

# 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.

**?** We are an Indian Company engaged in the trading of precious gems and stones. Last month we had imported some precious jewels from Hong Kong for which we need to make remittance to the foreign company. With regards to the difficulties faced by the taxpayers in electronic filling of Income Tax Forms 15CA/15CB on the portal, we understand that the CBDT has provided certain relaxations. Kindly guide us on such relaxation.

Yes. In view of the difficulties being faced on the new income tax filing portal, the Central Board of Direct Taxes (CBDT) had vide Press Release dated 14th June 2021 read with Press Release dated 5th July 2021 relaxed the electronic filing of Income Tax Forms 15CA / 15CB. According to the relaxations provided, taxpayers could initially submit the aforesaid Forms in manual format to the authorized dealers till 15th, July 2021.

As the difficulties on the e-filing portal 2.0 continued to prevail, the CBDT vide Press Release dated 20th July 2021 further relaxed the electronic filling of Income Tax Form 15CA / 15CB and directed the authorized dealers to accept the aforesaid Forms in manual format till 15th, August 2021.

**?** We are a Company registered under the laws of India and are preliminarily engaged in the business of manufacturing Gems & Jewellery. We have 520 employees working for our organization. Do we have to issue Form 16 to each and every employee? What are the consequences that we as

an employer will have to face in case of non compliance? Kindly guide us on the same.

According to the provisions of section 203 of the Income Tax Act, 1961, an employer is under an obligation to provide Form 16 in the prescribed form and manner and within the prescribed time, to all the employees in respect of whose income payment of income-tax has been made. However, it is pertinent to note that, if an employer does not deduct any TDS for a particular employee, he does not have any obligation to provide Form 16 to such employees.

But, if the employer deducts TDS and does not issue certificate under Form 16 within the prescribed time limit, he shall be liable to pay penalty of Rs. 100/- per day u/s 272A(2)(g) of the Income Tax Act, 1961 till he/she issues the certificate to the employee.

**?** We are a Listed Entity with multinational presence and engaged in the manufacturing and trading of Gold and Diamond Jewellery. Kindly guide us on the recent developments pertaining to indirect transfer provisions.

The Taxation Laws (Amendment) Bill, 2021 was passed in the Lok Sabha of Parliament on 5 August 2021 which proposes to amend the Income-tax Act, 1961 ('IT Act') and the Finance Act, 2012 in order to withdraw the retrospective amendment


made in 2012 for taxing capital gains arising from indirect transfer of assets located in India under section 9(1)(i) of the IT Act. Further, the Bill also provides that, all tax demands raised in relation to indirect transfer of Indian assets happened before 28 May 2012 will be nullified provided conditions stipulated are obliged by taxpayers.

- The indirect transfer provisions cannot be applied to any income accruing or arising through or from the Indirect transfer transaction happened before the 28 May 2012 in below ongoing proceedings under IT Act:
- Assessment or reassessment proceedings under section 143/ 144/ 147/ 153A / 153C;
- Rectification proceeding under section 154;
- Proceedings under section 201(1);

Accordingly, any pending proceedings as mentioned above would be deemed to be concluded without any additions to be made. The Bill also proposes to nullify the concluded orders under section(s) 143/ 144/ 147/ 153A / 153C/ 154/ 201(1)/ 221 or any penalty order under Chapter XXI of the IT Act, to the extent they relate to indirect transfer that happened before 28 May 2012 and issue of refund for the same without any interest u/s 244A.

In order to seek the aforementioned benefit, the taxpayers would have to satisfy the following conditions:

Class of Person / Assessee	Conditions
Filed any appeal before an appellate forum or any writ petition before the High Court or the Supreme Court against any order in respect of income from indirect transfer	Withdraw or submit an undertaking to withdraw such appeal or writ petition
Initiated any proceeding for arbitration, conciliation or mediation, or has given any notice thereof under any law for the time being in force or under any agreement entered into by India with any other country or territory outside India, whether for protection of investment or otherwise	Either withdraw or submit an undertaking to withdraw the claim
Has any right to seek or pursue any remedy or any claim in relation to the income from indirect transfer which may otherwise be available to under any law for the time being in force, in equity, under any statute or under any agreement entered into by India with any country or territory outside India, whether for protection of investment or otherwise.	File an undertaking of waiver of right seek or pursue any such remedy

 We are an Indian entity engaged in the manufacturing and trading of Gems and Stones. We have several employees working in our organization. The CBDT has recently made some amendments in Part B of Form 16 and Form 12BA. Kindly guide us on the amendments.

As per the Notification No. 15/2021, the CBDT has revised Form 12BA, Part B of Form 16 and Annexure II of Form 24Q in order to incorporate the changes made under the Finance Act, 2020.


FORM 12BA:

The CBDT has made certain additions to the “Nature of Perquisites” as follows:

SR. NO.	NATURE OF PERQUISITES
1	Stock options allotted or transferred by employer being an eligible start-up referred to in section 80-IAC.
2	Stock options (non-qualified options) other than ESOP above.
3	Contribution by employer to fund and scheme taxable under section 17(2)(vii).
4	Annual accretion by way of interest, dividend etc. to the balance at the credit of fund and scheme referred to in section 17(2)(vii) and taxable under section 17(2)(viii).

PART B OF FORM 16:

New Part B of Form 16 is similar as to previous form, but includes one additional point. As per the New Part B of Form 16, employer needs to confirm from its employees whether they opt to pay tax as per the special provisions u/s 115BAC of the IT Act and answer the same in terms of “Yes” or “No”. The employer then needs to calculate the tax liability accordingly.

 I am a Sole Proprietor carrying on a business of trading Gold and Silver Ornaments. I desire to purchase an Electric Vehicle (E-Vehicle) on EMI. Is there any benefit that I can avail under the provisions of Income Tax Act, 1962? If yes, then kindly guide me on the same.

Yes. As per the provisions of Section 80EEB, an assessee being an individual can claim deduction of upto Rs. 1,50,000/- per annum on interest payable on loan taken by him from any financial institution for the purpose of purchase of an electric vehicle. However, the assessee is eligible to claim the benefit of deduction under section 80EEB only if the loan has been sanctioned by the financial institution during the period of 1st, April, 2019 to 31st, March, 2023.

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