

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 Group engaged in the business of Gems & Jewellery. We have adapted to technology for carrying out our business transactions. We carry out market research in India and such data is sold to many other foreign companies including our group companies in order for them to cater to some of those segments not covered by us. We would like to understand the impact of Significant Economic Presence rules on such transaction.

Explanation 2A to section 9(1)(i) of the Income Tax Act provides that the Significant Economic Presence ('SEP') of a non-resident in India shall constitute a "business connection" in India and consequently the profits of such non-resident would be taxable in India. Such SEP of non-resident would be constituted in India in case of satisfaction of either of the below mentioned conditions

The SEP rules would further be subjected to the provisions of the tax treaty, if any, existing between

Sr. No.	Criteria's	Conditions
1	Revenue Threshold	Any non-resident deriving revenue exceeding the threshold limit of Rs. 2 crores in a particular financial year in respect of any transaction of goods, services or property carried out by such non-resident with any person in India. Such transaction would also include transactions of download of data or software in India. OR
2	User Threshold	Any non-resident entity which is engaged in systematic and continuous soliciting of business activities or engaging in interaction with 3 lakh or more users in India.

India and country of the non-resident. Considering the fact that business profits can be taxed in India only in case of existence of PE. However, the said rules would have a direct impact on businesses from non-treaty countries, wherein their profits attributable to India on account of SEP would be subjected to tax @ 40%.

? I am an individual. In the previous financial year, I sold my gold jewellery and re-invested the proceeds from such sale in Long term Infrastructure Bonds. Please guide me on the taxability of interest from such bonds.

The interest derived from Long-Term Infrastructure Bonds would be taxable under the head 'Income from Other Sources' in the hands of the investor.

Also, the interest derived from such bonds would be subjected to TDS u/s 193 of the Income Tax Act. Section 193 requires the payer of such interest to deduct TDS @ 10% while making payment of such interest or crediting the account of the payee, whichever is earlier. However, the credit for such TDS can be taken at the time of filing the return of income.

? We are an Indian entity engaged in manufacturing and trading of Gold jewellery. With regards to the ongoing pandemic, we understand that the

Government has provided certain relaxations for filing of Forms GSTR 1 and GSTR 2A, however, no relaxation has been provided for filing of GSTR 3B under the GST Law. With regards to the said relaxations, kindly guide us on the payment of late fee and interest pertaining to filing of Form GSTR 3B.

Yes, there is no extension given for filing of Form GSTR-3B, however, conditional waiver of late fee and concessional rate of interest is notified for cases where form GSTR-3B is filed and tax is paid beyond regular due dates as mentioned below:

Waiver of late fee:

Tax period	Particulars	Waiver of late fee
March and April 2021	Monthly filers of GSTR-3B with turnover above Rs.5 Crores in preceding financial year	No late fee if filed within 15 days from the regular due date.
March and April 2021	Monthly filers of GSTR-3B with turnover upto Rs.5 Crores in preceding financial year	No late fee if filed within 30 days from the regular due date
Jan to Mar Quarter 2021	Quarterly filers of GSTR-3B with turnover upto Rs.5 Crores in preceding financial year	No late fee if filed within 30 days from the regular due date

Concessional rate of interest:

Tax period	Particulars	Concessional interest rate
March and April 2021	Monthly filers with turnover above Rs.5 Crores in preceding financial year	9% for the first 15 days and 18% thereafter
March and April 2021	Monthly filers with turnover upto Rs.5 Crores in preceding financial year	Nil for the first 15 days and 9% for the next 15 days and 18% thereafter
Jan to Mar Quarter 2021	Quarterly filers	Nil for the first 15 days and 9% for the next 15 days and 18% thereafter

? We are an Indian entity belonging to a group concern engaged in Gems & Jewellery. Since, many inter group transactions are carried out between our entity and other foreign concerns of the group, we are subject to Transfer Pricing Compliance in India. Please highlight the recent changes in such Transfer Pricing compliances.

Yes, the following changes have been notified w.e.f. 1 April 2021:

- (i) Any constituent entity of any Multinational Enterprises (MNEs) irrespective of residential

status can be designated and file Form 3CEAB on behalf of such MNE group, wherein erstwhile only a constituent entity resident in India can only be designated and file Form 3CEAB. Accordingly, Branch Offices, Project Offices of non- resident entities can also file Form 3CEAB.

- (ii) Country-by-Country Report (CbCR) filing is required only if consolidated group revenue exceeds Rs 6,400 crores in immediately preceding accounting year of parent entity.

? We are a Listed company engaged in the trading of gems and jewellery. In accordance with the Employees' Provident Fund and Miscellaneous Act, 1952 employees make contribution to recognized provident fund. We, as their employer, also contribute a certain amount to the fund. We would like to understand the taxability of Provident Fund in order to compute the withholding tax?

Interest on the contribution made by employees towards statutory provident, recognized provident fund and public provident fund was exempt from tax. However, the Finance Act, 2021 has made such interest income taxable. Now, the interest earned on contribution of employees is taxable if the amount of contribution made in the previous year exceeds Rs. 2,50,000.

It is pertinent to note that only such portion of interest which corresponds to the contribution in excess of Rs. 2,50,000 shall be taxable and not the entire interest. However, if the employer is not contributing any amount towards the fund then the contribution amount of Rs. 2,50,000 shall be increased to Rs. 5,00,000. In the given case, since the firm is contributing a towards the provident fund, the amount of interest on employee's contribution which corresponds to contribution in excess of Rs. 2,50,000 shall be taxable.

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