

FAQS

on Taxes & Related ISSUES



Dr. Suresh Surana, founder, RSM Astute Consulting Group, 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.

? We are a Foreign entity engaged in the business of trading of diamonds. We sell Diamond and Gold Jewellery through our ecommerce platforms to Indian residents. We understand Indian government has imposed Equalisation levy. Please guide us on the same and Is there any extension in due date for paying the same?

The Finance Act, 2020 has newly introduced an equalisation levy at 2% on the amount of consideration received or receivable by an e-commerce operator from e-commerce supply or services made or provided or facilitated by it. Thus, in your case, it would be levied on gross consideration received from supply of goods through the e-commerce platforms. Such levy would come into effect from April 1, 2020.

The deadline for payment of first installment of tax for April-June was 7 July 2020. The government is not considering extending the deadline for payment of Equalisation Levy

by non-resident e-commerce operators. As per law, late-payment of Equalisation Levy will attract interest at the rate of 1% per month or part of the month. Also, Non-payment can result in a penalty equal to the amount of Equalisation Levy, along with above interest.

? I have inherited gold from my grandmother who had acquired and held the same for many years. I would like to know how to determine the cost of acquisition for such gold for the purpose of computing capital gains when I intend to sell the same?

In case of inherited gold, the cost of acquisition would be the cost price that had been paid by the person from whom such gold is inherited. Also, if the person from whom such gold is inherited had originally purchased the gold before 1 April, 2001, there is an option to consider the Fair Market Value (FMV) as on 1 April, 2001, instead of actual cost of the said gold.



We are a Partnership Firm engaged in the business of Trading of Gems & Jewellery. We would like to know of any restrictions on acceptance of cash during sale of Jewellery?

Section 269ST of the Income-tax Act, 1961 restricts any person from acceptance of/accepting cash in respect of a single transaction, in a single day or transactions relating to one event or occasions, in aggregate of Rs. 2 Lakhs or more.

In regards to the same, it is pertinent to note that the amount which can be spent in cash for purchase of jewellery should be less than Rs. 2 lakhs at a single point of time. In case of a person who receives cash in excess of Rs. 2 lakhs as specified in section 269ST, he shall be liable to pay penalty which shall be equivalent to the amount received. As such considering the restrictions and penal provisions on seller, it is advisable to not carry out a cash sale transaction amounting to Rs. 2 lakhs or more.



I am non-resident trader of Diamond jewellery. I purchase Jewellery from Indian traders. I came to India for trade inquiries in month of January 2020 after which lockdown was imposed by Indian Govt. I couldn't return to my home country because of suspension of international flights. How will it have impact on my residential status in Financial Year 2019-20 and FY 2020-21?

In respect of FY 2019-20, a person is treated as a resident in India provided his period of stay in India for a year is 182 days or more or he stays in India for the immediately 4 preceding years is 365 days or more and 60 days or more in the relevant financial year.

However, the lockdown imposed by the Indian government due to the current pandemic has restricted many people from going back to their countries. In a major relief to Non-resident Indians (NRIs) stuck in India, the Finance Ministry has provided relaxation in the norm for determining the residency status of such individuals who came to India before 22 March and had not been able to leave the country on or before 31 March 2020 as well as those quarantined in India after 1 March 2020 on account of Covid-19. Their period of stay in India, either fully or partially, due to lockdown will be discounted for this purpose.

From FY 2020-21 onwards, only in cases where the total income of such visiting NRI individuals during the financial year from sources, other than foreign sources, exceeds Rs. 15 lakhs, the period of 182 days would be reduced to 120 days.

The extended stay in India because of lockdown which has been extended to 31 August 2020 could result in affecting residential status of NRI taxpayer and further in dual taxation as they would have to pay taxes both in his home country and India.

It is expected that the Government would come out with clarification in respect of extended stay due to disruptions of international flights.



I had sold my Gold Jewellery and invested the sale proceeds in a residential property in FY 2018-19. In accordance with the same, I had availed capital gain benefit u/s 54F of the Income Tax Act. However, due to dire needs of funds, I had to sell off the property in May 2020. Kindly let me know the effect it would have on the capital gain exemption availed by me.

Section 54F of the IT Act provides that where the new residential house which has been purchased, in respect of which exemption under section 54F has been claimed, is transferred within a period of 3 years from the date of its purchase, then the amount which was claimed as capital gain exemption earlier under section 54F of the IT Act will be deemed to be long-term capital gains chargeable to tax in the previous year in which such transfer is effected.

Thus, the amount of capital gains exemption as availed in FY 2018-19 would be deemed to be long-term capital gains in the year of transfer of the residential property i.e. FY 2020-21 and accordingly charged to tax as the lock-in-period has been breached. ■

*Courtesy: RSM Astute Group (www.astuteconsulting.com)
Kindly email your queries to emails@astuteconsulting.com*

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