

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 entity trading in manufacturing and trading of Gold and Silver ornaments. Our operations are widespread in domestic as well as foreign markets. We would like to know if there has been any revision in the Custom Duty rates with respect to Gem & Jewellery Sector in India.

The Budget 2021 has proposed to make certain significant changes in the Customs Act, Customs Tariff Act and the Rules made thereunder. As a result, the changes in rate of custom duty with respect to the Gem & Jewellery Sector components are provided below:

S. No	Chapter, Heading, subheading, tariff item	Commodity	From	To
Gems and Jewellery Sector				
1..	7106	Silver	12.5 %	7.5%+ 2.5% AIDC*
2.	7106	Silver Dore	11%	6.1%+ 2.5% AIDC*
3.	7108	Gold	12.5%	7.5%+ 2.5% AIDC*
4.	7108	Gold Dore	11.85%	6.9%+ 2.5% AIDC*
5.	7107 00 00, 7109 00 00, 7111 00 00	Base metals or precious metals clad with precious metals	12.5%	10%
6.	7110	Other precious metals like Platinum, Palladium, etc.	12.5%	10%
7.	7112	Waste and scrap of precious metals or metals clad with precious metals	12.5%	10%
8.	7112	Spent catalyst or ash containing precious metals	11.85%	9.17%
9.	7113	Gold or Silver Findings	20%	10%
10.	7118	Coin	12.5%	10%

* AIDC refers to the Agriculture Infrastructure and Development Cess. The above amendments with respect to the changes in the rates have become applicable w.e.f. 2 February 2021.

? We are a listed Company engaged in the Gem & Jewellery sector. Please guide us with the recent Budget 2021 proposals on the recomputation of book profit u/s 115JB for past years with regards to the Advance Pricing Agreement (APA).

The Budget 2021 has proposed that in cases where past year income is included in books of account during the previous year on account of an Advance Pricing Agreement (APA) adjustment or a secondary adjustment, the Assessing Officer (AO) shall, on an application made to him in this behalf by the assessee, recompute the book profit of the past year(s) and tax payable, if any, during the previous year, in the prescribed manner.

Further, the provision of rectification in accordance with section 154 of the IT Act shall apply so far as possible and the period of 4 years specified in section 154(7) of the IT Act, shall be reckoned from end of the financial year in which the said application is received by the Assessing Officer. This amendment shall take effect from 1 April 2021 and apply from AY 2021-22 onwards.

Thus, in case of APA's, the assessee would be required to apply to the AO for recomputing the book profit u/s 115JB of the past year(s).

? I am a Sole Proprietor with business of trading of Gold Jewellery. With regards to my personal investment options, I have a substantial component of my investments in Unit

? **Linked Insurance Plan (ULIPs) and would further like to continue investing in the said option as it provides good returns and tax benefits. I would like to know whether the tax benefits pertaining to investment in ULIPs and their tax treatment have been revised in the context of Budget 2021.**

Yes, there have been certain revisions or amendments brought with respect to taxation of ULIPs. Initially, the sum received under ULIP was exempt u/s 10(10D) of the IT Act provided the premium payable for any of the years during the terms of the policy did not exceed 10% of the actual capital sum assured. However, the Budget 2021 has proposed to amend the said clause in order to provide that the said exemption shall not apply with respect to any ULIP issued on or after 1st February, 2021, if the amount of premium payable for any of the previous year during the term of the policy exceeds Rs. 2,50,000/-

In case of the ULIP premium payable for more than one policies, with respect to the policies which are issued on or after the 1st February, 2021 the exemption would be restricted to only such policies aggregate premium whereof does not exceed the amount of Rs. 2.5 lakhs, for any of the previous years during the term of any of the policy.

Further, in accordance with section 45(1B) which is proposed to be newly inserted, any profits or gains arising from receipt of the ULIP amount on redemption by such person shall be subjected to Capital gains tax and shall be deemed to be the income of such person of the previous year in which such amount was received. For the purpose of such capital gains tax treatment, ULIPs would be treated at par with Equity oriented fund.

Thus, the investment portfolio with respect to ULIPs can be revised and planned in accordance with the above proposed amendments

? **I am a resident Indian individual. I have derived huge capital gains from sale of diamond jewellery. After adequately planning for the capital gain taxation, I intend towards investing the surplus funds in Foreign stocks via the Liberalized Remittance Scheme (LRS). Kindly guide me on the Tax collected at source (TCS) aspects as applicable for making such investments.**

Section 206C(1G) provides that every authorised dealer, who receives an amount, for remittance out of India from the person remitting such amount out of India under the LRS of the Reserve Bank of India is required to collect from a sum equal to 5% of such amount as income-tax at the time of

receipt of such amount or at the time of debiting the amount payable, whichever is earlier.

There is a threshold limit of Rs. 7 lakhs i.e. TCS u/s 206C(1G) would be applicable only when the remittance amount is Rs. 7 lakhs or more in a financial year. It is also to be noted that the TCS of 5% would be applicable on the amount in excess of Rs. 7 lakh remitted in a financial year. Also, the rate of 5% would be further enhanced to 10% in the case of non-provision of PAN or Aadhar.

Thus, the above TCS provisions should also be taken into consideration at the time of investing in foreign stocks.

? **We are a Domestic entity engaged in the business of Gems & Jewellery. Due to the difficulties posed by the pandemic, we have not yet submitted the TDS returns with regards to Quarters 1, 2, and 3 for the financial year 2020-21. We wish to know the timeline for submission of the TDS returns and the likely consequences of non-filing the return.**

Assessees required to deduct TDS are obliged to file quarterly TDS returns proving details of the tax deducted and deposited in the account of the government during the quarter. In order to provide relief to the taxpayers on account of difficulties due to the pandemic situation, the timelines for furnishing of TDS returns were relaxed by the government.

The following table provides the original and revised due date for furnishing of TDS returns for the Financial Year 2020-21:

Return for Quarter ending	Original Due Date	Revised Due Date
30 th June i.e. Q1	31 st July 2020	31 st March 2021
30 th September i.e. Q2	31 st October 2020	31 st March 2021
31 st December i.e. Q3	31 st January 2020	31 st January 2021
31 st March i.e. Q4	31 st May 2021	31 st May 2021

It is pertinent to note that the relief was provided only in respect of the TDS returns for quarter 1 and 2 and accordingly, the due date for these returns is 31st March 2021. The due date for quarter 3 has already passed. The tax deductors who fail to furnish the returns within the timeline are subject to penalty. Under section 234E, the failure to furnish TDS returns on time results in a penalty of Rs. 200 for every day till such return is filed. However, this penalty is restricted up to the amount of TDS for which the statement was being filed.

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