addition to the obligation of the client for TDS u/s 194C of the Income Tax Act.
2. As per Section 2(1)(zo) of DVAT Act "Works Contract" includes any agreement for carrying out for cash or for deferred payment or for valuable consideration, the construction, manufacture, processing, fabrication, erection, installation, fitting out, improvement, repair including AMC's, or commissioning of any moveable or immovable property. The term "Work Contracts" under DVAT Act refers to contracts which include material and labour, and does not include pure labour contracts.
3. Various compliances stipulated under the Delhi VAT Act are as under:
 - a. **Basic Exemption:** Works contracts up to ₹ 20,000/- are exempt from TDS.
 - b. **When to deduct TDS:** At time of credit of payment, whether in cash or any other mode, to the account of contractor.
 - c. **Rate of TDS:**

S. No.	Circumstances	Rate of TDS
(i)	If contractor, to whom payment is made, is not registered under the DVAT Act	4%
(ii)	In all other cases	2%

Note: If Commissioner, VAT, Government of NCT of Delhi issues a certificate for lower deduction of TDS against a works contract, the Contractee shall deduct TDS at such lower rate or deduct no tax as specified in certificate.

The Client is required to confirm, in writing, from the contractor whether the latter has opted for the composition scheme of the VAT Department for payment of works contract tax wherein tax rate is 3% of the entire turnover on account of works contracts executed in Delhi. In such case TDS @ 3% of the entire turnover i.e. 3% of the total awarded value on account of

Copy for information:

1. OSD to Chief Secretary, Government of NCT of Delhi
2. P.S. to Principal Secretary Finance

List of Officer

Name
Sh. P. K. Tripathi
Sh. R. Chandra
Sh. D. M. Singh
Smt. Nutan
Smt. Archana
Sh. Lalit
Sh. Arvind
Sh. Veer
Sh. K.
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upon all the assets of the person concerned and recoverable as arrears of land revenue.

4. This circular cannot be made use of for legal Interpretation of provisions of law as it is clarificatory in nature- If any Client/ contractor has any doubt, the matter may be referred to this office for further clarification.



(PRASHANT GOYAL)

Commissioner VAT

Government of NCT of Delhi

No. FA/PA/SAL ZONE/TTT/2012/509-550

Dated: 05/12/12

Copy for i and with request to direct all the Drawing & Disbursing Officers under their jurisdiction for strict compliance:

1. Principal Secretary, PWD
2. Principal Secretary, Power
3. Principal Secretary, Development
4. Principal Secretary, Irrigation & Flood Control Department
5. Principal Secretary, TTE/ Higher Education
6. Secretary Health & Family Welfare, Government of NCT of Delhi
7. Secretary, Environment & Forest, Government of NCT of Delhi
8. Vice Chairman, Delhi Development Authority
9. Commissioner Transport, Government of NCT of Delhi
10. Chairperson, New Delhi Municipal Committee
11. Commissioner, South Delhi Municipal Corporation
12. Commissioner, East Delhi Municipal Corporation
13. Commissioner, North Delhi Municipal Corporation
14. CEO, Delhi Jal Board
15. Director General, Central Public Work Department
16. Managing Director, DSIIDC Ltd.
17. CEO, DUSIB
18. CMD, DTC
19. Managing Director, DT&TDC
20. CMD DTL/ DPCL
21. Registrar Cooperative Societies
22. All Additional Commissioners/ Joint Commissioners, Department of Trade & Taxes, GNCTD, for other Government Organisations under their jurisdiction