

# 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.

**Q** We are an Indian Company involved in the business of trading precious gems and stones. Earlier in this year, we had filed a request for voluntary liquidation of one of our Wholly Owned Subsidiary with the NCLT and later, a liquidator was appointed. Who will be the person authorized to verify and sign the Income Tax Return of the company in liquidation? Please guide us on the same.

According to the provisions of section 140 of the Income Tax Act, 1961, income tax return of a company shall be verified by the managing director of the company.

However, if the company is in liquidation, whether under the orders of a court or otherwise, or where any person has been appointed as the receiver of any assets of the company, the return shall be verified by such liquidator.

**Q** We are a company limited by shares and are involved in the wholesale trading of diamonds and other precious stones in India. In the previous year, we incurred huge expenditure towards CSR activities. Kindly guide us if any tax benefit can be availed against such expenditure?

No. As per the existing provisions of section 37(1) of the Income Tax Act, 1961, deduction for any expenditure, which is not mentioned specifically in section 30 to section 36 of the Act, shall be allowed as a deduction, if the same is incurred wholly and exclusively for the purposes of carrying on business or profession.

Further, Explanation 2 to section 37 clarifies that, for the purposes of sub-section (1), any expenditure incurred by an assessee on the activities relating to corporate social responsibility referred to in section 135 of the Companies Act, 2013, shall not be deemed to be an expenditure incurred by the assessee for the purposes of the business or profession.

Thus, it can be inferred that, expenditure incurred on CSR activities per se cannot be claimed as a deduction under any of the provisions of the IT Act, as the same are meant to be philanthropic in nature.

**Q** We are a Private Limited Company engaged in the business of retail trading of Gold and Silver ornaments. We are evaluating an option to apply for Direct Tax Vivad se Vishwas Scheme (DTV'sV Scheme) so as to settle past proceedings. Do we still have an opportunity to apply for DTV'sV Scheme? If yes, then please guide us on the extended due dates.

No, you cannot apply for DTV'sV as the deadline for filing application has already been completed.

**Q** We are a Company registered under the laws of India and are preliminarily involved in the business of trading Gems & Jewellery. We have many employees working for our organization. We would like to educate them on the

**recent changes related to taxability of contributions in EPF A/c. Kindly guide us on the same.**

The Finance Act 2021 provided that interest on Provident Fund contribution made by employees, exceeding the specified threshold limit would be chargeable to tax.

Recently, CBDT inserted a new rule vide Notification No. 95/2021, dated 31st August, 2021. The new Rule 9D specifies the mechanism of calculation of taxable interest relating to contribution in a provident fund or recognized provided fund, exceeding the specified threshold limit.

The threshold limit shall be:

- (i) INR 5 lakhs, in case where only the employee is making contributions to the Provident Fund
- (ii) INR 2.5 lakhs in other cases.

Sub-rule (2) states that, for the purpose of calculation of taxable interest under sub-rule (1), separate accounts within the provident fund account shall be maintained during the previous year 2021-2022 and all subsequent previous years for taxable contribution and non-taxable contribution made by a person.

**Non-Taxable Contribution =**

	Closing balance in the account as on 31st March 2021
Add:	Any contribution made by the person in the account during the previous year 2021-2022 and subsequent previous years, which is not included in the taxable contribution account
Add:	Interest accrued on the aggregate of above
Less:	Withdrawal from such Account

**Taxable Contribution =**

	Contribution made by the person in a previous year in the account during the previous year 2021-2022 and subsequent previous years, which is in excess of the threshold limit
Add:	Interest accrued on above
Less:	Withdrawal from such Account

**? I am a Retired Indian Resident who previously worked in a company engaged in the manufacturing and trading of Gems and Stones. Presently I receive pension income, capital gains from sale of jewellery, rental income and interest on fixed and savings deposits. As per my knowledge, senior citizens are relieved from filing their ITR. Please enlighten me on the same.**

No. As per the provisions of section 194P of the Income Tax Act, 1961, only specified senior citizens

are exempted from filing their ITR in accordance with section 139.

A senior citizen intending to opt for such exemption must satisfy all the below mentioned conditions:

1. Senior citizen must be “Resident in India” as per IT Act,
2. His age must be 75 years or more at any time during the previous year;
3. He has income only of the nature of pension and interest received or receivable from any account maintained by him in the same specified bank in which he is receiving his pension income; and
4. He has furnished a declaration in Form 12BBA to the specified bank.

Since, you are in receipt of capital gains and rental income, you cannot take the advantage of Section 194P.

**? We are an listed entity, a wholly owned subsidiary of an International Brand, carrying business of manufacturing and trading of diamonds ornaments in India. Recently CBDT has provided with extension of certain due dates with respect to Transfer Pricing reporting. Please guide on the same.**

Yes, CBDT via Circular No. 16 / 2021 dated 29th August, 2021 extended the timelines for e-filing of various Income Tax Forms.

Sr. No.	Compliance	Existing Date	Extended Dates
1.	Intimation by a constituent entity, resident in India, of an international group, the parent entity of which is not resident in India u/s 286(1) in Form No.3CEAC, under Rule 10DB	30th November, 2021	31st December, 2021
2.	Report by a parent entity or an alternate reporting entity or any other constituent entity, resident in India under sub-section (2) or sub-section (4) of section 286 in Form No. 3CEAD under Rule 10DB		
3.	Intimation on behalf of an international group under proviso Sec. 286(4) in Form No. 3CEAE under Rule 10DB		

The End.

Courtesy: RSM India (www.rsmindia.in)

Kindly email your queries to: emails@rsmindia.in

Dr. Suresh Surana, Founder, RSM India is a practicing Chartered Accountant and specialises in International Taxation and Corporate Advisory services to multinational corporations besides Indian corporate houses.

He can be contacted on:  
taxqueries@rsmindia.com and emails@rsmindia.com