

Legal Entity

- The institution or fund is either constituted as
- a public charitable trust, (other than a wholly or substantially a religious purpose) or
- a society registered under Societies Registration Act (or its equivalent legislation), or
- a company registered under Section 8 of the Companies Act, or
- a statutory university or recognised educational institution, or an institution financed by the central or state government

Exempt Income

- Its income is already exempt under-
- Sections 11 and 12
- Section 10(23AA) or
- Section 10(23C);

Charitable or religious purpose

Generally, no part of its income or assets is transferable, or to be applied for any purpose other than charitable purposes in India.

Religious community or caste

It shall not be for the benefit of any particular religious community or caste

Books of account

It maintains regular books of account regarding its receipts and expenditure

Risk of abuse of NPOs

NPOs must be alert to the possibility of misuse of their funds for financing of terrorism or money-laundering.

General Points

General points of verification for the assessment of charitable or religious institution are summarised here & have been explained in detail in the subsequent paragraphs:

1. 85% or more of the income derived from property held under trust must be "applied". Balance 15% can be "accumulated".
2. Corpus donations received from donors with a specific instruction that such donations shall form part of the corpus, shall not be taxed. Such donation must be invested or deposited in one or more of the forms or modes provided in section 11(5) and maintained specifically for such corpus. No "application" towards the 85% requirement will be allowed from the corpus amount. However, such application/expenses shall be allowed as application for the

year in which the sum so spent is deposited back into the corpus.

If any expenditure is made by the trust or institution out of any loan, such expenditure should not be considered for the computation of the mandatory 85% application out of current year's income. However, such expenditure shall be allowed as application for the year in which the loan or part thereof is repaid.

3. The application of income needs to satisfy the following conditions:
 - (i) Application cannot be made outside India unless specifically permitted by the CBDT, for which a separate application has to be made.
 - (ii) Donation towards corpus of other charitable bodies educational or medical institutions which are exempt from income tax not allowed.
 - (iii) Donation to other trusts or institutions: only 85% of such donation shall be treated as "applied".
 - (iv) Section 40(a)(ia) (No TDS-30% application is disallowed)[Explanation 3 to subsection(1) of section 11] If TDS is not made wherever required, entire payment will be treated as not "applied".
 - (v) Any payment in cash more than Rs 10000 shall not be allowed as "applied".
 - (vi) No carry forward of loss due to excess amount "applied" in an earlier year is allowed.
 - (vii) Application is allowed on actual payment basis.
 - (viii) Payment made or benefits given to certain related person shall not be allowed as "application".
 - (ix) No part of the income of the trust or institution shall be applied beyond the objects of the trust or institution.
4. If the trust or institution cannot apply 85% of its income, it may accumulate by filing form 9A for 1 year or more or for 5 years by filing form 10.
5. Such accumulated income (Form 10) is required to be applied in 5 years and if not applied within 5 years, the same is taxable as per the provisions of section 115BB1.
6. Donations cannot be made out of the accumulated income
7. The trust or institution shall not pass on any benefit to the related persons and if that is done, such amount is taxable as per the provisions of section 115BB1, and a penalty is required to be levied as per the provisions of section 271AAE with effect from AY 2023-24
8. The trust or institution should invest all the funds in the modes prescribed u/s 11(5) and any violation will make such amount taxable as per the provision of section 115BB1.

9. The trust or institution should maintain the books of account prescribed under rule 17AA, failing which the exemption is denied and the net income computed as per the provisions of sub-section (10) and (11) of section 13 of the Act.
10. The trust or institution should furnish the return of income within time, failing which the exemption is denied and the net income computed as per the provisions of sub-section (10) and (11) of section 13 of the Act.
11. The trust or institution should get its accounts audited and furnish by 30th September following previous year.
12. The trust or institution also needs to furnish a statement of donation each year in form no 10BD.
13. The trust or institutions are allowed to claim either the depreciation or cost of acquisition of the capital asset as application.
14. In case of a "specified violation", the registration of the trust or institution may be cancelled and tax will be levied as per the provisions of section 115TD.
15. "Specified violation" means:
 - Application of income for purposes other than its objects.
 - Having income from business which is not incidental to its objectives or separate books of account for their business not maintained.
 - Application of income for a private religious purpose or for the benefit of a particular religious community or caste.
 - Activities not being genuine.
 - False information applied in application of registration
 - Violation of any other law.



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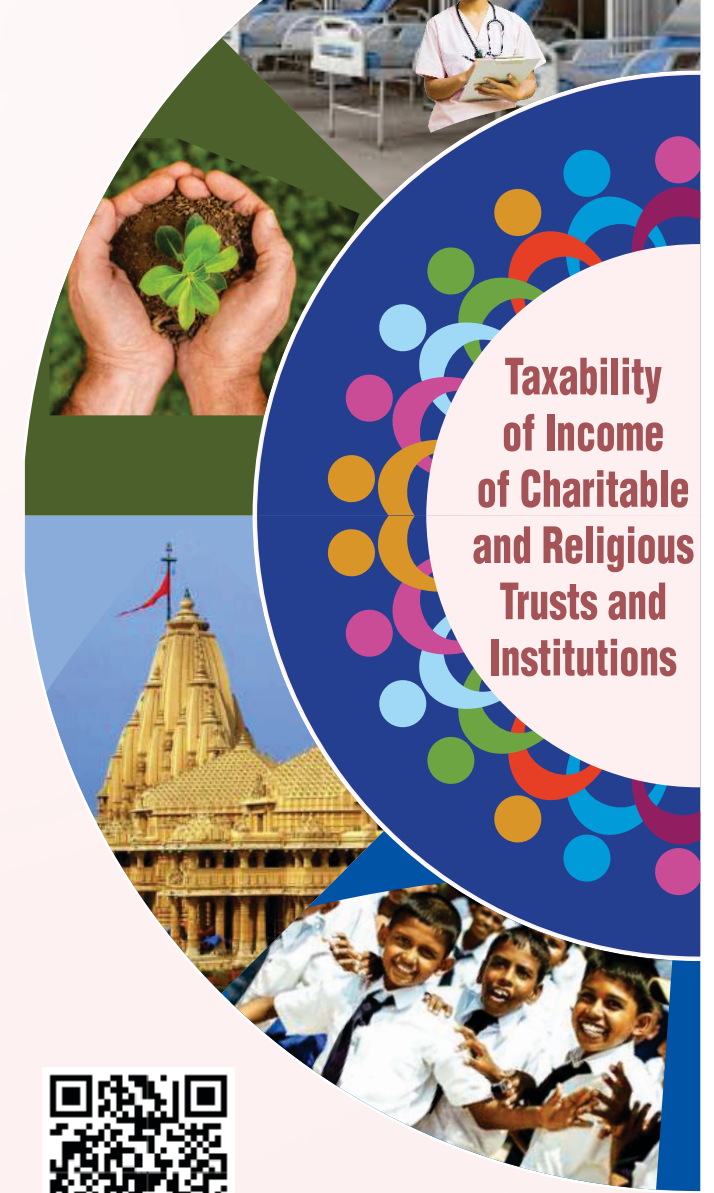
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Income Tax Department
Central Board of Direct Taxes



Taxability of Income of Charitable and Religious Trusts and Institutions



Charitable and religious trusts and institutions:

Public Charitable or religious trusts or institutions also known as NPOs (Not-for-Profit Organisation) perform a vital role in supplementing governmental efforts in promoting economic development and social welfare.

The ecosystem of NPOs



AUTHORITIES ENGAGED IN REGISTRATION/ INCORPORATION / REGULATION of NPOs IN INDIA



Charitable Purpose:

As per clause (15) of section 2 of the Act, "charitable purpose" includes:-

- a) relief of the poor,
- b) education,
- c) yoga,
- d) medical relief,
- e) preservation of the environment (including watersheds, forests and wildlife),
- f) preservation of monuments or places or objects of artistic or historic interest, and
- g) the advancement of any other object of General Public Utility (GPU).

Registration with the Income-tax Department :

Charitable and religious trusts and institutions are required to apply for registration with the Income-tax Department u/s 12AB. If a trust or institution wants to provide the benefit of deduction u/s 80G to its donors, it needs to submit another application for approval u/s 80G. Application forms, time limits and forms etc are same for both section 12A and 80G applications. All applications have to be made online at the portal www.incometax.gov.in. Trusts and institutions shall have the following four situations:-

1. Applying for the 1st time: It should apply for provisional registration which is granted automatically.

Condition For furnishing application	Application Form	Time limit for furnishing application	Period for passing the order of provisional registration	Validity of registration	Form in which registration is granted
Where activities have not commenced	10A	At any time during the previous year, from which registration is sought	One month from the end of the month in which application is made	For a period of three years (subject to re-application within 6 months of commencement of activities)	10AC
Where activities have already commenced prior to its application	10AB	At any time during the previous year, from which registration is sought	Six months from the end of the quarter in which application is made.	For a period of five years or for a period of ten years if the total income before exemptions does not exceed Rs. 5 Crores during each of the immediately two preceding years.	10AD

2. Applying for regularization and provisional registration.

Condition For furnishing application	Application Form	Period for furnishing application	Period for passing the order by the CIT	Validity of registration	Form in which registration is granted
Where it has provisional registration and activities have commenced	10AB	Within six months of the commencement of activities	Six months from the end of the quarter in which application is made	For a period of five years or for a period of ten years if the total income before exemptions does not exceed Rs. 5 Crores during each of the immediately two preceding years.	10AD

Where the period for provisional registration is due to expire, and activities have not commenced	10AB	At least six months prior to the expiry of the said period,	Six months from the end of the quarter in which application is made,	For a period of five years or for a period of ten years if the total income before exemptions does not exceed Rs. 5 Crores during each of the immediately two preceding years.	10AD
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3. Renewal of regular registration:

Regular Registration granted is not perpetual and is required to be renewed every five years. The provisions in this regard are summarised as below:

Condition For furnishing application	Application Form	Period for furnishing application	Period for passing the order	Validity of registration	Form in which registration is granted
Where the period for existing regular registration granted u/s 12AB or approval granted u/s 10(23c) (iv), (v), (vi), (via) is due to expire	10AB	at least six months prior to the expiry of the said period	six months from the end of the quarter in which application is made	for a period of five years or for a period of ten years if the total income before exemptions does not exceed 5 Cr during each of the immediately two preceding years.	10AD

4. Application for re-registration is also required in form 10AB, if

- (i) The objects of the Trust have been modified, or undertaken to be modified and modifications do not conform to the condition of the existing registration.
- (ii) The Time lines are the same as (2) above.

Condonation of delay in furnishing application for registration

In case if there is a delay in furnishing the application for registration, an application may be furnished with the jurisdictional CIT (Exemptions) for condonation of delay.

Verification by the CIT while granting registration u/s 12AB:

The following points are ordinarily verified by the Commissioner at the time of granting registration:-

Legal Entity

There should be a legal entity which can be registered

Charitable or religious purpose

It should be formed for one or more charitable or religious purposes or both, and genuineness of activities and objects.

Written instrument

It should have a written instrument of creation or written document evidencing its creation

Application of income

Its income should be applied exclusively towards the objects

No part of its income should be distributable or distributed, directly or indirectly, to its members, directors or founders, related persons or relatives etc. claiming through them

Dissolution clause

In case of dissolution, its net assets after meeting all its liabilities, should not be revertible or reverted to its founder, members, directors or donors etc., but used for the objects by transfer to other trust/institution having similar objects of charitable or religious purpose.

Compliance to other laws

as are material for the purpose of achieving its objectives.

Verification by the CIT while granting approval u/s 80G :

Section 80G (5) lays down the preconditions which must be satisfied cumulatively before a trust or institution can qualify for approval under Section 80G. These conditions are summarized as under:-