Taxation of Charitable Trust under income tax act, 2025

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Points for Discussion

- Charitable Purpose
- Advancement of any other object of public utility
- Difference between Section 11 & 10(23C)
- Conditions for claiming exemption u/s 11
- Accumulation of Income as per section 11(2) of the Act and filing of Form-10
- Deemed application as per explanation 1 to section 11 of the Act and filing of Form 9A
- Restriction on certain applications
- Benefits to specified persons

Points for Discussion

- Taxation of Anonymous Donations
- Taxation on sale of Capital Assets 11(1A)
- Taxation of Corpus Fund
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- ITR Form for charitable trusts registered u/s 12AB
- Multiple claim of exemption
- Condonation for delay in filing of Form 10B
- Maintained of Books of Accounts

Points for Discussion

- One time renewal of registration u/s 12AB/ 80G
- Fresh registration u/s 12AB/ 80G
- Renewal of registration of 12AB/ 80G in every 5 years/ 3 years
- Power of withdrawal of Registration / Approval
- Effect of withdrawal of registration u/s 12A / 12AA
- Taxation of Accreted Income u/s 115TD
- Taxation of specific Income u/s 115BBI

Charitable Purpose

Section 2(15)-"charitable purpose" includes

- relief of the poor,
- education *(has wide meaning-but restricted to formal education- SC)*
- yoga,
- medical relief,
- preservation of environment (including watersheds, forests and wildlife) and
- preservation of monuments or places or objects of artistic or historic interest, and
- the advancement of any other object of general public utility

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- yoga,
- medical relief,
- preservation of environment (including watersheds, forests and wildlife) and
- preservation of monuments or places or objects of artistic or historic interest, and
- the advancement of any other object of general public utility

The advancement of any other object of general public utility

Advancement of any other object of general public shall not be a charitable purpose if it involves the carrying

- on of any activity in the nature of trade, commerce or business, or
- any activity of rendering any service in relation to any trade, commerce or business for a Cess or fee or any other consideration, irrespective of the nature of use or application, or retention, of the income from such activity

Exception

- such activity is undertaken in the course of actual carrying out of such object AND
- the aggregate receipts from such activity or activities during the previous year, do not exceed 20% of the total receipts

As per section13(8) in the year in which such receipts are more than 20% - No Exemptions – One year Exemption – Another year No Exemption

However, FA 2022 – Net Receipts be taxed (w.e.f. 01/04/2023)

Restriction on commercial activities by registered non-profit organisation, carrying out advancement of any other object of general public utility (Section 346)

No registered non-profit organisation, carrying out advancement of any other object of general public utility, shall carry out any commercial activity unless :

- such commercial activity is undertaken in the course of actual carrying out of advancement of any object of the general public utility
- the aggregate receipts from such commercial activity or activities do not exceed 20% of the total receipts of such registered non-profit organisation of the relevant tax year; and
- separate books of account are maintained by such registered non-profit organisation for such activities.

Application for Registration u/s 332

(1) The following persons may, for claiming benefits under this Part as a registered non-profit organisation, make an application for registration in such form and manner, as may be prescribed, to the Principal Commissioner or Commissioner:

(a) a public trust, or

(b) a society registered under the Societies Registration Act, 1860 (21 of 1860), or under any law in force in India, or

(c) a company registered under section 8 of the Companies Act, 2013 (18 of 2013) or the companies registered under section 25 of the Companies Act, 1956 (1 of 1956) and deemed to have been registered in pursuance of section 465(2)(*g*) of the Companies Act, 2013 (18 of 2013), or

(d) a University established by law or any other educational institution affiliated thereto or recognised by the Government, or

(e) an institution financed wholly or in part by the Government or a local authority, or

(f) any person as referred to in Schedule III (Table: Sl. No. 27) to (Table: Sl. No. 29) and (Table: Sl. No. 36) and in **[***Schedule VII (Table: Sl. Nos. 17 to 19)***]** and (Table: Sl. No. 42), or

(g) any other person notified by the Board in this behalf.

(2) A person referred to in sub-section (1) shall be eligible for registration, if-

(a) such person is constituted or registered or incorporated in India for carrying out one or more charitable purposes, as referred to in section 2(*23*) or one or more public religious purposes, and

(b) the properties of such person are held for the benefit of the general public under an irrevocable trust—

(i) wholly for charitable or religious purposes in India; or

(ii) partly for charitable or religious purposes in India, if such person was constituted or registered or incorporated prior to the commencement of the Income-tax Act, 1961 (43 of 1961)

Registration / Renewal of Registration u/s 12A/ 12AA/ 12AB

- It is mandatory for a trust to get the registration under Section 12AB of the Income-tax Act, 1961 so as to claim exemption under Section 11.

- All the existing Charitable Trust Or Institutions registered under the following sections
  - Section 12A
  - Section 12AA
  - Section 80G

- W.e.f 01-04-2021, Section 12AA will cease to exist and section 12AB will come into effect.

Registration / Renewal of Registration u/s 332

Sl. No.	Case	Time limit for furnishing application	Time limit for passing order	Validity of registration
A	B	C	D	E
1.	Where the activities of the applicant have not commenced and it has not been registered under any specified provision at any time before making the application.	At any time during the tax year beginning from which registration is sought.	One month from the end of the month in which application is made.	Three tax years commencing from the tax year in which such application is made.
2.	Where the activities of the applicant have commenced and it has not been registered under any specified provision at any time before making the application.	At any time during the tax year, beginning from which registration is sought.	Six months from the end of the quarter in which application is made.	Five tax years commencing from the tax year in which such application is made.
3.	Where the applicant has been granted provisional registration and activities have commenced.	Within six months of the commencement of activities.	Six months from the end of the quarter in which application is made.	Five tax years commencing from the tax year in which such application is made.
4.	Where the provisional registration of the applicant is due to expire and activities have not commenced.	At least six months prior to the expiry of the provisional registration.	Six months from the end of the quarter in which application is made.	Five tax years following the tax year in which such application is made.
5.	Where the registration of the applicant is due to expire, other than cases mentioned at serial number 4.	At least six months prior to the expiry of the registration.	Six months from the end of the quarter in which application is made.	Five tax years following the tax year in which such application is made.
6.	Where the registration of the applicant has become inoperative due to switching over of regime under section 333.	At any time during the tax year beginning from which the registration is sought to be made operative.	Six months from the end of the quarter in which application is made.	Five tax years commencing from the tax year in which such application is made.
7.	Where the applicant, being a registered non-profit organisation, has adopted or undertaken modification of its objects which do not conform to the conditions of registration.	Within thirty days of the date of such adoption or modification	Six months from the end of the quarter in which application is made.	Five tax years commencing from commencement of the tax year in which such application is made.

Registration/ Renewal of Registration

Clause No.	Application Type	Form as per Income Tax Act, 1961	Form as per Income Tax Act, 2025
(i)	Already registered trust under old regime to re apply	Form 10A	Form 104
(ii)	Re apply within 3 years of provisional registration - Or Within 6 months of start of activity, whichever is earlier	Form 10AB	Form 105
(iii)	Renewal of registration under new regime to apply for renewal -6 Months prior to expiry	Form 10AB	Form 105
(iv)	To make the registration u/s 11 to be operative– 6 months prior to the commencement of the Assessment Year	Form 10AB	Form 105
(v)	Application in case of modification of objects – 30 days from the change of object	Form 10AB	Form 105

Switching over of regimes u/s 333

1) Nothing contained in section 11, other than Schedule II (Table: Sl. No. 1), Schedule III (Table: Sl. Nos. 27 to 29 and 36) and Schedule VII (Table: Sl. Nos. 10 to 19 and 42 to 45), shall exclude any income of a registered non-profit organisation from its total income for that tax year.
2) The registration under section 332 shall cease to operate from the date on which the registered non-profit organisation is notified as specified in Schedule III (Table: Sl. No. 27, 28, 29 or 36) or Schedule VII (Table: Sl. No. 42), or from the 1st day of April of the tax year for a registered non-profit organisation which claims exemption under Schedule VII (Table: Sl. No. 43, 44 or 45)
3) A person, whose registration ceases to operate under sub-section (2), may apply for registration under section 332 subject to the condition that the notification granting exemption to such person under Schedule III (Table: Sl. No. 27, 28, 29 or 36) or Schedule VII (Table: Sl. No. 42) ceases to have effect from the date on which the said registration is granted and thereafter shall not be entitled to exemption under the respective serial numbers of the said Schedules.

Regular income u/s 335

Regular income of any tax year of a registered non-profit organisation means—

a) income from any charitable or religious activity, for which such non-profit organisation is registered, carried out by it in such tax year;
b) income other than income covered in clause (*e*), derived from any property, deposit or investment held wholly for charitable or religious purposes by such registered non-profit organisation in such tax year;
c) income other than income covered in clause (*e*), derived from any property, deposit or investment held in part for charitable and religious purposes by such registered non-profit organisation as referred in section 332(2)(*b*)(*ii*) in such tax year;
d) voluntary contributions received by such registered non-profit organisation in such tax year; and
e) gains of any commercial activity permissible under sections 344, 345 and 346, carried out by such registered non-profit organisation in such tax year, computed in such manner, as may be prescribed.

Conditions for claiming Exemption u/s 11

Any person deriving income from property held wholly under trust for charitable or religious purpose (Section11)

- Exempt to the extent Applied to purposes In India & Accumulated (upto15%)
- Minimum 85% of income is to be applied towards purpose in India (Either revenue or capex) i.e., income up to 15% can be Freely Accumulated or set apart for application for such purpose in India (Addl. CIT Vs. ALN Rao Charitable Trust 1996 AIR 344-15% is exempt without any condition)
- Extra Accumulation- File Form No 10
- Deemed to be applied- File Form No 9A

Conditions for claiming Exemption u/s 336

The taxable regular income of a registered non-profit organisation for any tax year shall be –

- *nil*, where 85% or more of the regular income of such tax year has been applied as per provisions of section 341 or accumulated under section 342 for charitable or religious purposes, in such tax year as per the provisions of this Part; and
- in any other case, 85% of the regular income for such tax year as reduced by its application for charitable or religious purposes as per provisions of section 341 or accumulation thereof under section 342 in such tax year as per the provisions of this Part.

SPECIFIED INCOME U/S 337

The specified income of a registered non-profit organisation shall mean the income as specified in column B of the Table below and shall be taxable in the year provided in the column C thereof -

TABLE

Sl. No.	Specified income	Tax year
A	B	C
1.	Any anonymous donation received by a registered non-profit organisation other than a registered non-profit organisation created or established,— (i) wholly for religious purposes, or (ii) wholly for charitable and religious purposes (excluding anonymous donation made with a specific direction that such donation is for any university or other educational institution or any hospital; or other medical institution run by such registered non-profit organisation), excluding the anonymous donations up to Rs. 100000 or 5% of the total donations received by it during the tax year, whichever is higher.	Tax year in which such anonymous donation is received.
2.	Any portion of income applied by it, directly or indirectly, for the benefit of any related person, computed in the manner, as may be prescribed.	Tax year in which such application is made.
3.	Any portion of income applied by it outside India in contravention to the provisions of section 338(*a*).	Tax year in which such application of income is made.
4.	Any investment or deposit made in contravention to the provisions of section 350 out of any income, accumulated income, deemed accumulated income, corpus, deemed corpus, or any other fund.	Tax year in which such investment or deposit is made.
5.	Any deemed corpus donation in respect of which any of the conditions specified in the section 340 is violated.	Tax year in which such violation is made.
6.	Any portion of accumulated income, if it is applied to purposes other than charitable or religious purposes for which it is accumulated or set apart.	Tax year in which it is so applied.
7.	Any portion of accumulated income, if it ceases to be accumulated or set apart for application to such purposes as specified under section 342(1).	Tax year in which it ceases to be so accumulated or set apart.
8.	Any portion of accumulated income, if it is not applied as per the provisions of section 341(1) to (4) for which it is accumulated or set apart within the period for which it was accumulated or set apart as specified in section 342(1).	Last of the tax years for which income was so accumulated or set apart.
9.	Any portion of accumulated income, if it is credited or paid to any other registered non-profit organisation.	Tax year in which it is so credited or paid.
10.	Any income applied to purposes other than charitable or religious purposes for which it is registered.	Tax year in which it is so applied.
11.	Any income determined by the Assessing Officer under section 344 in excess of income shown in the books of account of such business undertaking.	Tax year to which such income relates.
12.	Fair market value of any asset, where it is not held in forms or modes specified in paragraph 1(1) to (30) of Schedule XVI even after the expiry of one year from the end of the tax year in which such asset is acquired.	Tax year immediately following the expiry of limitation period mentioned in Column B.
13.	Any deemed application under section 341(5) not actually applied by the registered non-profit organization for its objects in India within the period specified in section 341(6).	Tax year specified in section 341(6) by which such application is required to be made.

TAXATION OF SPECIFIED INCOME U/S 115BBI

Where the total income of a trust or an institution claiming exemption u/s 10(23C)(iv)/(v)/(via) or section 11, includes any specified income, notwithstanding any other provision of the Act, shall be liable to pay:

- Income Tax @ 30% on such specified income.
- Income Tax that would have been chargeable had the total income being reduced by the amount of such specified income.

Notwithstanding any thing contained in this Act:

- No deduction of any expenditure, or
- Set- off of any losses

Shall be allowed against such specified income.

TAXATION on INCOME of Registered NPO

The income-tax payable by a registered non-profit organisation on its total income for any tax year shall be the aggregate of the amounts calculated

(a) at the rate of 30% on specified income for such tax year

(b) at the rate applicable on taxable regular income and any residual income for such tax year under other provisions of this Act.

Income not to be included in regular income u/s 338

While computing the regular income of a registered non-profit organisation, the following income shall not be included:—

a) income applied outside India, where the Board, by general or special order, directs that such income shall not be so included in its total income in case of a registered non-profit organisation—

i. created before the 1st April, 1952 for charitable or religious purposes; or

ii. created on or after the 1st April, 1952 for charitable purposes where such application of income outside India tends to promote international welfare in which India is interested;

b) the corpus donation received by the registered non-profit organisation under section 339

CORPUS FUND

- Voluntary contribution is income as per section 2(24)(iia)
- While voluntary contribution with specific direction to form part of corpus- Exempt– Section11(1)(d)
- Such corpus fund is to be invested separately as per 11(5)
- Utilization of Corpus Donation will not be treated as application of income

Interest received on Corpus fund?

Commissioner of Income-Tax. (Exemption), Kochi vs. Mata Amrithanandamayi Math Amritapuri [2018] 94 taxmann.com 82 (SC)-if it is specifically mentioned by the donor that interest shall also form part of corpus

As per Section 339, Corpus donation means any donation made with a specific direction by the donor that it shall form part of the corpus of the registered non-profit organisation provided that such donation is invested or deposited in any of the modes permitted under section 350 maintained specifically for such corpus.

As per Section 340, Where the property of a registered non-profit organisation includes any temple, mosque, gurudwara, church or other place notified under section 133(1)(*b*)(*vi*), any sum or sums received by such registered non-profit organisation as donation for the purpose of renovation or repair of such temple, mosque, gurudwara, church or other place, may, at its option, be deemed as forming part of the corpus under section 339, if it—

(a) maintains such corpus as separately identifiable;
(b) applies such corpus only for the purpose for which the donation was made
(c) invests or deposits such corpus in any of the modes permitted under section 350
(d) does not apply such corpus for making donation to any person.

Application of Income u/s 341

1. The following sums shall be allowed as application of income to a registered non-profit organisation:-

a) any sum, other than the sum referred to in clause (*b*), applied by it for charitable or religious purpose in India for which it is registered where such sum is paid during the tax year provided that the provisions of section 35(*b*)(*i*) and section 36(4), (5), (6) and (7) shall apply in respect of such sum; and

b) 85% of the sum paid by way of donation made to any other registered non-profit organisation.

2. The application of income under sub-section (1) shall include the following:-

a) the amount invested or deposited back during the tax year, in the modes permitted under section 350 maintained specifically for such corpus, if

i. such investment or depositing back is made within five years from the end of the tax year in which such application of income was made from the corpus;

ii. the application of income from the corpus is made after the 31st March, 2021 and there was no violation of any provision of this Part, or any corresponding provision of the Income-tax Act, 1961 (43 of 1961) with respect to such application

b) the amount repaid, during the tax year, towards any loan or borrowing where-

i. such repayment is within five years from the end of the tax year in which such application of income was made from the loan or borrowing; and

ii. the application of income from the loan or borrowing is made after the 31st March, 2021 and there was no violation of any provision of this Part, or any corresponding provision of the Income-tax Act, 1961 (43 of 1961) with respect to such application.

Restriction on certain applications

- If Income received is **contributed as corpus of** any other registered trust etc. then this wont be considered as application. *Donation can be given for application towards objects. (So, corpus fund be used to contribute Corpus of another trust.-This is one of the reasons why corpus fund is to be invested separately.)*

- Section 40(a)(ia) and 40A(3) & (3A) applies i.e., amount disallowed as per these sections not to be considered for determining the amount of application (i.e. while computing 85%)

- Any excess application or preceding previous year not be considered in the year under consideration (no set-off of earlier deficit /excess application) [applicable from 01.04.2023]

- Depreciation cannot be claimed on that Capital Asset the acquisition of which
was considered as Application of income (FA2015)

- A registered trust claiming exemption u/s 11 cannot claim exemption underany section of the Income Tax Act other than 10(1)

▪ As per Section 341 (3), The following claims shall not be allowed as application of income under sub-sections (1) and (2):—

(a) the deduction or allowance by way of depreciation or otherwise claimed in respect of an asset acquisition of which has been claimed as an application of income in the same or any other tax year under this Part or under any corresponding provision of the Income-tax Act, 1961 (43 of 1961); or
(b) a claim of set off or deduction or allowance of any excess application of any of the years preceding the tax year, or
(c) any sum paid as a corpus donation to any other registered non-profit organisation.

▪ As per Section 341 (4), An application from corpus, loan or borrowing, accumulated income, specified income or deemed accumulated income shall not be considered as application for the purpose of sub-sections (1) and (2).

Deemed Application as per explanation 1 to Section 11

- Income was derived but not received-Deemed Application, if said income is applied in the year of receipt or immediate next year otherwise treat it as income in year following the year of receipt.
- Any other reason- Deemed Application-if said income is applied in year following the year of receipt-otherwise treat it as income in the year following the year of receipt

Then, upon filing of Form 9A (to be filed 2 months prior to return u/s 139(1)) - income to that extent will be deemed to be applied in the year in which it is derived and same income will not be considered as application of income in the year in which it is applied.

Deemed Application as per Section 341 (5) and 343

As per section 341 (5) where, in a tax year, the regular income applied by a registered non-profit organisation towards charitable or religious purposes in India, as per the provisions of sub-sections (1) to (4), is less than 85% of regular income, the shortfall, or any part thereof, at the option of the registered non-profit organisation, may be treated as deemed application.

Form No. 108 (to be filed on or before the due date specified in section 263(1) for furnishing the return of income for such tax year

As per section,343(1) The regular income, as reduced by the application of income as per the provisions of section 341 and accumulated or set apart income under section 342, to the extent of 15% of regular income, shall be considered as deemed accumulated income and where such deemed accumulated income is invested or deposited, it shall be invested or deposited in any of the modes permitted under section 350.

(2) The deemed accumulated income under this section shall not be considered as accumulated income for the purposes of section 342.

Taxation on sale of Capital Assets 11(1A)

Capital Asset, being Property held under trust wholly for charitable or religious purpose – transferred

- If cost of new asset > Net consideration from Asset transferred – Whole of capital gain will be deemed as Application
- If cost of new Asset < Net consideration from Asset Transferred- (Cost of new Asset – cost of asset transferred) – will be deemed application.

Cost of Asset transferred = cost as per sec 48 and 49

Net Consideration= full value of consideration accrued/ received less exp. Incurred for transfer.

Taxation on sale of Capital Assets 341(9)

(a) The capital gain from transfer of a capital asset, being property held under trust wholly for charitable or religious purposes, where the whole or any part of the net consideration is utilised for acquiring another capital asset to be so held,—

- If cost of new asset > Net consideration from Asset transferred – Whole of capital gain will be deemed as Application
- If cost of new Asset < Net consideration from Asset Transferred- (Cost of new Asset – cost of asset transferred) – will be deemed application.

Cost of Asset transferred = aggregate of the cost of acquisition (as ascertained for the purposes of sections 72 and 73) of the capital asset which is subject of the transfer and the cost of any improvement thereto within the meaning assigned to that expression in section 90(1)(*b*);

Net Consideration= full value of consideration accrued/ received - expenses Incurred for transfer.

Accumulation of Income as per section 11(2)

Accumulation (over and above 15%) is allowed if

- Form 10 is filled – 2 months prior to return u/s 139(1)- (specifying the purpose-Specific Vs. General)
- Accumulated funds are invested as per 11(5) various modes are provided- 5years

Against: DIT(E) v Trustees of Singhania Charitable Trust [1993] 199 ITR819 (Cal) & Cotton Textiles Export Promotion Council v. First ITO [1983] 4 ITD 642 (Mum Trib)

For a definite and concrete purpose & mere reproduction of objects of the trust not sufficient. Favour: DIT(E) v Envisions [2015] 378 ITR 483 (Kar) & Bharat Kalyan Pratisthan v DIT(E) [2008] 299 ITR 406(Del) & Mitsui & Co. Environmental Trust, 211 CTR 352(Del)

Plurality of purposes is permitted & an assesse may utilize the funds for some or all of the objects of the trust. Sufficient state that amount would be utilized for objects of the trust in general

Accumulated Income as per section 342

Accumulation (over and above 15%) is allowed if

- Statement 109 is filled – on or before the due date specified in section 263(1) for furnishing the return of income for such tax year stating therein the purpose and period
- Accumulated funds are invested or deposited in any of the modes permitted under section 350 read with Schedule 16, or applied for the purposes as stated in the prescribed form – 5 years

The registered non-profit organisation may, for the change of purpose for which income has been accumulated or set apart, make an application to the Assessing Officer, in Form No. 110

Accumulation of Income as per section 11(2)

Accumulated income will be taxed if Accumulated income is

- credited/paid to other registered trusts
- applied to other purpose
- not invested or ceases to be invested as per 11(5)
- Not utilized for the purpose for which it was accumulated or set apart during the period

Then it will be treated as income in the year of default or last year for which income is accumulated or set apart. (w.e.f. 01/04/2023)

However, in case beyond control- Application can be made to AO seeking permission to apply accumulated income for purpose other than for which it was accumulated. But in no case AO can allow paying the accumulated money to another registered trust, except during dissolution.

Accumulated Income as per section 342

Accumulated income will be taxed if Accumulated income is

- credited/paid to other registered trusts
- applied to other purpose
- not invested or ceases to be invested as per section 350 read with Schedule XVI Not utilized for the purpose for which it was accumulated or set apart during the period

Then it will be treated as income in the year of default or last year for which income is accumulated or set apart.

However, in case beyond control- Application can be made to AO seeking permission to apply accumulated income for purpose other than for which it was accumulated. But in no case AO can allow paying the accumulated money to another registered trust, except during dissolution.

Business undertaking held as property

Section 11(4)

For the purposes of this section "property held under trust" includes a business undertaking so held, and where a claim is made that the income of any such undertaking shall not be included in the total income of the persons in receipt thereof, the Assessing Officer shall have power to determine the income of such undertaking in accordance with the provisions of this Act relating to assessment; and where any income so determined is in excess of the income as shown in the accounts of the undertaking, such excess shall be deemed to be applied to purposes other than charitable or religious purposes.

Section 344

Where the property held by a registered non-profit organisation includes a business undertaking, and where a claim is made that the income of any such undertaking is eligible for benefits under this Part, then the Assessing Officer shall have the power to determine the income of such business undertaking as per the provisions of this Act.

Restriction on commercial activities by a registered non-profit organisation

As per section 11(4A), Sub-section (1) or sub-section (2) or sub-section (3) or sub-section (3A) shall not apply in relation to any income of a trust or an institution, being profits and gains of business, unless the business is incidental to the attainment of the objectives of the trust or, as the case may be, institution, and separate books of account are maintained by such trust or institution in respect of such business

As per section 345, A registered non-profit organisation (other than a registered non-profit organisation mentioned in section 346) shall not carry out any commercial activity unless—

a) such commercial activity is incidental to the attainment of the objectives of the registered non-profit organisation; and
b) separate books of account are maintained for such activities.

Taxation of Anonymous Donations u/s 115BBC

Anonymous Donation means any voluntary contribution [as per 2(24)(iia)] where Person receiving donation does not maintains the Record of identity of the person giving such contribution -taxed @ 30% of the Aggregate anonymous donation received in excess of the higher of the following:

- Rs.1,00,000/-
- 5% of the total donations received

Section not applicable in case of:

- Wholly Religious trust or institution
- Wholly Religious and charitable trust or institution (other than specific donation for university/ hospital/ educational or medical institution)
- Anonymous donation received by educational institutions and hospital wholly or substantially financed by the government

Taxation of Anonymous Donations

Anonymous Donation means any voluntary contribution referred to in section 2(49)(c), where a person receiving such contribution does not maintain a record of the identity indicating the name and address of the person making such contribution and such other particulars, as may be prescribed -taxed @ 30% of the Aggregate anonymous donation received in excess of the higher of the following:

- Rs.1,00,000/-
- 5% of the total donations received

Section not applicable in case of:

- Wholly Religious trust or institution
- Wholly Religious and charitable trust or institution (other than specific donation for university/ hospital/ educational or medical institution)
- Anonymous donation received by educational institutions and hospital wholly or substantially financed by the government

Maintenance of Books of Accounts and other documents

Under the Income-tax Act, ordinary taxpayers are required to maintain books of accounts and get them audited. The requirement to maintain the books of account is prescribed under Section 44AA. However, there is no specific provision under the Act providing for the books of accounts to be maintained by trusts or institutions.

The Finance Act 2022 amended Section 12A to provide that where the total income of the trust or institution under both regimes, without giving effect to an exemption under section 11 and 12, exceeds the maximum amount which is not chargeable to tax, such trust or institution shall keep and maintain books of account and other documents in such form and manner and at such place, as may be prescribed.

The CBDT has notified a Rule 17AA prescribing books and other documents to be kept and maintained by trust or institution registered under section 12A/10(23C).

As per Section 347, Where the total income of a registered non-profit organisation, without giving effect to the provisions of this Part, exceeds the maximum amount which is not chargeable to income-tax in any tax year, such registered non-profit organisation shall be required to keep and maintain the books of account and other documents in such form and manner and at such place, as may be prescribed

The CBDT has notified a Rule 187 prescribing books and other documents to be kept and maintained by registered non-profit organisation

Audit u/s 12A(1)(b)

The accounts of the trust or institution for that year have been audited by an accountant defined in the Explanation below sub-section (2) of section 288 before the specified date referred to in section 44AB and the person in receipt of the income furnishes by that date the report of such audit in the prescribed form duly signed and verified by such accountant and setting forth such particulars, as may be prescribed

Form 10B – Gross receipts more than 5 crore

Form 10BB – Gross receipts less than 5 crore

Audit u/s 348

Where the total income of a registered non-profit organisation, without giving effect to the provisions of this Part, exceeds the maximum amount which is not chargeable to income-tax in any tax year, the accounts of such registered non-profit organisation for that tax year shall be audited by an accountant and the person in receipt of the income shall be required to furnish a report of an audit of such income by such date in the prescribed form, duly signed and verified by such accountant and setting forth such particulars, as may be prescribed.

Form No. 112 - (Having bifurcation of small registered NPOs and large registered NPOs)

ITR Form for charitable trusts registered u/s 12AB

The return of income of the trust should be filed as per the provisions of section 139(4A) in the manner provided in section 139 of the Act.

All organizations or trust are required to file the return in ITR-7 by 31st October (as amended by Finance Act 2020, earlier it was 30th September) of the assessment year as where the income of a charitable trust, before claiming exemption under section 11 to 12 exceeds the maximum amount chargeable to tax, its accounts are required to be audited.

The return must be accompanied by an Audit Report in Form 10B/10BB prescribed under Rule 17B of the Income-Tax Rule, 1962.

ITR Form for charitable trusts registered u/s 332

Where the total income of a registered non-profit organisation, without giving effect to the provisions of this Part, exceeds the maximum amount which is not chargeable to income-tax in any tax year, it shall furnish the return of income for that tax year as per the provisions of section 349 ,within the time allowed under section 263(1)(*c*) [65][*or 263(4)*]

All organizations or trust are required to file the return in ITR-7 by 31st October of the tax year as where the income of a charitable trust exceeds the maximum amount chargeable to tax, its accounts are required to be audited.

The return must be accompanied by an Audit Report in Form No. 112 prescribed under Rule 188 of the Income-Tax Rule, 2026.

Specified violation under explanation to Section 12AB (4)

- Application of income other than for the objects for which it is established.
- Religious trust as applied its income which does not ensure benefit of the public or benefit only to particular religious community or caste.
- No separate books of accounts for business which has to be incidental business.
- Any business carried which is not incidental to the object
- Activity is not genuine
- Conditions of approval violated
- Violation of any other law when such violation attains finality

Specified violation meaning Section 351

- Any income has been applied, other than for its objects.
- Any commercial activity in contravention of the provisions of section 344, 345 and 346
- Any part of its total income has been applied for private religious purposes, which does not *enure* for the benefit of the public
- Any part of its income has been applied for the benefit of any particular religious community or caste other than the Scheduled Castes or the Scheduled Tribes or backward classes or women and children
- Any activity being carried out is not genuine or is not being carried out in accordance with all or any of the conditions subject to which it was registered
- has not complied with the requirements of any other law as referred under section 332(7)(*a*) and the order, direction or decree, holding that such non-compliance has occurred, has either not been disputed, or has attained finality
- the application referred to in section 332(3) contains any false or incorrect information

Taxation of Accreted Income u/s 115TD

A registered trust which gets converted into any form which is not eligible for registration under clause (iv),(v),(vi), of section 10 (23C) or section 12 AA or 12 AB Or

- Gets merged with other entity which is not a registered trust having similar objects Or
- Fails to transfer its assets upon dissolution to other registered trust within 12 Months from the end of the month in which dissolution took place
- Certain additional conditions are inserted vide FA 2023 wherein registration is not renewed or regular registration is not applied (in case of prov Reg)

Then such trust is required to pay income tax at Maximum Marginal Rate on its accreted income in addition to income tax on its total income Accreted income is difference between fair market value of assets and liabilities

Taxation of Accreted Income u/s 352

As per section 352 (1) Every specified person shall, in addition to the income-tax chargeable in respect of his total income, be liable to pay additional income-tax on accreted income at the maximum marginal rate in any of the cases specified in column B(*i*) and (*ii*) of the Table in sub-section (4).

(2) The accreted income referred to in sub-section (1) shall be computed using the following formula :

A = B – C, where –

A = Accreted Income

B= aggregate fair market value of the total assets of the specified person, as on the date specified, in column C of the Table in sub-section (4), computed in accordance with such method of valuation, as may be prescribed

C = Total liability of such specified person, as on the date specified in column C of the said Table, computed in accordance with such method of valuation, as may be prescribed.

(3) The accreted income, computed as per the provisions of sub-section (2) shall be reduced by such amount of accreted income as is attributable to specified assets, and liabilities, if any, related to such assets

Application for approval for purpose of section 133(1)(*b*)(*ii*) u/s 354

1. A registered non-profit organisation or a person referred to in Schedule VII (Table: Sl. No. 1) may, for the purpose of section 133(1)(*b*)(*ii*), make an application for approval in such form and manner, as may be prescribed, to the Principal Commissioner or Commissioner, subject to the following conditions:—

a) it is not expressed to be for the benefit of any particular religious community or caste
b) it is established in India for a charitable purpose and does not incur any expenditure of an amount exceeding 5% of its total income during a tax year which is of a religious nature
c) the instrument under which it is constituted does not, or the rules governing it do not, contain any provision for the transfer at any time of the whole or any part of its assets for any purpose other than a charitable purpose;
d) it maintains regular accounts of its receipts and expenditure
e) it prepares such statement for such period, as may be prescribed, and deliver or cause to be delivered to the prescribed income-tax authority or the person authorised by such authority such statement in such form and verified in such manner and setting forth such particulars and within such time, as may be prescribed;
f) it delivers to the said prescribed authority, a correction statement for rectification of any mistake or to add, delete or update the information furnished in the statement delivered under clause (*e*) in such form and verified in such manner, as may be prescribed; and
g) it furnishes a certificate to the donor specifying the amount of donation within such period from the date of receipt of the donation containing the requisite particulars in manner, as may be prescribed.

Thank You

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