

FAQS

on Taxes & Related ISSUES



Dr. Suresh Surana, founder, RSM India, answers readers' queries on various issues pertaining to taxes that need to be paid by the jewellers. Readers are encouraged to send in their questions and receive clarifications through this column.

? I am an individual engaged in the business of trading of gold and silver jewellery. I have certain litigative cases, pending with various tax forums, which are eligible to be resolved under the Vivad Se Vishwas Scheme. I was planning to opt for the said Scheme on or before the end of its first cycle (i.e. 31.03.2020) in order to obtain exempted from payment of additional interest. However, due to the sudden outbreak of COVID-19, it was not possible for us to gain the benefit of the same. Kindly advise us as to how we could still claim the benefit of exemption from the payment of additional interest.

In view of the outbreak of COVID-19 causing operational difficulties and disruptions of many businesses in India, including failure to comply with their statutory and regulatory obligations, the Government via 'The Taxation and Other Laws (Relaxation of Certain Provisions) Ordinance 2020' has extended the due date for filing the declaration and making payment under the Vivad Se Vishwas scheme from 31 March 2020 to 30 June 2020 without additional payment of 10% provided payment is made by 30 June 2020. However, additional 10% shall be required to be paid in case payment is made on or after 1 July 2020. Also, it is pertinent to note that not only the declaration but the payment under the Scheme should also be required to be made on or before 30 June 2020 for waiver of additional 10% payment.

Thus, one can still opt for the said Scheme without the additional interest being levied provided the Scheme is opted for and payment

under the Scheme is made on or before 30 June 2020.

? We are a Private Limited company engaged in the business of trading of gold and silver jewellery with turnover of more than Rs. 100 crores during the previous year. We also sell Jewellery to Indian customers through e-commerce platform owned by a foreign based entity. Consideration for the services is directly paid by us to the foreign entity as they do not have any kind of presence in India. Whether the consideration paid to the such ecommerce operators for their services availed for the purpose of selling of Jewellery via their ecommerce platform subject to any equalization levy in India?

The Finance Act of 2020 has provided for an equalization levy of 2% to be charged on such consideration received or receivable by an ecommerce operator from ecommerce supply or services made or provided or facilitated by it to any person who buys such goods or services or both using the IP address located in India.

However, no such equalization levy would be required to be charged where the ecommerce supply or service is effectively connected with a Permanent establishment of the ecommerce operator in India or where the sales, turnover or gross receipts of the ecommerce operator from such ecommerce supply or services is less than Rs. 2 crores (total turnover from all the specified buyers) during the previous year. Also, such levy would be required to be deducted

w.e.f. 1 April 2020.

Thus, an equalization levy would be required to be deducted @ 2% on the consideration paid to the foreign based ecommerce supplier. Also, it is pertinent to note that since the transaction is already subjected to equalisation levy, no income tax would be chargeable on the same i.e. it would be exempted from any other kind of tax.

? **We are a Partnership engaged in the business of manufacturing of Gold and Jewellery. We have been recently deliberating over making substantial donations to the PM CARES Fund for helping with the current situation of coronavirus. In case of such donation made, we would like to know the deductibility of the same while computing Income Tax of the Firm.**

The Government has recently amended the Income Tax Act ('IT Act') to provide the same tax treatment to PM CARES Fund as available to Prime Minister National Relief Fund. Thus, any donation made to PM CARES Fund shall be eligible for 100% deduction under section 80G of IT Act. Further, the limit on deduction of 10% of Gross Total Income shall also not be applicable for donation made to PM CARES Fund.

Also as the date for claiming deduction under section 80G under the Income Tax Act has been extended up to 30 June 2020, any donation made up to 30 June 2020 shall also be eligible for deduction from income of FY 2019-20 (AY 2020-21).

Thus, any donation made towards the PM CARES Fund would be subjected to 100% deduction (without any qualifying limit) while computing income tax payable for FY 2019-20.

? **We are a listed entity engaged in the trading and manufacturing of Gold Jewellery. Since most of our operations are shut down, we are concerned for our Tax Deduction at Source ("TDS")/ Tax Collected at Source ("TCS") payment and returns to be filed for the Quarter ending March 2020. Is there any kind of relief provided considering the current pandemic situation?**

The Government has extended the due date for TDS returns to 30 June 2020 taking the pandemic situation into consideration. Also, the payments of TDS and TCS which are due between 20 March 2020 and 29 June 2020 (or such other date after 29 June 2020 as may be notified by the Central Government 'CG') and such amount has not been paid within the said date but are paid on or before 30 June 2020, a reduced rate of interest of 9% p.a. shall apply on such delayed payments. For instance, interest on late deduction / payment of TDS beyond the prescribed due dates would be chargeable at 9% instead of 12 % / 18 % per annum (i.e. 0.75% per month instead of 1% / 1.5% per month). The period of delay for such purpose would be the period between the due date and the date on which the amount has been paid. Further, no penalty shall be levied or prosecution would be sanctioned in respect of such amount for the period of delay.

Thus, even though the TDS return for the quarter ending March can be filed upto 30 June 2020, a reduced rate of interest on the late payment of TDS would still be made applicable.



I am an individual. I had purchased gold jewellery in 2015 and sold the same in 2019. The sale proceeds were intended to be invested by me in order to obtain the capital gain exemption benefit u/s 54 series of the Income Tax Act. However, I failed to make any kind of investment by March 2020.

Section 54 to 54GB of the Income Tax Act, 1961 provides for exemption from capital gains tax to an assessee provided such capital gain is invested in the certain specified instruments, residential properties, etc. The said exemption is subject to fulfillment of certain conditions as specifically mentioned in Sections 54 to 54GB. One substantial point that needs to be considered by the assessee is that the investment would be required to be made within a certain specified period beyond which the capital gain exemption would not be available to the assessee. However, owing to the current COVID-19 crisis in the country, the Government has provided a relief measure for rollover benefit of capital gains exemption to be claimed by the assessee if such investment is made upto 30 June 2020.

Thus, this would make all the investment made upto 30 June 2020 with respect to FY 2019-20 eligible for capital gain exemption u/s 54 to 54GB for FY 2019-20 (AY 2020-21).



We are a partnership firm with a newly setup manufacturing unit of Gems and Jewellery in SEZ. We had already received approval for operations to be carried out in SEZ but failed to commence the same by March 2020. How would the same affect our ability to claim exemption benefit u/s 10AA?

Any new entity established in SEZ can claim the benefit of Section 10AA provided it commences its operations by 31 March 2020. However, the last date for commencement of operation for the SEZ units for claiming deduction under section 10AA of the IT Act has also been extended to 30 June 2020 for the units which have received necessary approval by 31 March 2020.

Thus, exemption benefit u/s 10AA of the Act can be claimed provided the operations are commenced by 30 June 2020.

*Courtesy: RSM India (www.rsmindia.in)
Kindly email your queries to emails@rsmindia.in*

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