

## WITHHOLDING TAX UNDER GST



### Withholding tax provisions in Indirect Tax - pre-GST regime

Withholding tax ('WHT') at source by a payer from amounts payable to the payee is an effective method of collection of taxes. Before the implementation of GST in India, most of the state's Value Added Tax ('VAT') Act provided for WHT at source by a contractee before making payment to the contractor under a works contract. Interestingly, Central Sales Tax and the Service Tax regulations did not provide for any withholding tax at source.

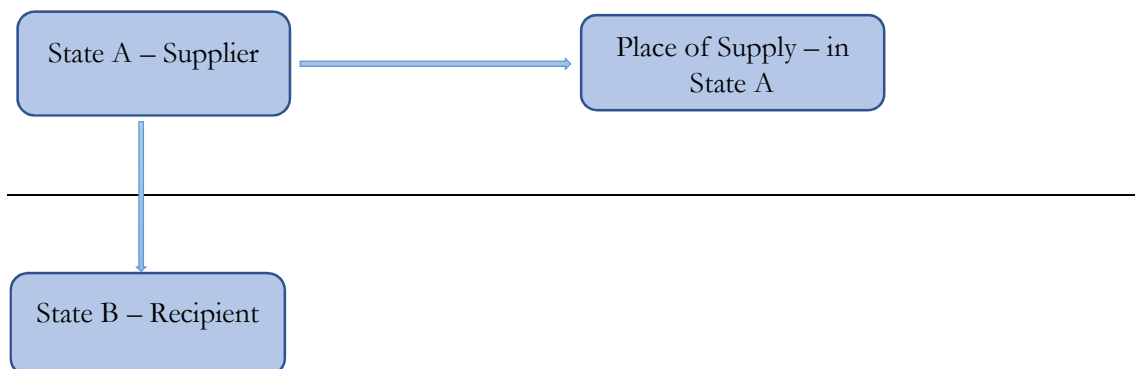
### Position under GST

Goods and Services Tax ('GST') was implemented from July 1, 2017. GST consisted of Central Goods and Services Tax ('CGST') Act, State Goods and Services Tax ('SGST') Act, Union Territory Goods and Services Tax ('UTGST') Act and the Integrated Goods and Services Tax ('IGST') Act. The CGST Act, mandates the Government to provide for WHT at source from payments made by payer to payee for both taxable goods and services, supplied to specified customers, viz. local or government authorities or a department of a State or Central Government or any such person or entity as is notified by the Government. The value of supply for the purpose of WHT at source by the deductor, will be exclusive of CGST, SGST, UTGST, IGST and Cess.

### When WHT at source will be applicable

It must however be noted that in case the deductee as well as the Place of Supply are in the same state ('A') but deductor in a different state ('B'), it will be difficult to transfer the Central Goods and Services Tax ('CGST') and State Goods and Services Tax ('SGST') to the deductee in state A and hence there will not be WHT at source in this case. In all other cases, viz, where the deductor and deductee is in the same state but Place of Supply is in a different state or if deductor, deductee and Place of Supply are in the same state, WHT at source will be applicable

**The case where WHT at source will not be applicable, has been captured below:**



The compliances have been detailed in the table below:

Statutory Compliances	Activities connected with statutory compliances /observations
WHT at source	WHT at 1 percent from the payment made or credited to supplier if total contract value exceeds Rs 0.25 million
Payment of WHT to Government	Within 10 days from the end of the month in which deduction is made, if not then interest at 18 per cent applicable
Return	Within 10 days of the following month, if not filed within time late fee payable
WHT certificate	Has to be issued within 5 days of crediting amount of WHT to the Government

#### **Fall out of the WHT provision under GST**

Compliance requirements will increase as taxes need to be deposited within a specified period and monthly returns needs to be filed with the government, thereby raising compliance cost for those affected by such provision. No doubt, the Government will be able to increase tax collections as every supplier will now have to register under GST and avail the credit of GST tax. Even the unorganised sector will now be hit by this provision and entities in this sector have to take registration and undertake compliances in order to avail the benefits of WHT. The implementation date of this provision is yet to be notified and we have to wait for further directions from the Government in this regard.



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