

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 a retail trader of Precious Stones and Diamond Studded Jewellery. Recently, the Income Tax Authorities have facilitated with 2 Statements such as Annual Information Statement and Taxpayers Information Summary. Kindly enlighten me on their utility.

CBDT vide Press Release dated 01 November 2021, rolls out a new Annual Information Statement (AIS) on the Compliance Portal which provides a comprehensive view of information to a taxpayer with a facility to capture online feedback. The new AIS includes additional information relating to interest, dividend, securities transactions, mutual fund transactions, foreign remittance information etc. A simplified Taxpayer Information Summary (TIS) has also been generated for each taxpayer which shows aggregated value for the taxpayer for ease of filing return.

Taxpayers can download AIS & TIS information in PDF, JSON, CSV formats by clicking on the link "Annual Information Statement (AIS)" or

"Taxpayer Information Summary (TIS)" under the "Services" tab on the new Income tax e-filing portal (<https://www.incometax.gov.in>).

? We are a Multinational Enterprise engaged in the business of Import & Export of Diamonds. We have a wholly Owned Subsidiary (WOS) in Germany. The Germany WOS has distributed dividend in this month. Kindly guide us on the taxability of the dividend.

As per the provisions of Section 115BBD, Dividend received by a domestic company from a foreign company, in which such domestic company has 26% or more equity shareholding, is taxable at a rate of 15% plus Surcharge and Health and Education Cess. Such tax shall be computed on a gross basis without allowing deduction for any expenditure. However, such tax rate would be subject to the beneficial rate as mentioned in the India - Germany DTAA. Dividend income is generally chargeable to tax in the source country as well as the country of residence of the assessee.

and, consequently, country of residence provides a credit of taxes paid by the assessee in the source country. Thus, the dividend income shall be taxable in India as per provisions of the Act or as per India - Germany DTAA, whichever is more beneficial. However, documents such as No PE Declaration, Form 10F and a valid Tax Residency Certificate are required to avail the benefit of DTAA.

Q We are a small company engaged in the business of manufacturing and selling Gold ornaments. We have analyzed and estimated that our total tax liability for this year will be lower than the total TDS deductible. Can we obtain such document which certifies that no TDS is to be deducted? Kindly guide us on the same.

Yes, as per the provisions of section 197(1) of the Income Tax Act, in the case of any income of a person or sum payable to any person, income-tax is required to be deducted at the time of credit or payment at the rates in force under the relevant provisions, and the Assessing Officer (AO) is satisfied that the total income of the recipient justifies the deduction of income-tax at any lower rates or no deduction of income-tax, the AO shall, on an application made by the assessee in this behalf, give to him such certificate as may be appropriate.

Q I am a Sole Proprietor engaged in the manufacturing and trading of Diamond Jewellery. Last year, I had abundant stock of inventory and hence I converted the same into capital asset. Will there be any tax liability on such conversion? Kindly guide.

As per the provisions of section 28(via), the fair market value (determined as per rule 11UAB) of inventory as on the date on which it is converted into, or treated as, a capital asset shall be chargeable to income-tax under the head "Profits and gains of business or profession". Thus, such conversion of inventory stock into capital asset would be subject to tax as business income.

Q I am an Indian merchant engaged in the manufacturing, grading, polishing and trading of Diamonds and Diamond Studded Jewellery. During the FY 2020-21, I had converted my personal capital assets (i.e. personal diamonds and jewellery) into stock in trade of the business. In the last month, i.e. in October 2021 I have sold the converted stock in trade. Kindly guide me on the taxability of the same.

As per the provisions of Section 2(47)(iv) in a case where the asset is converted by the owner or is treated by him as stock-in-trade of a business carried on by him such conversion or treatment is treated as transfer. As per the provisions of Section 45(2), when a capital asset is transferred into stock in trade, provisions of both capital gain and business profits will attract as follows:

- (i) First, Capital Gains tax will be calculated from the date of purchase till the date of conversion into stock in trade, where, "Full Value of Consideration" will be the Fair Market Value of the asset on the date of transfer.
- (ii) Then, when the inventory is sold, the profits will be taxed as business profits, where, "Cost" will be the Fair Market Value of the asset on the date of transfer.

It is pertinent to note that, the capital gains that arise on conversion will be taxable in the year when the inventory/ stock in trade is sold. Thus, in your case, both capital gains and profits from business will be taxed in the AY 2022-2023.

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