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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 a Multinational Enterprise engaged in the Export of Diamond Jewellery. We understand that there are certain amendments pertaining to the reporting requirements to be followed by businesses engaged in the Gem & Jewellery Sector under Prevention of Money Laundering Act, 2002 (PMLA). Kindly enlighten us on the same.

The Government has amended the PMLA in order to include the dealers in precious metals, precious stones as persons carrying on designated businesses or professions i.e. if such dealers engage in any cash transactions with a customer which amounts to or exceeds Rs. 10 lakhs, carried out in a single operation or in several operations that appear to be linked, they would be subjected to the reporting requirements under PMLA.

Hence, the dealers of precious metals and stones would now be required to maintain records of all cash transactions for a single transaction or cumulatively in excess of Rs 10 lakhs with a customer. Non-compliance of such provisions may result in attracting heavy consequences including hefty penalty/fine and/ or rigorous imprisonment if there the appropriate authorities conclude that there are instances of money laundering. Thus, the businesses engaged in Gems & Jewellery sector should maintain the necessary records and KYC documentation in order to avoid any unnecessary hardhips.

? I am an individual and have sold all of my inherited Gold Jewellery, as a result of which I have incurred huge capital gains during the year. I have failed to file my income tax return for FY 2019-20 (AY 2020-21) even within the extended due date of 10 January 2021. Kindly guide me on the quantum of late fees I would be required to pay u/s 234F of the IT Act.

In accordance with the provisions of Section 234F of the IT Act, penalty or late fees would be levied on any person filing the return beyond the due date as mentioned in Section 139(1) of the IT Act. The quantum of such late fees would be Rs. 5,000 where the return is filed till 31 December of the assessment year and would be further increased to Rs. 10,000 for filing the return beyond such date. It is also pertinent to note here that the quantum of the late fees would be restricted to Rs 1000 where the total income is upto Rs. 5 lakhs.

Even though the due date for the purpose of filing of return for assesses not liable to audit was extended to 10 January 2021, no specific relief was provided with regards to the late fees u/s 234F of the IT Act.

Thus, as the return would now be filed beyond the due date u/s 139(1) i.e. 10th anuary and no further extension has been provided, a penalty of Rs. 10,000 u/s 234F would straight away be attracted.

? We are a business entity engaged in the Gems & Jewellery sector. Apart from our operating revenue, we also make investments in shares of foreign companies to generate secondary revenue. Such companies are listed on the foreign stock exchanges. We would like to know the taxation treatment on sale of such shares of foreign companies.

Foreign companies, even though listed on foreign stock exchanges, would be treated at par with unlisted Indian companies for the purposes of taxation since such shares are not listed on any recognized stock exchange in India.

The sale of such unlisted shares would be taxed as capital gains for the purpose of which, such gains needs to be categorized into long term and short term depending upon the period of holding. If the listed shares are held for upto 24 months before the sale, the gains derived would be short term in nature otherwise, long term.

The short term capital gains would be subjected to tax at the marginal or corporate tax rate applicable to the assessee entity, whereas the long term capital gains are taxed at 20% u/s 112 of the IT Act.

? We are a private limited company engaged in the trading of Gold Jewellery. With respect to making an application under the Vivad Se Vishwas Scheme, please guide us on the recent extension of due dates by the Government.

The time limit for making the declaration under the Vivad Se Vishwas Scheme has now been revised from the erstwhile due date of 31 December 2020 to 31st January 2021. Thus, any person can now make an application to the said Direct Tax Dispute Resolution scheme by 31st January 2021.

? We are a Listed entity engaged in the manufacturing and trading of Diamond Jewellery. We understand that the Government has recently revised certain due dates for the purpose of filing of Tax Audit report and Income Tax Return for FY 2019-20 (AY 2020-21). Kindly provide us with an overview of such extended timelines.

Yes, the Government has further extended certain tax compliances deadlines via CBDT Notification No. 93/2020/F. No. 370142/35/2020-TPL dated 31st December, 2020. As per the said Notification, the due date for the purpose of filing Tax Audit report or Transfer Pricing report (in case Transfer Pricing is applicable) has been extended to 15th January, 2021 for AY 2020-21. Moreover, the due date for filing the Income tax return for the aforementioned assesses has been extended to 15th February, 2021 Thus, the LTC component as spent by the employee in the above mentioned manner would be exempt from any taxation.

? I am a part time trader and have recently constituted a sole proprietary concern which is engaged in the trading of silver jewellery. Before venturing into my own business, I was employed with a partnership firm. At the time of termination, my employer did not pay the settlement amount which included the salary for the last 2 months. However, TDS was deducted on the same and is being reflected in my 26AS. Can I claim the benefit of such TDS while filing my Income tax return.

In accordance with Section 15 of the Income Tax Act, salary is taxable on due basis or receipt basis, whichever is earlier. Section 15 of the Act further provides that Salary includes lump sum benefits on resignation. Thus, an employee has to mandatorily provide entire amount that is due to him and not only the amount actually received by him while filing his ITR. Accordingly, he can claim the benefit of the entire TDS credit as reflected in Form 26AS.

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