

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 Domestic entity engaged in the business of Gems & Jewellery. We would like to know the enhanced threshold limit for applicability of Tax Audits and the conditions attached to the same for the said applicability of enhanced threshold for FY 2020-21 (AY 2021-22).

With effect from AY 2021-22, the Budget has proposed that the threshold limit for applicability of provision of section 44AB of the IT Act for a person carrying on business has been enhanced to Rs. 10 crores only on the satisfaction of the following conditions:

- (i) aggregate of all receipts in cash during the previous year does not exceed 5% of such receipt; and
- (ii) aggregate of all payments in cash during the previous year does not exceed 5% of such payment.

Thus, if the cash receipts and payments incurred during the year are within the prescribed threshold percentage, such enhanced limit of Rs. 10 crores would be made applicable for FY 2020-21 (AY 2021-22)

? We are a Listed entity engaged in the trading of Gold & Silver Ornaments. Kindly enlighten us on the new TDS provision pertaining to purchase of goods as proposed by Budget 2021.

Budget 2021 has proposed to introduce TDS u/s 194Q on purchase of goods which casts liability on the buyer of goods to deduct TDS @ 0.1% at the time of credit or payment

whichever is earlier, from the resident seller, the value or aggregate of such value in a financial year in excess of Rs. 50,00,000. It is pertinent to note that only those buyers whose total sales, gross receipts or turnover from the business carried on by them exceed Rs. 10,00,00,000 during the financial year immediately preceding the financial year, shall be liable to deduct such TDS.

Moreover, in case of absence of PAN or Aadhaar, the rate of deduction for such TDS would be enhanced to 5%. Also, no such TDS is to be deducted, if the TDS / TCS (other than on TCS on sale of goods under section 206C(1H)) is deductible / collectible under any other provisions of IT Act

? We are Multinational Enterprise and engaged in the business of Gems & Jewellery. We avail the services of various e-commerce websites for the purpose of selling our Jewellery to Indian customers and have been accordingly subjected to Equalisation levy @ 2% on the same. Kindly guide us on the finer nuances of the clarification provided by the Government w.r.t. the applicability of Equalisation Levy.

The Finance Act of 2020 had 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 including Indian resident who buys such goods or services or both. Pertaining to the said levy, the Government has provided for the following clarifications in the Budget 2020 proposals:

- (i) The specified services and e-commerce supply or services which would be subjected to Equalisation Levy shall not include the consideration, which is taxable as Royalty or FTS.
- (ii) Online sale of goods and online sale of services shall include one or more of the following online activities:
 - Acceptance of offer for sale;
 - Placing the purchase order;
 - Acceptance of the Purchase order;
 - Payment of consideration; or
 - Supply of goods or provision of services, partly or wholly
- (iii) The consideration received or receivable from e-commerce supply or services to include:
 - Consideration for sale of goods irrespective of whether the e-commerce operator owns the goods;
 - Consideration for provision of services irrespective of whether service is provided or facilitated by the e-commerce operator.

The above changes, being in the nature of clarification, would be made applicable with a retrospective effect from 1 April 2020 and needs to be taken into consideration for the applicability of Equalisation Levy.

Q I am a Partner in a Partnership Firm exclusively engaged in the business of Trading of Diamond Jewellery. The Firm is engaged in various international transactions and is also eligible for Transfer Pricing. Kindly enlighten me on the due dates for my personal return filing and revising the said return in the context of the Budget proposals 2021.

In accordance with the Budget 2021, it is proposed to provide extension of due date for filing of original income-tax return to 30 November of the AY in case of a partner of a firm, which is required to furnish report from an accountant as per section 92E of the IT Act.

Further, with regards to filing of revised income-tax return and belated income-tax return, the due date for filing of the same has been truncated to 31 December of the AY or before the completion of assessment, whichever is earlier.

Q We are a Listed entity engaged in the manufacturing and trading of Diamond Jewellery. The Assessing officer has launched an assessment proceeding for which we have moved to the Income Tax Settlement Commission (ITSC) for the purpose of settling the same. The said matter lies pending with the ITSC at present. Can we make an application

under the Vivad Se Vishwas Scheme w.r.t. the said assessment?

The Budget 2021 has proposed to specify that the appellant under the Vivad Se Vishwas Scheme shall not include any person in whose case a Writ Petition or Special Leave Petition or any other proceeding has been filed either by him or by the income-tax authority or by both before an appellate forum, arising out of an order of Settlement Commission and such petition or appeal is either pending or is disposed of.

Thus, any person whose case is pending with the ITSC would not be eligible to file an application or benefit from the Vivad Se Vishwas Scheme.

Q We are a Private company engaged in the business of Gold Jewellery Making. Our business operates on a large scale and involves a lot of compliances including TDS and TCS. We would like to know if the Budget 2021 has proposed any enhanced liability for TDS and TCS non-compliance apart from the existing ones.

The Budget 2021 proposals have provided the higher rate of TDS / TCS from the Specified person i.e. a person who has not filed the returns of income for 2 previous years immediately prior to the previous year in which tax is required to be deducted, for which time limit of filing return of income has expired and the aggregate of TDS / TCS in his case is Rs. 50,000 or more in each of these 2 previous years. However, specified person shall not include a non-resident who does not have a PE in India.

In case of Specified Person, the tax is required to be deducted / collected at higher of the following:

- (i) Twice the TDS / TCS rate specified in the relevant provision of IT Act; or
- (ii) Twice the TDS rates in force; or
- (iii) At the rate of 5%.

Such amendment have been proposed by way of insertion of 206AB / 206CCA of the IT Act and would be made applicable w.e.f. 1 July 2021.

Also, in case the Specified Person does not furnish PAN, tax is required to be deducted / collected at the higher of the rates as provided as per the current provisions for non-furnishing of PAN or the newly inserted section 206AB / 206CCA.

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