TAXATION OF CHARITABLE TRUSTS / NGOS WITH RECENT AMENDMENTS

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CA Ravi B. Gupta. B.Com, FCA, IP
CA Anushree Gupta. B.Com, FCA, LLB
mail@caravigupta.com

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1. Section 2(15) of the Income-Tax Act, 1961

[I] Charitable Purpose includes:

(i) Relief of the poor,

(ii) Education,

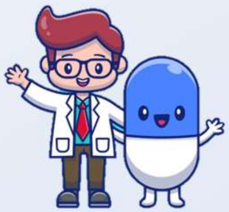
(iii) Yoga (Inserted vide Finance Bill 2015; w.e.f. 01.04.2016 i.e., AY 2016-17),

(iv) Medical relief,

(v) Preservation of environment (including watersheds, forests and wildlife),

(vi) Preservation of monuments or places or objects of artistic or historic interest, and

(vii) The advancement of any other object of general public utility.



- The definition of charitable purpose is inclusive. All the limbs of section 2(15) are not mutually exclusive, they may overlap.
- A purpose must in order to be charitable, be directed to the benefit of the community or a section of the community, as distinguished from an individual or a group of individuals.
- Not necessary to benefit whole of mankind and not necessary to provide Free Services.
- Presence of an uncertain and fluctuating body of beneficiaries.

[II] Proviso to Section 2(15)

1. **<u>This proviso was first added by the Finance Act 2008.</u>** "Advancement of any other object of general public utility" 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 a fee or any other consideration. **The restriction is, however, not applicable if the receipts from the above activity/activities does not exceed 20% of the total receipts of the relevant FY (inserted from AY 2016-17 onwards).**

2. The intention is to limit the benefit to entities that are engaged in charitable activities and, to deny it to purely commercial and business entities which wear the mask of a charity. (Reply of Finance Minister to the debate in Lok Sabha on Finance Bill 2008)

3. Pharmacy in Hospital is integral and not incidental business activity - Principal CIT (Exm.) Mumbai Vs. National Health & Education Society (2020).

4. The above restriction of 20% does not apply in respect of the first six limbs of Section 2(15) of the Act as mentioned above, their income from business is governed by Sections 11(4) and 11(4A) of the Act.

2. Section 10(23C) of the Income tax Act, 1961

As per Section 10(23C) of the Act, the income of certain funds, universities, educational institutions, hospitals, etc. **are not includible in the total income**.

- Sub clause (iiiab) & (iiiac) read with Rule 2BBB of the Rules: Talks about educational institutions and hospitals respectively; financed/funded by the Government. Where **government grant exceeds more than 50% of the total receipts** [Provisions for anonymous donations (section 115BBC) are not applicable].

- Sub clause (iiiad) & (iiiae) read with Rule 2BC of the Rules: Talk about educational institutions and hospitals respectively; if the **annual receipts do not exceed Rs: 5 crores**, the income is exempt **(from AY 2022-23 onwards)**. Earlier the limit was Rs. 1 Crore. **Not required to apply for approval. No Audit is required.**
  Till AY 2021-22, Rs. 1 crore limit of turnover was applicable to individual institutions.

- **From AY 2022-23**
  - **5 crore limit to be applied in aggregate and not per institution.**
  - **If the person has receipts from educational institutions (iiiad) as well as medical institutions (iiiae) the exemptions under these clauses shall not apply if the aggregate of the annual receipts from educational as well as medical institutions exceeds Rs. 5 crores.**

- **Meaning of annual receipts**: No guidance is available under the Act.

- <u>Sub clause (iv)</u>: Any other fund or institution for charitable purposes may be approved by the PCIT or CIT, considering its objectives and importance throughout India or throughout any State or States.

- <u>Sub clause (v)</u>: Any trust or institution established solely for public religious or religious and charitable purposes may be approved by the PCIT or CIT, based on the administration and supervision ensuring proper application of its income.

- <u>Sub clause (vi) & (via)</u>**: Educational institutions not falling under sub-clause (iiiab) or (iiiad) and Hospitals not falling under sub-clause (iiiac) and (iiiae)** will enjoy exemption, if approved by the PCIT or CIT, under sub-clause (vi) or (via) respectively.

❑ Amendments to Section 10(23C) of the Act vide Finance (No. 2) Bill, 2024

Merger of trusts under first regime with second regime:

- **No new applications seeking approval or provisional approval under sub-clauses (iv), (v), (vi), or (via) of Section 10(23C) can be made or considered on or after 01-10-2024.** It is important to note that these four clauses are the only ones requiring approval from the Principal Commissioner of Income Tax (PCIT) or Commissioner of Income Tax (CIT). **The amendments apply exclusively to these clauses and do not affect sub-clauses (iiiab), (iiiac), (iiiad), or (iiiae) of Section 10(23C), which do not require such approval.**
- **Applications filed under sub-clauses (iv), (v), (vi), or (via) of Section 10(23C) before 01-10-2024, and still pending will be processed and considered under Section 10(23C) regime.** In other words, new registrations under Section 10(23C) with a validity of five years can be issued until 31-03-2025. Therefore, the sunset timeline for all organisations approved under these sub-clauses will be the assessment year 2029-30.
- **Approved trusts, funds, or institutions will continue to avail exemption benefits under sub-clauses (iv), (v), (vi), or (via) of Section 10(23C) until their current approval expires.** Afterwards, they will be eligible to apply for renewal of registration under the Section 12A regime. Amendments have been made in Section 12A to facilitate this transition.

This amendment is effective from 1st October, 2024.

3. Sections 11 to 13: Key Provisions

Sl. No.	Sections 11 to 13	Subject matter (in brief)
(1)	11(1)(a)	Income from property held for charitable or religious purpose shall not be included in the income if: in case of property held under trust **wholly for charitable or religious purpose** and the trust having been established **after the commencement of this Act, 85% or more of the income derived (excluding corpus donation) is applied towards the objects of the trust and income not in excess of 15% is accumulated or set apart** (15% is Statutory Accumulation not subject to any condition of application, it is indefinite accumulation). SC analysis in the case of *Addl. CIT vs. ALN Rao Charitable Trust [1995].* **Which also means that the trust created partly for charitable or religious purpose is no more recognized for Section 11.** *[Section 11(1)(b)]*.
(2)	11(1)(c)	Income applied on activities outside India is not eligible for exemption unless the conditions are met: - The trust happens to be created before 01.04.1952 or it is engaged in promotion of international welfare in which India is interested. - CBDT by general or special order has granted the exemption for carrying out such activities.

Explanation 1 to Section 11(1)(a) and (b):

(1) In computing the 15% of the income which may be accumulated or set apart, any voluntary contributions as are referred to in section 12 shall be deemed to be part of the income;

(2) If, in the previous year, the income applied to charitable or religious purposes in India falls short of 85% of the income derived during that year from property held under trust, by any amount-

(i) for the reason that the whole or any part of the income has not been received during that year, or

(ii) for any other reason, then,

(a) for sub-clause (i) above, the amount may be utilized either during the previous year in which income is so received or during the previous year immediately following such previous year, by **filing Form No. 9A online at least two months prior to the due date specified under Section 139(1) of the Act (Rule 17)**

(b) for sub clause (ii) above the amount may be utilized during the previous year immediately following the previous year in which the income was derived, **by filing Form No. 9A online at least two months prior to the due date specified under Section 139(1) of the Act** ***[Finance Bill, 2023, w.e.f. AY 2023-24].***

- **Other conditions to be met for claiming exemption:**
  (i) Trust/institution is registered with Commissioner of Income-tax under Section 12AB of the Act.
  (ii) Books are audited as per Section 12A(1)(b) as per the provisions of the Act.

Sl. No.	Sections 11 to 13	Subject matter (in brief)
(3)	11(1)(d)	Income in the form of voluntary contributions made with a specific direction that they shall form part of the corpus of the trust/institution. **Subject to the condition that such voluntary contributions are invested or deposited in one or more forms or modes specified in Section 11(5) of the Act.**
(4)	Explanation 2 to section 11(1)	- **From FY 2017-18 onwards**, any trust/NGO/institution **shall not be allowed to treat corpus donation given to another charitable organization,** as application of income. - The amendment has no impact if corpus donation is given out of accumulated funds.
(5)	Explanation 3 to section 11(1)	Disallowances under sections 40(a)(ia) *[Amounts not deductible]* and 40A(3) and (3A) *[Disallowance of expenses in cash]* to apply in determining the amount of application. Analysis: - 30% of the expenditure will be disallowed when trust was supposed to deduct TDS and it has not deducted. - No deduction shall be allowed in respect of expenditure if payment done by trust exceeds Rs. 10,000/- and it is done in cash or otherwise than by an account payee cheque drawn on a bank/account payee bank draft/bank transfer. - Also, if the expenditure is claimed in a particular year and payment is made in the subsequent year, and payment exceeding Rs. 10,000/- is done otherwise than by an account payee cheque drawn on a bank/account payee bank draft/bank transfer, then the expenditure will be deemed as income in the year of payment.

Sl. No.	Sections 11 to 13	Subject matter (in brief)
(6)	Explanation 3A to section 11 ***[The said explanation was inserted w.e.f. 01.04.2021 by Finance Act, 2022]***	**<u>Conditions for treatment of voluntary contribution received for renovation or repair of temple/church/mosque etc. notified u/s 80G(2)(b)</u>** (where they form part of property held under trust) **<u>as corpus donation, at the option of the trust:-</u>** - Corpus to be applied for the purpose for which it is received; - No donation to be made to any other person; - Corpus should be separately identifiable; and - To be invested as per section 11(5).
(7)	Explanation 3B to section 11 ***[The said explanation was inserted w.e.f. 01.04.2021 by Finance Act, 2022]***	Deemed income i.e., <u>becomes taxable in the year of violation of conditions</u> mentioned in Sl. No. (6) above.

Sl. No.	Sections 11 to 13	Subject matter (in brief)
(8)	Clauses (i) and (ii) of Explanation 4 to section 11(1) ***[The said explanation was inserted w.e.f. 01.04.2022 by Finance Act, 2021]***	- Clause (i) provides that **application** for charitable or religious purposes **from the corpus shall not be treated as an application of income towards the objects of the trust. Provided that the amount not so treated as application shall be treated as application in the previous year in which the amount or part thereof is deposited in the modes specified in Section 11(5) of the Act maintained specifically for such corpus.** - Clause (ii) provides that **application** for charitable or religious purposes **from any loan or borrowings shall not be treated as an application of income towards the objects of the trust. Provided that the amount not so treated as application shall be treated as application in the previous year in which the amount or part thereof is repaid from the income of that year and to the extent of the repayment.**

Sl. No.	Sections 11 to 13	Subject matter (in brief)
(8)	Clauses (i) and (ii) of Explanation 4 to section 11(1)	- Second proviso to clause (i) & (ii) of Explanation 2 is inserted to provide that where the **application from corpus or loan does not satisfy the conditions that are required for application, the depositing back into corpus/repayment of loan of such amount will not be treated as application.** - Third proviso to clause (i) & (ii) of Explanation 2 is inserted to provide that **deduction shall be allowed only if the amount taken from the corpus is reimbursed to the corpus or, the loan is repaid, within 5 years** from application out of the corpus/loan or borrowing which was not allowed as an application when the amount was actually spent. - Fourth proviso to clause (i) & (ii) is inserted to provide that **application out of corpus or a loan before 1 April 2021 shall not be allowed as application** for charitable or religious purposes even when such amount is put back into corpus or the loan is repaid. **This is in order to avoid double deduction.** These amendments are applicable from AY 2024-25 and thereafter.

Sl. No.	Sections 11 to 13	Subject matter (in brief)
(9)	Clause (iii) of Explanation 4 to section 11(1) ***[The said clause was inserted w.e.f. 01.04.2024 by Finance Act, 2023]***	**Inter Charity Donations** : Provides that **only 85% of the eligible donations made by a trust or institution** referred to in **section 10(23C) or section 12AB to another trust or institution registered under section 10(23C) or section 12AB shall be treated as the application towards the object of the trust/institution.** This amendment is applicable from AY 2024-25 and thereafter.
(10)	Explanation 5 to section 11(1) ***[The said explanation was inserted w.e.f. 01.04.2022 by Finance Act, 2021]***	**Excess application of an earlier previous year not allowed to be set-off or claimed as deduction or allowance** while calculation of income required to be applied or accumulated in the relevant previous year.

Sub-section (1B)

- **Consequences of non-application of Income after exercising options under clause (2) of the Explanation 1 to sub-section (1), during the period mentioned in sub-clause (a) or sub-clause (b) of the said clause.**

- The income not so applied will be deemed to be the income of the person in receipt thereof

  (a) In the case referred to sub clause (i) of the said clause, in the previous year immediately following the previous year in which the income was received;

  or

  (b) In the case referred to in sub clause (ii) of the said clause, of the previous year immediately following the previous year in which the income was derived.

- **It may be noted that where the assessee fails to apply the income as per clause (2) of Explanation 1, he cannot exercise the option of accumulation under Section 11(2) of the Act.**

- **Once the income is taxed under Section 11(1B) of the Act, it would not be subject to the conditions of application for charitable purposes to the extent of 85%.**

<table>
<tr><th>Sl. No.</th><th>Sections 11 to 13</th><th>Subject matter (in brief)</th></tr>
<tr><td>(11)</td><td>11(2)</td><td>Conditions stipulated for treating the amount accumulated or set apart beyond 15% as deemed application:-
- Statement in Form No. 10 is furnished to the AO, [at least 2 months prior to]* Sec 139(1) due date and the accumulation shall be for a period not exceeding 5 years and the <u>5 year period shall commence from the year succeeding the previous year for which the accumulation is made</u>; and
- the amount is deposited in the modes specified in Section 11(5) of the Act.
The timelines from AY 2023-24 are tabulated below:
<table>
<tr><th>Sr. No.</th><th>Form No. / ITR</th><th>Due Date</th></tr>
<tr><td>1</td><td>Form No. 10</td><td>31st August</td></tr>
<tr><td>2</td><td>Form No. 10B/10BB</td><td>30th September</td></tr>
<tr><td>3</td><td>ITR u/s. 139(1) of the Act</td><td>31st October</td></tr>
<tr><td>4</td><td>ITR u/s. 139(4) of the Act</td><td>Earlier of 31st December or before assessment completion</td></tr>
</table>
* [Substituted for “on or before” w.e.f. 01.04.2023 by Finance Act, 2023]</td></tr>
<tr><td>(12)</td><td>Explanation to section 11(2)</td><td>Contribution to any trust or institution out of accumulated income not to be treated as application of income</td></tr>
</table>

Sl. No.	Sections 11 to 13	Subject matter (in brief)
(13)	11(3)	Any income referred to in Section 11(2) which – - is applied for purposes other than the purpose for which it was accumulated or set-apart; or - ceases to remain invested in modes specified in Sec 11(5) of the Act; or - is not utilized for the purpose for which it was accumulated or set-apart during the period of 5 years **[__]***; or - is credited or paid to any trust registered under Section 12AA/12AB/10(23C)(iv),(v),(vi)or(via) of the Act; **[shall be deemed to be the income of the previous year in which it is so applied, or ceases to be so accumulated or set apart, or ceases to remain so invested or deposited, being the last previous year of period for which the income is not utilized for the purpose for which it was so accumulated or in which it is donated to any other trust/institution.]#**
		[Words “or in the year immediately following the expiry thereof” omitted w.e.f 01.04.2023 by Finance Act, 2022] ***#[Substituted w.e.f. 01.04.2023 by Finance Act, 2022]***

Sl. No.	Sections 11 to 13	Subject matter (in brief)
(14)	11(3A) Modifications of objects specified in Form No. 10	Application to A.O. to permit application of accumulated income for other purposes in line with the objects of the trust or institution. Conditions for availing the relaxation: - request the AO to allow the application towards some other charitable purpose; - satisfaction of the AO that the non-application was beyond the control of the trust/institution; - the unutilized amount will be applied for such other objects which are in conformity with the objects of the trust/institution.
(15)	Proviso to section 11(3A)	A.O. cannot allow application of such accumulated income by way of amount credited or paid to another trust or institution. Finance Act 2003, inserted new proviso to Section 11(3A), which provides that inter charity donation will be permissible in case of dissolution of a charitable or religious organization in the year of its dissolution.

- **Sub-section (4) & (4A) – Property held under trust includes business undertaking**
- All NGO's other than the 7th category NGO shall be eligible to undertake businesses under Sections 11(4) and 11(4A). The 7th category cannot undertake incidental business activity though can have primary charitable activity run on commercial principles with profit motive with restrictions up to 20% of the total receipts.
- Income from business shall be treated as income derived from "property held under trust" and shall be eligible for exemption under Section 11(1) and 11(2) provided the business is incidental to the attainment of the objectives of the trust and separate books of account are maintained by such trust in respect of such business.
- The assessing officer will have the power to determine the income of such undertaking 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.
- There is a strong judicial precedence, including the SC's ruling in *ACIT vs. Thanthi Trust (2001) 247 ITR 785*, where even unrelated businesses held as property of the trust, are treated as incidental provided, the entire income is applied for charitable purposes. In other words, **use of the income will determine the incidentality of the business**.
- Business or profit-making activity per se is not excluded from overall scope of charitable purpose. But presence of "profit motive" as against "activity for profit" will endanger the exemptions available under Section 11.
- **There is nothing in the statute to suggest that, tax audit under Section 44AB shall apply to business undertaking under Section 11(4A), as long as registration under Section 12AB, is intact.**

Sub-section (5) [Rule 17C] – Specified modes for investing funds of the trust:

(i) Investment in Government Savings Certificates; (Cannot invest in IVP & KVP)

(ii) Deposit in any account with the Post Office Savings Bank;

(iii) Deposit in any account (includes Current A/c) with a scheduled bank or a co-operative society;

(iv) Investment in units of the Unit Trust of India;

(v) Investment in any central government or state government securities;

(vi) Investment in debentures;

(vii) Investment or deposit in any public sector company;

(viii) Bonds issued by a financial corporation engaged in providing long-term funds for the industrial development of India;

(ix) Bonds issued by the public company carrying on the business of providing long-term finance for construction or purchase of houses in India for residential purposes/urban infrastructure in India;

(x) Investment/Deposit in any bonds issued by a public company formed and registered in India with the main object of carrying on the business of providing long-term finance for urban infrastructure in India;

(xi) Immovable property;

(xii) Deposits with Industrial Development Bank of India (IDBI);

(xiii) Any other form or mode of investment or deposit as may be prescribed:

- Units issued under any scheme of the mutual fund referred to in clause (23D) of section 10 of the Act. (Refer to notifications issued from time to time)
- Any transfer of deposits to the Public Account of India.
- Deposits made with an authority constituted in India by or under any law enacted either for the purpose of dealing with and satisfying the need for housing accommodation or for the purpose of planning, development or improvement of cities, towns, and villages, or for both.
- **Investment by way of acquiring equity shares of a depository as defined in clause (e) of sub-section (1) of section 2 of the Depositories Act, 1996 (22 of 1996).**
- Certain securities by a recognized stock exchange;

- Investment by a person authorized under section 4 of Payments and Settlement Systems Act, 2007 in:
    - Equity share capital or bonds or debenture of a company engaged in operations of retail payments system or digital payments settlement or similar activities in India and abroad and approved by RBI;
    - Equity share capital or bonds or debentures of Open Network for Digital Commerce Ltd. incorporated under section 7(2) r.w.s. 8(1) of Companies Act, 2013, for participating in network based open protocol models which enable digital commerce and interoperable digital payments in India;
- Acquiring equity shares of an incubatee by an incubator;
- Shares of National Skill Development Corporation;
- Debt instruments issued by any Infrastructure Finance Company registered with RBI;
- **Stock certificate as defined by Sovereign Gold Bonds Scheme 2015.**

- **Circular No. 619 dated 21.07.2025 issued by the Office of the Charity Commissioner, Maharahstra State under powers conferred by Section 35 read with Section 3 of the Maharashtra Public Trust Act, 1950, is as follows:**
  - **Section 35** of the Maharashtra Public Trusts Act,1950 ('MPTA,1950') requires trustees to deposit surplus trust money in scheduled banks, postal savings banks, cooperative banks approved by the state, or invest it in "public securities" as defined in **section 2(12)** of the MPTA, 1950.
  - The **Second Proviso to Section 35** of MPTA, 1950 allows the Charity Commissioner to permit investment in any other manner by special or general order.
  - After the 2016 amendment to the Indian Trusts Act, trustees are permitted to invest in securities notified by the Central Government **(Notification dated 21st April, 2017)**.
  - However, Trustees of Public Trusts require Charity Commissioner's permission to invest in such securities.
  - Trustees of public trusts in Maharashtra are now permitted, **without seeking separate permission from Charity Commissioner each time**, to invest **up to 50% of Trust money** in securities specified by Central Government (2017 Notification), subject to SEBI/RBI conditions by the issuance of this circular.

- **The Charity Commissioner has permitted trustees to invest up to 50% of Trust money in below specified securities:**

  (a) Government Securities;

  (b) Securities fully/ unconditionally guaranteed by Central/State Government;

  (c) units of debt mutual funds regulated by the SEBI established by section 3 of the SEBI Act, 1992;

  (d) Listed (or proposed to be listed on exchange in case of fresh issue) debt securities of body corporates (including banks & PFIs) with **minimum 3 years residual maturity period from the date of investment**;

  (e) Basel III Tier-I bonds of scheduled commercial banks (listed/proposed to be listed);

  (f) Infrastructure related debt instruments listed or proposed to be listed in case of fresh issue:

    (i) Debt securities of infrastructure/housing companies;

    (ii) Securities of infrastructure debt fund (RBI-regulated Non-banking financial company);

    (iii) Units of infrastructure debt fund (SEBI-regulated Mutual Funds).

  (g) Shares of body corporates listed on any recognized stock exchange which has a market capitalization of **not less than five thousand crore rupees as on the date of investment**;

  (h) Units of mutual funds regulated by SEBI **which have minimum 65% of their investment in shares of body corporates listed on a recognized stock exchanges**;

  (i) Exchange traded funds or index funds regulated by SEBI replicating BSE Sensex, NSE Nifty, or those constructed specifically for disinvestment of shareholding of the Government of India in a body corporate.

Provided that the investment under clauses (d), (e) and (f) shall be made only in such securities which have **minimum AA rating or equivalent in the applicable rating scale from at least two credit rating agencies** registered with the SEBI under the Securities and Exchange Board of India (Credit Rating Agency) Regulations, 1999

Provided further that in case of investment under clause (f)(ii), the ratings shall relate to the NBFC and for that sub-clause, the ratings shall relate to the investment in eligible securities rated above investment grade of the scheme of the fund;

Provided also that **if the securities or entities have been rated by more than two rating agencies, the two lowest of all the ratings shall be considered.**

Sl. No.	Sections 11 to 13	Subject matter (in brief)
(16)	11(6)	- **With effect from AY 2015-16**, If acquisition of an asset has been claimed as application, then, no deduction for depreciation is allowable. - Depreciation shall be permissible on assets not created out of income. Depreciation cannot be claimed if cost of acquisition is Nil. - The depreciation rates provided by the Income tax laws authority are not mandatory. Section 32 will have no application to charitable organization.
(17)	11(7)	Exemptions under section 10 {except for clauses (1), (23C) and **[(46)]***} not to apply to trust or institution registered under section 12AA/12AB.
		***[Words ",clause (23EC), clause (46) or clause (46A)" shall be substituted for "and clause (46)" w.e.f. 01.04.2024 by the Finance Act, 2023]**
(18)	First Proviso to Section 11(7)	If trust or institution registered u/s 12AA/12AB is approved u/s 10(23C) or notified u/s 10(46), the registration u/s 12AA/12AB, would become inoperative from the date of approval u/s 10(23C) or notification u/s **[10(46)]*** i.e., cannot take simultaneous benefit of both the sections.
		****[Words "under clause (23EC) or clause (46) or clause (46A)" shall be substituted for "under clause (46)" w.e.f. 01.04.2024 by Finance Act, 2023]***

Sl. No.	Sections 11 to 13	Subject matter (in brief)
(19)	Explanation to section 11 ***[The said explanation was inserted w.e.f. 01.04.2022 by Finance Act, 2022]***	**Sum payable by a trust or institution to be considered as application of income during the P.Y. in which such sum is actually paid by it, irrespective of the method of accounting regularly employed by it.**
(20)	Proviso to Section 11 ***[The said proviso was inserted w.e.f. 01.04.2022 by Finance Act, 2022]***	If such sum is already claimed as application in any earlier previous year, it will not be allowed as application again in any subsequent P.Y. on payment basis.
(21)	12(1)	Income from voluntary contributions (not being contributions made with specific direction that it shall form part of the corpus) shall be deemed to be income derived from property held under trust for the purposes of section 11. **Membership Fee or Subscription is income from property held under trust and not voluntary contribution.**
(22)	12(2)	Value of services provided to persons referred in section 13(3) (specified persons) shall be deemed to be the income of such trust or institution derived from property held under trust, during the previous year in which such services were provided. Please refer section 13(6) (exception to denial of exemption u/s 11). ***[Explanation: "Value" shall mean value of services provided free of cost or at a concessional Rate.]***

Sl. No.	Sections 11 to 13	Subject matter (in brief)
(23)	12A(1)(ac)	Application to Principal Commissioner or Commissioner for registration of trust/institution and the time limits for making such application.
(24)	12A(1)(b) ***[The said clause (b) was substituted w.e.f. 01.04.2023 by Finance Act, 2022]***	- **Books of accounts and other documents to be kept and maintained** as per Notification No. 94/2022 dated 10 August 2022. - Get its **accounts audited by a Chartered Accountant** and furnish the same at least one month prior to the due date of submission of return u/s. 139(1). Prior to this, the section provided that the audit report should be submitted along with return but there was no time limit by which the audit report had to be obtained.
(25)	12A(1)(ba)	Return of income to be furnished in accordance with section 139(4A) within the time allowed u/s **{139(1) [31 October] or 139(4) [31 December]}***. ****{inserted w.e.f. 01.04.2023 by Finance Act, 2022}*** **This amendment is applicable from AY 2023-24 and thereafter.**
(26)	Proviso to section 12A(2)	The provisions of sec 11 and 12 shall apply, where an application is made under – (a) 12A(1)(ac)(i) – from the A.Y. from which the trust was earlier granted registration; (b) 12A(1)(ac)(iii) – from the first of the A.Y. for which it was provisionally registered.

Sl. No.	Sections 11 to 13	Subject matter (in brief)
(27)	12AB(1)	Procedure for passing an order of registration or rejection once satisfied about the objects and genuineness of the activities and compliance with other requirements provided in law. Also provides for the period of validity of registration.
(28)	12AB(3)	Time limit for passing order granting registration under Sl. No. (27) above.
(29)	12AB(4) ***[substituted w.e.f. 01.04.2022 by Finance Act, 2022]***	Principal Commissioner/Commissioner to call for documents or information in case: (i) he notices specified violations; (ii) on receipt of reference from A.O. ; (iii) selection of case as per risk management strategy of CBDT; and pass an order cancelling or refusing to cancel registration of trust on or before the specified date/time limit. Forward a copy of the Order to AO and trust/institution.

In case of *Commissioner of Income Tax Exemptions v/s M/s International Health Care Education and Research Institute,* the Supreme Court of India through its order dated 11.02.2025 held that **charitable trust's registration under section 12AA (now replaced with section 12AB) for income tax exemption to be decided based on proposed activities and not actual activities.**

Sl. No.	Sections 11 to 13	Subject matter (in brief)
(30)	Explanation to section 12AB(4)	Specified violation means: - income applied for objects other than the objects for which the trust/institution was formed; or - income from activities not incidental to the attainment of the objectives of the trust or separate books of accounts are not maintained for the activities which are incidental to the attainment of objectives of the trust; or - non-genuine activities. Activities not carried out in accordance with the conditions subject to which the trust/institution was registered; or - non-compliance under any other law for time being in force; or - application furnished by the trusts/institutions is not complete or it contains false or incorrect information; or ***[Finance Bill 2023, w.e.f. 01.04.2023]*****.** - applied any part of its income for private religious purposes, which is not for the benefit of public; or - applied any part of its income for the benefit of any particular religious community or caste.
(31)	12AB(5)	Specified date means to pass the order within 6 months from the end of the quarter in which the first notice was issued.

❑ Amendment to Explanation to Section 12AB of the Act vide Finance Bill, 2025

Rationalisation of 'specified violation' for cancellation of registration of trusts or institutions:

- **Section 12AB(4)** of the Income Tax Act, 1961 ('the Act') *inter alia* provides that where registration or provisional registration of a trust or an institution has been granted and subsequently, the Principal Commissioner or Commissioner has noticed occurrence of one or more specified violations during any previous year, the Principal Commissioner or Commissioner shall, pass an order in writing, cancelling the registration of such trust or institution if he is satisfied that one or more specified violations have taken place.
- Explanation to section 12AB(4) provides that "specified violation" *inter alia* means the cases where the application referred to in section 12A(1)(ac) is not complete or it contains false or incorrect information.
- It is noted that even minor default, where the application referred to in section 12A(1)(ac) is not complete, may lead to cancellation of registration of trust or institution, and such trust or institution becomes liable to tax on accreted income as per provisions of Chapter XII-EB of the Act.
- It is, therefore, proposed to **amend the Explanation to Section 12AB(4) so as to provide that the situations where the application for registration of trust or institution is not complete, shall not be treated as specified violation for the purpose of the said sub-section**.

This amendment is effective from the 1st day of April, 2025.

Sl. No.	Sections 11 to 13	Subject matter (in brief)
(32)	13(1)	***The applicability of Section 13 arises only when an organization is eligible for exemption u/s 11 of Act.*** Section 13 has been enacted as an exception to Section 11 and thereby the benefits which are otherwise available u/s. 11 and 12, will not be available under the circumstances stated in Section 13: a) Income applied for private religious purposes and not for the public at large. b) Income of charitable trust/institution applied for the benefit of particular religious community or caste, except trust or institution established for the benefit of Scheduled Castes, Scheduled Tribes, Backward Classes or women and children. In the case of *CIT vs. Indian Society of the Church of Jesus Christ of Latter day Saints (2017) 397 ITR 762* the Delhi High Court held that, the programmes conducted by assessee are open to public at large, the activities of assessee are not considered to be exclusively meant for one particular religious community and hence assessee is entitled to exemption u/s 11. c) Income applied for benefit of specified person referred to in section 13(3). Reasonable remuneration u/s 13(1)(c) read with section 13(2)(c) is allowed. A benefit implies payment of anything which is not legally due to a person. d) Funds invested or deposited otherwise than in any one or more of the forms specified in sec 11(5).

Sl. No.	Sections 11 to 13	Subject matter (in brief)
(33)	13(2)	The circumstances where any part of such income or property shall be deemed to have been used or applied for the benefit of a person referred to in sub-section (3). a) Any part of Income or property of a trust or institution is lent without charging adequate security and/or interest. b) Land / Building / Property of trust or institution is lent without charging adequate rent or other compensation. c) Unreasonable Amount paid by way of salary, allowance for the services rendered. d) Services of the trust made available without adequate remuneration or compensation. e) Share/Security/Property purchased on behalf of the trust or institution from specified persons for consideration which is more than adequate. f) Share/Security/Property sold on behalf of the trust or institution to specified persons for consideration which is less than adequate. g) Income or property diverted to specified persons. h) Funds of the trust or institution continue to remain invested in any concern in which the specified person has a substantial interest.

Sl. No.	Sections 11 to 13	Subject matter (in brief)
(34)	13(3)	**Meaning of specified persons [as referred to in sub-section (1)(c) and sub-section (2) of Section 13]:** a) The author of the trust or the founder of the institution; b) Any person who has made a total contribution of an amount exceeding Rs. 50,000 (substantial contributor) (Amended, see next slide); c) Where such author or founder or substantial contributor is a HUF, a member of HUF; d) Any trustee of the trust or manager (by whatever name called) of the institution; e) Any relative of such author, founder, substantial contributor, member, trustee or manager; f) Any concern in which any of the persons referred to above has a substantial interest.

❑ Amendments to Section 13(3) of the Act vide Finance Bill, 2025

Rationalisation of persons specified under section 13(3) for trusts or institutions:

- **Section 13** of the Act, *inter alia*, provides that section 11 or section 12 shall not apply to exclude any income from the total income of trust of institution, if such income enures, or such income or any property of the trust or the institution is used or applied, directly or indirectly for the benefit of any person referred to in section 13(3), which *inter alia* are as following –
  - any person who has made a substantial contribution to the trust or institution, that is to say, any person whose total contribution up to the end of the relevant previous year exceeds fifty thousand rupees;
  - any relative of any such person as aforesaid;
  - any concern in which any such person as aforesaid has a substantial interest.

- However, there have been difficulties in furnishing certain details of persons other than author, founder, trustees or manager etc. who have made a 'substantial contribution to the trust or institution', that is to say, any person whose total contribution up to the end of the relevant previous year exceeds fifty thousand rupees. These details are about their relatives and the concerns, in which they are substantially interested.

- It is, therefore, **proposed to amend the sub-section (3) of section 13 to provide that,–**

  (i) **persons referred to in clause (b) of section 13(3), shall be any person whose total contribution to the trust or institution, during the relevant previous year exceeds one lakh rupees, or, in aggregate up to the end of the relevant previous year exceeds ten lakh rupees, as the case may be;**

  (ii) **relative of any such person as mentioned in (i) above, shall not be included in persons specified in section 13(3); and**

  (iii) **any concern in which any such person as mentioned in (i) above has a substantial interest, shall not be included in persons specified in section 13(3).**

These amendments are effective from the 1st day of April, 2025.

Sl. No.	Sections 11 to 13	Subject matter (in brief)
(35)	13(4)	Exemption shall not be denied if the investment of the trust or institution, in a concern, in which the specified person has a substantial interest, provided such investment is not more than 5% of the capital of that concern.
(36)	13(6) r.w.s. 12(2)	As per Section 13(1)(c), income of a charitable trust will not be exempt if any part of such income or any property of the trust is used or applied directly or indirectly for the benefit of any person specified in Section 13(3) of the Act. But sub-section (6) provides that, a charitable or religious trust running an educational institution or a medical institution, or a hospital shall not be denied the benefit of exemption u/s 11 or 12, in relation to any income by reason only that, such trust has provided educational or medical facilities to a specified person. The exemption will be lost only to the extent of the value of the services so provided.
(37)	13(7)	Anonymous donation referred to in section 115BBC to be included in total income.
(38)	13(8)	Inclusion of income of trust or institution having object of advancement of any object of general public utility in total income, if it carries on activity in the nature of trade, commerce or business for consideration and the aggregate receipts from such activity exceeds 20% of total receipts.

Sl. No.	Sections 11 to 13	Subject matter (in brief)
(39)	13(9)	Nothing contained in section 11(2) shall operate if: a) Statement referred to in sec 11(2)(a) in Form No. 10, is not filed before the due date as per section 139(1) of the Act. b) The return of income is not filed before the due date for filing the return as prescribed by sec 139(1) of the Act. **<u>It may be noted that Section 13(9) applies only in case of submission of Form No. 10 and does not apply in case of submission of Form No. 9A.</u>**
(40)	13(10) ***[The said sub-section was inserted w.e.f. 01.04.2023 by Finance Act, 2022]***	Where the provisions of Section 13(8) are applicable or the trust/institution violates <u>Section 12A(1)(b) (Audit) or 12A(1)(ba) (non-submission of return within the prescribed time limit)</u>, its income chargeable to tax shall be calculated after allowing expenses (other than capital expenditure) subject to the following conditions: **Such expenditure is not:** a) From the corpus fund; b) From any loan or borrowing; c) Depreciation on the assets, the acquisition cost of which is claimed as application of income in the same or any other previous year; and d) In the form of any contribution or donation to any person.

Sl. No.	Sections 11 to 13	Subject matter (in brief)
(41)	Explanation to Section 13(10)	Disallowances under sections 40(a)(ia) and 40A(3) and (3A) to apply in determining the amount of revenue expenditure deductible. (Addition of 30% of the expenses if TDS not deducted and addition of payments above Rs. 10,000/- made in cash)
(42)	13(11) ***[The said sub-section (11) was inserted w.e.f. 01.04.2023 by Finance Act, 2022]***	For the purposes of computing income chargeable to tax Section 13(10), **no deduction in respect of any expenditure or allowance or set-off of any loss shall be allowed** to the assessee under any other provisions of the Act.

Sl. No.	Sections 11 to 13	Subject matter (in brief)
(43)	Explanation 2 to section 13	A trust/institution established for the benefit of Scheduled castes, backward classes, Scheduled tribes or women and children shall not be deemed to be a trust/institution created for the benefit of a religious community or caste within the meaning of sub-section (1)(c).
(44)	Explanation 3 to section 13	For the purposes of this section, a person shall be deemed to have a substantial interest in a concern: (i) In case of a company, if a person owns shares carrying not less than 20% of the voting power; (ii) In case of any other concern, if a person at any time during the year is entitled to not less than 20% of the profits of such concern.

4. Section 12AB of the Income Tax Act, 1961

The timelines and provisions relating to registration of trusts/institutions have been summarized below *[w.e.f. 01.04.2021]* :

Category	Time limit for furnishing Application	Time limit for passing Order	Order issued by	Validity of registration	Forms
Section 12A(1)(ac)(i): Trust / Institution already registered under section 12A / 12AA before 01.04.2021	1 April 2021 to 31 March 2022. Extended last upto 30/06/2024.	Within 3 months from end of the month in which application is received	CPC	5 years	Appl. Form 10A Approval Form 10AC
Section 12A(1)(ac)(ii): Trust / Institution registered under section 12AB, and the period of the said registration is due to expire	At least 6 months prior to the expiry of said registration period	Within 6 months from end of the month in which the application is received	CIT(E)	5 years	Appl. Form 10AB Approval Form 10AD

Category	Time limit for furnishing Application	Time limit for passing Order	Order issued by	Validity of registration	Forms
Section 12A(1)(ac)(iii): Trust / Institution provisionally registered under section 12AB	At least 6 months before the expiry of period of the provisional registration or within 6 months of commencement of its activities, whichever is earlier. Last extended up to 30/06/2024.	Within 6 months from the end of the month in which the application is received	CIT(E)	5 years	Appl. Form 10AB Approval Form 10AD
Section 12A(1)(ac)(iv): Registration of trust has become inoperative due to approval under section 10(23C)/(46)	At least 6 months before the commencement of the assessment year from which the said registration is sought to be made operative	Within 6 months from the end of the month in which the application is received	CIT(E)	5 years	Appl. Form 10AB Approval Form 10AD
Section 12A(1)(ac)(v): Trust has adopted or undertaken modifications of the objects which do not conform to the conditions of registration	Within 30 days from the date of the said adoption or modification	Within 6 months from the end of the month in which the application is received	CIT(E)	5 years	Appl. Form 10AB Approval Form 10AD

Category	Time limit for furnishing Application	Time limit for passing Order	Order issued by	Validity of registration	Forms
Section 12A(1)(ac)(vi)(A): Trust / Institution where activities have not commenced ***[proposed in Finance Bill, 2023 w.e.f. 01.10.2023]***	At least 1 month prior to the commencement of the PY relevant to the AY from which the said approval is sought	Within 1 month from end of the month in which the application for approval was received	CPC	3 years	Appl. Form 10A Approval Form 10AC
Section 12A(1)(ac)(vi)(B): Trust where activities have commenced and no income or part thereof has been excluded from the total income on account of applicability of Section 10(23C)(iv), (v), (vi), (via) or 11 or 12 for any PY ending on or before the date of such application ***[proposed in Finance Bill, 2023 w.e.f. 01.10.2023]***	At any time after the commencement of activities	6 months from end of the month in which application for approval was received	CIT(E)	5 years	Appl. Form 10AB Approval Form 10AD

In case of *CIT, Ujjain V/s Dawoodi Bahara Jamat (2014)* the Supreme Court of India held that **a trust carrying on its objectives with dual purposes, i.e., charitable and religious purposes would not be denied registration u/s 12AA now replaced with section 12AB.**

❑ Amendment to Section 12A of the Act vide Finance (No. 2) Bill, 2024

Condonation of delay in filing an application for registration under Section 12AB:

- Trusts or institutions seeking registration under section 12AB of the Act are required to apply for registration within the timelines specified in section 12A(1)(ac) of the Act or it may be liable to tax on accreted income (additional exit tax) as per the provisions of Chapter XII-EB of the Act i.e., sections 115TD to 115TF of the Act would be applicable. A situation of permanent exit of trust or institution from the exemption regime may also arise.
- It is proposed that the Principal Commissioner / Commissioner may be enabled to condone the delay in filing application and treat such application as filed within time. The delay may be condoned if he considers that there is a reasonable cause for the same. This means that it is at the discretion of the Principal Commissioner / Commissioner to condone the delay.
- Following proviso is inserted after section 12A(1)(ac)(vi) of the Act:

  <u>"Provided that where the application is filed beyond the time allowed in sub-clauses (i) to (vi), the Principal Commissioner or Commissioner may, if he considers that there is a reasonable cause for delay in filing the application, condone such delay and such application shall be deemed to have been filed within time."</u>

This amendment is effective from 1st October, 2024.

- The key takeaway from this amendment is that organizations can now apply to regularize their old registrations, which expired on 31-03-2021 under clause (i) of Section 12A(1)(ac).

- Even if an organisation failed to apply for fresh registration under Section 12AB when the new registration scheme took effect from 01-04-2021, they can still submit a condonation application.

- If the condonation application is approved and the delay is justified, the organisation can then apply for fresh registration for a period of five years. This provision applies even though multiple circulars have extended the application timeline.

- Further, the condonation application can be filed in cases where there has been a delay in converting provisional registration to regular registration under clause (iii) of Section 12A(1)(ac).

- **Notably, similar condonation provisions have not been proposed for approvals under Section 80G.**

❑ Amendment to section 12AB of the Act vide Finance (No. 2) Bill, 2024

Rationalisation of timelines for disposing applications made by trusts or funds or institutions, seeking registration for exemption under section 12AB:

- Applications seeking registration under section 12AB of the Act, filed by trusts or institutions, are required to be processed by the Principal Commissioner / Commissioner within a period of six months from the **end of month** in which the application was received.

- **Amendment:**

- Where provisionally registered trusts or funds or institutions apply for registration or where registered trusts or funds or institutions apply for further registration under section 12AB the order granting registration/ rejecting application shall be passed before expiry of the period of six months from the **end of the quarter** in which the application was received.

This amendment is effective from 1st October, 2024.

❑ Amendment to Section 12AB of the Act vide Finance Bill, 2025

Period of registration of smaller trusts or institutions:

- **Section 12AB** of the Act provides registration of trust or institution for a period of 5 years or provisional registration (where activities have not commenced at the time of filing application for registration) for a period of 3 years. At the expiry of such registration or provisional registration, or in case of provisional registration, if the activities of the trust or institution have commenced, the trust or institution is required to make application for further registration.
- It has been noted that applying for <u>registration after every 5 years, increases the compliance burden for trusts or institutions, especially for the smaller trusts or institutions</u>.
- To reduce the compliance burden for the smaller trusts or institutions, it is <u>**proposed to increase the period of validity of registration of trust or institution from 5 years to 10 years, in cases where the trust or institution made an application under sub-clause (i) to (v) of section 12A(1)(ac), and the total income of such trust or institution, without giving effect to the provisions of sections 11 and 12, does not exceed Rs. 5 crores during each of the two previous year, preceding to the previous year in which such application is made**</u>.

This amendment is effective from the 1st day of April, 2025.

5. Section 80G of the Income-Tax Act, 1961

- **Deduction in respect of donations to certain funds/institutions**
- **Sub-section (5):** is about donations to trusts/institutions, subject to the below-mentioned conditions:

(i) Whose income is not liable to inclusion in its total income under the provisions of Section 11, 12, 10(23C) or 10(23AA) of the Act.
Provided that where an institution or fund derived any income from business, the institution or fund should satisfy the following conditions:
  (a) The institution or funds maintains separate books of accounts in respect of income derived from business;
  (b) The donations are not used for business; and
  (c) A certificate is issued by the institution or fund to the donor that the above two conditions are met.

(ii) The instrument under which the institution or fund is constituted does not contain any provision for the transfer or application of income for purposes other than charitable purpose.

(iii) The institution or fund is not expressed to be for the benefit of any particular religious community or caste, except an institution or fund established for the benefit of Scheduled Castes, Scheduled Tribes, or of women and children *(Explanation 1)*.

(iv) The institution or fund maintains regular accounts of its receipts and expenditure.

(v) The institution or fund is duly established or registered under the respective acts for e.g. Societies Registration Act 1860, The Maharashtra Public Trust Act 1950, Section 8 of the Companies Act 2013.

(vi) The institution or fund is for the time being approved by the PCIT or CIT.

(viii) Trust / institution prepares such statement or correction statement for such period as may be prescribed and deliver to the prescribed authority within the time specified. *[inserted w.e.f. 01.04.2021 by Taxation and Other Laws (Relaxation and Amendment of Certain Provisions) Act, 2020]*

- As per Rule 18AB of the Rules, statement has to be filed annually in Form No. 10BD beginning from the FY 2021-22 and a certificate to the donor to be provided in Form No. 10BE on or before 31st May immediately following the FY in which the donation is received.

(ix) A certificate of donation in Form No. 10BE be furnished to the donor in the prescribed manner on or before 31st May. *[inserted w.e.f. 01.04.2021 by Finance Act, 2020]*

- **First proviso** provides that application to PCIT or CIT for grant of approval is to be made under this section [similar to Section 12A(1)(ac) of the Act].
- **Second proviso** provides the procedure of registration under this section [similar to Section 12AB of the Act].
- **Third proviso** provides the time limit within which the order must be passed by the PCIT or CIT [similar to Section 12A(1)(ac) of the Act (i.e., 3, 6, 1 month as the case may be)].
- **Fourth proviso** provides the applicability of the registration in the case of existing 12A registered trusts and provisionally registered trusts which are like Section 12A(2) of the Act.

Sub-section (5A)

- Provides that deduction so allowed under this section shall not qualify for deduction under any other provision of this Act for the same or any other AY.

Sub-section (5B)	• Provides that the provisions of this section shall apply only to institutions or funds if expenditure on religious purposes does not exceed 5% of its income.
Sub-section (5D)	• Provides that no deduction shall be allowed in respect of any donation exceeding Rs. 2,000/- unless such amount is paid by modes other than cash *[w.e.f. AY 2018-19]*. There is no bar on trusts/institutions to receive cash donations in excess of Rs. 2,000/-. The trusts/institutions should not issue receipts which are certifying that donations are eligible for exemptions under Section 80G of the Act. However, there is a restriction on the receipt of cash amount of Rs. 2,00,000/- or more by virtue of Section 269ST of the Act *[introduced vide Finance Act 2017]*.

- **Explanations**
- Deduction of donation is allowed only based on information filed by the donee trust/institution. *[inserted by the Finance Act 2020]*

- Charitable purpose does not include religious purpose.
- Association or institution for the promotion of games and sports as notified by the Government shall be deemed to be an institution established for a charitable purpose.
- Section 80G of the Act is not applicable to donations in kind.

➢ Deduction u/s 80G can be claimed only against positive income and taxable income. It can neither be claimed against the losses nor can be carried forward.

➢ Donations out of current year’s income, reserve fund, or the previous year’s income are eligible for deduction.

➢ **Can CSR expenditure be claimed as deduction u/s 80G?**

- The benefit accruing to the assessee under Chapter VIA for computing “Total Taxable Income” cannot be denied to the assessee subject to fulfillment of necessary conditions therein. *[Allegis Services (India) Pvt Ltd (ITAT Bangalore)(2019) Dated 29.04.2020]*

➢ The timelines and provisions relating to approval of trusts/institutions under Section 80G of the Act (Rule 11AA) have been summarized below *[w.e.f. 01.04.2021]* :

Category	Time limit for Application	Time limit for passing the Order	Order issued by	Period of Approval	Exemption available from which year	Forms
Clause (i) of 1st proviso to section 80G(5): Institutions or fund approved before 01.04.2021	1 April 2021 to 31 March 2022 Extended last upto 30/06/2024.	Before expiry of 3 months from the end of the month in which the application is made	CPC	5 years	From the assessment year from which approval was earlier granted to such institution	Appl. Form 10A Approval Form 10AC
Clause (ii) of 1st proviso to section 80G(5): Institution or fund is approved under amended provision and the period of said approval is due to expire	At least 6 months before the expiry of period of approval	Before expiry of 6 months from the end of the month in which the application is made	CIT(E)	5 years	From the assessment year immediately following the financial year in which application is made	Appl. Form 10AB Approval Form 10AD

Category	Time limit for Application	Time limit for passing the Order	Order issued by	Period of Approval	Exemption available from which year	Forms
Clause (iii) of 1st proviso to section 80G(5): Institutions granted provisional approval	At least 6 months before expiry of period of provisional approval or within 6 months of commencement of its activities, which ever is earlier. Extended last upto 30/09/2023.	Before expiry of 6 months from the end of the month in which the application is made	CIT(E)	5 years	From the assessment year immediately following the financial year in which such application is made	Appl. Form 10AB Approval Form 10AD
Clause (iv)(A) of 1st proviso to section 80G(5): Institution where activities have not commenced ***[proposed in Finance Bill, 2023 w.e.f. 01.10.2023]***	At least 1 month prior to the commencement of the PY relevant to the AY from which the said approval is sought	Within 1 month from end of the month in which application for approval was received	CPC	3 years	From the assessment year relevant to the PY in which the application is made	Appl. Form 10A Approval Form 10AC

Category	Time limit for Application	Time limit for passing the Order	Order issued by	Period of Approval	Exemption available from which year	Forms
Clause (iv)(B) of 1st proviso to section 80G(5): Institution where activities have commenced and no income or part thereof has been excluded from the total income on account of applicability of Section 10(23C)(iv), (v), (vi), (via) or 11 or 12 for any PY ending on or before the date of such application ***[proposed in Finance Bill, 2023 w.e.f. 01.10.2023]***	At any time after the commencement of activities	6 months from end of the month in which application for approval was received	CIT(E)	5 years	From the assessment year immediately following the financial year in which application is made	Appl. Form 10AB Approval Form 10AD

❑ Amendment to Section 80G of the Act vide Finance (No. 2) Bill, 2024

Rationalisation of timelines for disposing applications made by trusts or funds or institutions, seeking approval under section 80G:

- Applications seeking approval under section 80G of the Act, filed by trusts or institutions, are required to be processed by the Principal Commissioner / Commissioner within a period of six months from the **end of month** in which the application was received.

- **Amendment:**

- Where provisionally approved trusts or funds or institutions apply for approval or where approved trusts or funds or institutions apply for further approval under section 80G the order granting approval/ rejecting application shall be passed before expiry of the period of six months from the **end of the quarter** in which the application was received.

This amendment is effective from 1st October, 2024.

- **Substituted clause (iii) & (iv) of first proviso to section 80G(5) of the Act w.e.f. 1st October, 2024** as follows:

  "(iii) where the institution or fund has been provisionally approved, at least six months prior to expiry of the period of the provisional approval or within six months of commencement of its activities, whichever is earlier; ***or***
  (iv) ~~in any other case~~, where activities of the institution or fund have—
  (A) not commenced, at least one month prior to the commencement of the previous year relevant to the assessment year from which the said approval is sought;
  (B) commenced ~~and where no income or part thereof of the said institution or fund has been excluded from the total income on account of applicability of sub-clause (iv) or sub-clause (v) or sub-clause (vi) or sub-clause (via) of clause (23C) of section 10 or section 11 or section 12 for any previous year ending on or before the date of such application, at any time after the commencement of such activities"~~

- **Substituted item (B) of clause (ii)(b) of second proviso to section 80G(5)** of the Act **w.e.f. 1st October, 2024** as follows:

  "(b) after satisfying himself about the genuineness of activities under item (A), and the fulfilment of all the conditions under item (B), of sub-clause (a),—
  (A) pass an order in writing granting it approval for a period of five years; or
  (B) if he is not so satisfied, pass an order in writing~~,—~~
  ~~(I) in a case referred to in clause (ii) or clause (iii) of the first proviso,~~ rejecting such application and cancelling its approval; ~~or~~ ***if any***
  ~~(II) in a case referred to in sub-clause (B) of clause (iv) of the first proviso, rejecting such application,~~
  after affording it a reasonable opportunity of being heard;"

These amendments are effective from 1st October, 2024.

6. Section 115TD to 115TF of the Income-Tax Act, 1961

Chapter XII-EB added by Finance Act, 2016

Special Provisions relating to Tax on Accreted Income of Certain Trusts and Institutions

[I] Section 115TD

Provides that, accreted income of the trust to be taxed at MMR in below circumstances:

Sub-section (1)

- Where in any previous year a trust or institution has
  (a) Converted into any form not eligible for registration u/s 12AA / 12AB or approval under Section 10(23C)(iv),(v), (vi), and (via) of the Act.
  (b) Merged with any trust or institution not having similar objects and is not registered under Section 12AA/12AB or approved under Section 10(23C)(iv), (v), (vi), and (via) of the Act.
  (c) On dissolution failed to transfer all its assets to any other specified person within a period of 12 months from the end of the month in which the dissolution takes place.

Sub-section (2)

- Accreted income means **excess of FMV of the total assets less total liability** as on the specified date.

- Rule 17CB provides the mechanism for determining the market value. Corpus fund and other accumulated funds are not included in liability because unlike commercial organization they are in the nature of legal obligation.

[II] Section 115TE (Rate of Interest defined)

➢ Interest payable by the principal officer or trustee of the specified person @ 1% for every month or part thereof on the tax amount for the delay in paying tax as per sub-section (5) of Section 115TD of the Act.

[III] Section 115TF talks about when specified person is deemed to be assessee in default.

Amendments vide Finance (No. 2) Bill, 2024

Merger of trusts under the exemption regime with other trusts:

- When a trust or institution which is approved / registered under the first or second regime (as the case may be) merges with another approved / registered entity under either regime, it may attract the provisions of Chapter XII-EB i.e., section 115TD to 115TF of the Act, relating to tax on accreted income in certain circumstances.
- It is proposed that conditions under which the said merger shall not attract provisions of Chapter XII-EB, may be prescribed, to provide greater clarity and certainty to taxpayers. A **new section 12AC of the Act** is proposed to be inserted for this purpose.

"12AC. Where any trust or institution registered under section 12AB or approved under sub-clause (iv) or sub-clause (v) or sub-clause (vi) or sub-clause (via) of clause (23C) of section 10, as the case may be, merges with another trust or institution, the provisions of Chapter XII-EB shall not apply if—

(a) the other trust or institution has same or similar objects;

(b) the other trust or institution is registered under section 12AA or section 12AB or approved under subclause (iv) or sub-clause (v) or sub-clause (vi) or subclause (via) of clause (23C) of section 10, as the case may be; and

(c) the said merger fulfils such conditions as may be prescribed."

These amendments are effective from the 1st day of April, 2025.

7. Section 115BBC r.w.s. 13(7) of the Income-Tax Act, 1961

[I] Anonymous donations to be taxed in certain cases

Sub-section (1)

- Tax payable will be aggregate of:
  - (i) 30% flat rate of tax on anonymous donation in excess of the higher of the following amounts:
    (a) 5% of the total donations received by the assessee; or
    (b) Rs. 1,00,000.
  - (ii) The amount of income tax with which the assessee would have been chargeable had his total income being reduced by the amount of anonymous donation as calculated above or in other words after reducing the amount taxable at the rate of 30% (MMR).

Sub-section (2)

- Sub-section (1) shall not apply to:
  - (a) Trust or institution created wholly for religious purpose
  - (b) Anonymous Donations to any Trust or institution created for charitable and religious purpose, other than any anonymous donation made with specific direction that such donation is for any university or other educational institution or any hospital or other medical institution run by such trust/institution.

➢ It is not known how a specific direction can come anonymously and how can it be substantiated.

Sub-section (3)

- Anonymous Donations means any voluntary contribution referred to in Section 2(24)(iia), 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.

- Donations received by way of box collections and other anonymous donations, do not form part of the corpus of the trust, but are deemed to be income of the trust.
- The taxability of anonymous donation by virtue of Sec 115BBC shall affect Trust/Institutions/Organizations covered u/s 11,10(23C),(iiiad),(iiiae),(iv),(v),(vi), and (via) [Trusts/institutions falling under sec 10(23C)(iiiab) and (iiiac) not covered]
- Exemptions available u/s 11 are not available to anonymous donations and they are to taxed as per the provisions of Section 115BBC. Therefore, in our opinion the condition relating to application and accumulation will also not apply to such donations. Which also means that, anonymous donations will not be subject to 85% application.
- Anonymous donations once taxed u/s 115BBC will not be subject to double taxation even in case of violation u/s 13. Because anonymous donations have at the very outset been excluded from the purview of section 11 and 12.
- Religious organizations not covered u/s 115BBC will be covered under PMLA 2002.
- **Case Laws:**
- *DCIT vs. All India Pingalwara Charitable Society [2016] ITAT, Amritsar*; *Gurudev Siddha Peeth vs. ITO Ward 1(1) Kalyan [2015], ITAT, Mumbai*, held that **the intent of Section 115BBC was to tax unaccounted money, not small and petty collections through donation boxes.**

- The above judgements are supported by Explanation to Memorandum to Finance Bill 2006, Budget speech of the Finance Minister and CBDT's explanatory Circular No: 5/2010 dated 03.06.2010 regarding Section 115BBC.
- The Delhi high court in the case of *DIT (E) vs. Keshav Social and Charitable Foundation [2005],* **held that anonymity of donors cannot lead to the inference that unaccounted money has been introduced.** Which in other words means provisions of Section 68 to 69D cannot be invoked. Anonymous donation is a valid income available for charitable purposes.
- In the case of *Bhagwan Shree Laxmi Narayan vs. ITO(E) [2014]* the Delhi High Court held that tax authorities had proceeded on a very narrow and incorrect understanding in holding that the assessee trust was engaged in spreading spirituality and is not a religious trust, to qualify for sub-clause (2)(a) & (2)(b) which are exceptions to sub-clause (1).
- In the case of *Hans Raj Smarak Society vs. ADIT (E) [2011], the Delhi Tribunal*, the AO had insisted for confirmation letters from the donors. It was **held that the receiver has to maintain the identity indicating the name and address of the donor and such other particulars as may be prescribed. No other particulars has been prescribed under this provision [115BBC(3)] or elsewhere in the Act or Rules.**

8. Section 115BBI of the Income-Tax Act, 1961

[I] Taxation of specified income at special rate *[inserted w.e.f. 01.04.2023 by Finance Act, 2022]*

- **Sub-section (1) & (2):** It is proposed to tax the specified income at the rate of 30% in the hands of the trust/ institution without allowing any deduction of expenditure / allowance/ set off of any loss.
- **Explanation –** "Specified income" means –
  (a) Income accumulated or set apart in excess of 15% where such accumulation is not allowed under specific provision of Act; or
  (b) Accumulated amount is not invested in the specified mode of investment; or
  (c) Income accumulated and not applied for charitable purposes; or
  (d) Income applied for benefit of specified person; or
  (e) Income applied for charitable purpose outside India [in violation of section 11(1)(c)].
- **The Finance Bill 2022 (Lok Sabha) clarified that Section 115BBI of the Act will have an overriding effect over anything contrary [Section164(2)] contained in the Act.**

9. Section 56(2)(x) of the Income-Tax Act, 1961

- The **Finance Act, 2022, w.e.f. 01.04.2023**, has inserted 2nd proviso to section **56(2)(x)** of the Act, to provide that clauses (VI) and (VII) of the 1st proviso *(deemed income, shall not arise u/s 56(2)(x) if money or property is received from 10(23C) institutions or trusts/institutions registered u/s 12AB of the Act)* shall not apply if any sum of money and or property has been received by any person referred to in section 13(3) of the Act. **The legislature has plugged the loophole wherein the interested person enjoys tax exemption on receiving gifts from the trust.**

10. Section 271AAE of the Income-Tax Act, 1961

- **Penalty for application of income for the benefit of specified persons *[inserted w.e.f. 01.04.2023 by Finance Act, 2022]:***

  Where the income of the trust / institution is applied for the direct or indirect benefit of the specified person as defined in section 13(3),

  (a) A penalty equal to 100% of the amount so applied shall be levied, on the first violation.

  (b) On subsequent violations a penalty equal to 200% of the amount so applied shall be levied.

11. Section 234G of the Income-Tax Act, 1961

[I] Fee for default relating to statement or certificate

- Late fee of Rs. 200 per day for delay in providing the donation details to the prescribed authority in Form No. 10BD and certificate to donor in Form No. 10BE, as prescribed under Section 80G(5)(viii) and (ix) respectively. The amount of fee shall not exceed the amount in respect of which the failure has occurred, and the payment of the late fee must be made before filing the statement of donation.

12. Section 271K of the Income-Tax Act, 1961

[I] Penalty for failure to furnish statements etc.

- Penalty of a Sum not less than Rs. 10,000/- up to Rs. 1,00,000/- on violation of Section 80G(5)(viii) *[donation details to be provided in Form No. 10BD]* or 80G(5)(ix) *[certificate to donor in Form No. 10BE]*.

13. Proviso to Section 143(3) of the Income-Tax Act, 1961

- Where the AO is satisfied that any trust or institution has committed any specified violation as defined in Explanation to Section 12AB(4), he shall:

  (a) Send a reference to the PCIT or CIT to withdraw the registration or approval.

  (b) No order making the assessment of total income or loss of such fund or institution or trust or any university or other educational institution or any hospital or other medical institution shall be made by him without giving effect to the order passed by the PCIT or CIT under clause (ii), and (iii) of the 15th proviso to Section 10(23C) or Section 12AB(4)(ii), and (iii) of the Act.

  In this case time limit to complete the assessment shall be extended accordingly.

  [substituted w.e.f. 01.04.2022 by Finance Act, 2022]

14. Section 164(2) and 164(3) r.w.s. 167B of the Income-Tax Act, 1961

- There is a common misconception that if 12AA/12AB registration is withdrawn or not availed or the income becomes taxable, the trust will be assessed as AOP under Section 167B of the Act at MMR of 30%. However, the taxes should be determined on the basis of Section 164(2) and (3) and not Section 167B of the Act. As per Section 164(2) and (3) of the Act, the trust should be charged at normal rates applicable to individuals. The minimum tax slab exemption which is currently Rs. 3 lakhs is also available.
- Definition of individual is inclusive. Besides being a single living human being, it can include body of individuals. Even though the assessment of income was in the hands of the trust, it has to be made in the same manner and to the same extent as it would have been made in the hands of the beneficiaries. *[DIT(Exempt) V/s Shardaben Bhagubhai Mafatlal Public Charitable Trust [2001]247 ITR1(Bom)]*.
- In the case of *CIT v/s Children's Education Society (2013)358 ITR 373*, the High Court of Karnataka held that the assessment status of a society shall be AJP and not AOP or BOI.
- **As per the Finance Bill 2023, Section 115BAC of the Act (i.e., the new tax regime), shall apply to individuals, HUF, AOP (other than co-operative society), BOI (whether incorporated or not), AJP as referred to in Section 2(31)(vii) of the Act. Till now the tax rates applicable to AOP were those of the individual. However, vide the Finance Bill 2023, AOP's have been specifically included in the new tax regime. This amendment is applicable from AY 2023-24 wherein the new tax regime has been made the default regime for tax payers.**

Section 167B will not be applicable because of the following reasons:

- Section 167B specifically excludes Companies and Societies registered under Societies Registration Act and or any other similar legislation.
- Rates, as prescribed in section 167B, are based upon knowledge and determination of share of individual members. In charitable or religious organizations there is no scope for a share of income or surplus among members concerned. Moreover, the beneficiaries are public at large and not individual private beneficiaries.
- Proviso to Section 164(2) of the Act makes it abundantly clear that a charitable trust can be taxed at MMR only if there is a violation of clause (c) or (d) of Section 13(1) of the Act.
- *Deputy Director of IT(E) Inv., vs. Petroleum Sports Promotion Board [2014] 44 taxmann.com 322 (Delhi)* wherein the Hon'ble Delhi HC had held that if expenditure is not allowed, it may amount to taxing the gross receipts and not the income, which is not permissible under the income tax law.
- *Deputy CIT(Exmp), Bhopal vs. Shri Vaishnav Polytechnic College Govn by VSK Market Tech Educational Society [2020] 122 taxmann.com 287 (Indore Trib.)* wherein it was held that assessee was to be given the benefit of genuine claim of expenditure u/s 57(iii) of the Act.
- *M/s KMR Educational Society vs. ACIT Central Circle Hyderabad (ITA 1146/Hyd/2011)* whereby it was decided that the income must be computed in a commercial manner even in the case where exemption is denied. The capital receipts cannot be taken as income of the assessee. Moreover, the revenue expenditure has to be reduced against revenue receipts to arrive at the excess / deficit of income over expenditure.
- Refer Circular No. 308, dated 29.06.1981 along with Circular No. 320, dated 11.01.1982.

15. ITR 7 vis-a-vis ITR 5

Up till now the Assessee's were advised to file ITR 7 whether or not the trust/institution was registered under Section 12AA/12AB or approved under Section 10(23C)(iv), (v), (vi), & (via) of the Act.

However, now as per Section 139(4A) and (4C) of the Act, only trusts/institutions registered under Section 12AA/ 12AB or approved under Section 10(23C)(iv), (v), (vi), and (via) of the Act can file ITR 7.

All other trusts/institutions apart from point no. 2 above, to file ITR 5.

16. Recent CBDT Circulars and Notifications

[I] CBDT Circulars

1. Condonation of delay in filing Form No. 9A/10/10B/10BB

CBDT Circular	Particulars
Circular No. 16/2024 dated 18 November, 2024	➢ CBDT vide Circular No. 16/2024 dated 18 November, 2024 authorized **Pr. Commissioners of Income Tax ('Pr. CsIT')/Commissioners of Income Tax ('CsIT') to condone delays of up to 365 days in filing Form No. 9A/10/10B/10BB for AY 2018-19 and subsequent years**. ➢ **Delays exceeding 365 days will be handled by the Pr. Chief Commissioners of Income Tax ('Pr. CCsIT')/Chief Commissioners of Income Tax ('CCsIT')/Director Generals of Income Tax ('DGsIT').** ➢ The Pr. CCsIT/CCsIT/Pr. CsIT/CsIT shall satisfy themselves that the applicant was prevented by reasonable cause from filing such Forms within the stipulated time and decide on merits. ➢ **The application for condonation of delay shall not be entertained beyond three years from the end of the assessment year for which such application is made.** The condonation application should be disposed of within six months from the end of the month in which the Competent Authority receives such application.

2. Clarification regarding Inter-Charity Donations with respect to the Amendment in the Finance Act, 2023

CBDT Circular	Particulars
Circular No. 3/2024 dated 6 March, 2024	➢ CBDT vide Circular No. 3/2024 dated 6 March, 2024 clarifies provisions relating to donations made by a trust/institution to another trust/institution for the purposes of application of income with illustrative example. ➢ The circular highlights that when a trust or institution donates to another trust/institution, 85% of the donation amount will be considered as application for charitable or religious purposes. **It is clarified that 15% of such donations by the donor trust/institution shall not be required to be invested in the specified modes u/s 11(5) of the Act** as the entire amount has been donated to the other trust/institution and is accordingly eligible for exemption under section 10(23C) or section 12AA or 12AB of the Act.

[II] CBDT Notifications

1. Revised Audit Report in Form No. 10B and Form No. 10BB

Notification No. 7/2023 dated 21 February 2023 / Income-tax (3rd Amendment) Rules, 2023

Amended Rule 16CC and Rule 17B of the Income-tax Rules, 1962 notifying the revised Form No. 10B & Form No. 10BB.

Audit report is required to be furnished in **Form No. 10B** by trusts/institutions where –

- **total income** of the trust or institution, **without giving effect to the provisions of Sections 10(23C)(iv), (v), (vi), (via) or 11 and 12** of the Act, **exceeds Rs. 5 crores** during the previous year; or
- such trust or institution has **received any foreign contribution** during the previous year; or
- such trust or institution has **applied any part of its income outside India** during the previous year.

Audit report is required to be furnished in **Form No. 10BB** by the trusts/institutions in other cases i.e., where the **total income** of the trust/institution, **without giving effect to the provisions of Sections 10(23C)(iv), (v), (vi), (via) or 11 & 12** of the Act, **exceeds the maximum amount not chargeable to tax but less than Rs. 5 crores** during the previous year.

- This Notification shall come into force from 01.04.2023.
- CBDT vide Circular No. 6/2023 dated 24.05.2023, clarified that for the purposes of Form No. 10B & 10BB electronic modes referred to in para 18 are in addition to account payee cheque drawn on a bank or an account payee draft or use of electronic clearing system through a bank account.

2. Books of accounts and other documents

Notification No. 94/2022 dated 10 August 2022 / Income-tax (24th Amendment) Rules, 2022

Vide the Finance Bill 2022, clause (a) to the 10th proviso in section 10(23C) of the Act and section 12A(1)(b)(i) was added, which read as follows:

- *"the books of account and other documents have been kept and maintained in such form and manner and at such place, as may be prescribed."*

Vide the above notification the CBDT has inserted **rule 17AA** which specifies, **"Books of accounts and other documents to be** maintained". This rule is effective from the date of publication in the Official Gazette.

Vide the aforesaid rule all charitable trusts, institutions, universities, and other educational trusts, hospitals and other medical institutions are required to keep and maintain -

- Books of accounts;
- Original bills of payments;
- PAN, Aadhar Card, and addresses of voluntary donors and trustees, along with details of loans taken and investment made by them;
- Records of projects undertaken;
- Voluntary contributions received;
- Income from assets and investments;

- Purchases made by the trust;
- Donations received from overseas;
- Application of income outside India containing details of the amount of application, name, and address of the person to whom any credit or payment is made and the object for which such application is made;
- Record of properties held by the assessee –
  a) In case of immovable properties, details such as nature, address of the properties, cost of acquisition of the asset, registration documents of the asset, transfer of such properties, and the net consideration utilized in acquiring the new capital asset;
  b) In case of movable properties, details of the nature and cost of acquisition of the asset.

➢ All the above books and or documents are required to be maintained for a **period of 10 years from the end of the relevant assessment year**.

➢ The records may be kept in **written form or in electronic form or in digital form or as printouts** of data stored in electronic or digital or any other form of electromagnetic data storage device.

➢ Further, the records shall be kept and maintained at its **registered office**, however, it may be kept at such other place as the management may decide by way of a resolution and the same shall be intimated to the jurisdictional AO within 7 days giving in writing full address of that other place and signed by the person who is authorized to verify the return of income.

3. Form No. 10

Notification No. 96/2022 dated 17 August 2022 / Income-tax (25th Amendment) Rules, 2022

Vide the above notification, CBDT has amended rule 17(2) of the Income-tax Rules, 1962. Rule 17(2) talks about the submission of Form No. 10 to intimate accumulation under section 11(2) of the Act.

- This amendment is effective from 1 April 2023 relevant to the FY 2022-23.
- The reason to amend the rule and the corresponding Form No. 10 is the introduction of Explanation 3 to the third proviso of section 10(23C) of the Act. Vide Explanation 3, institutions registered u/s 10(23C) can also avail the accumulation of income over and above 15% of the income for a period of not more than 5 years.
- Therefore, in the new form a column by the name "*Section under which statement is being furnished*" is added. Also, more details have been asked in the last column, with regards to "*Starting previous year*" and "*Period in years*".
- In the second table of Form No. 10 the words "*…..Explanation 4 to the third proviso to clause (23C) of section 10….*" is added.

The details of the amount, the purpose and period of the proposed accumulation or setting apart is as under:-

Sr. No.	*Section under which statement is being furnished* < Refer Note @>	*Purpose for which amount is being accumulated or set apart*	*Amount of accumulation (In Rs)*	*Period of accumulation/setting apart*		
				Starting previous year yyyy-yyyyy	*Ending previous year* yyyy-yyyyy	*Period in years*
1						

Year of accumulation	*Date of filing Form 10*	*Amount accumulated*	*Period for which accumulated/set apart*	*Amount applied upto the end of the previous year*	*Amount remaining for application*	*Amount deemed to be income within the meaning of the Explanation 4 to the third proviso to clause (23C) of section 10/ sub-section (3) of section 11*

Madras High Court: FCRA Ruling

Clarifying "Religious Activity" vs. Civilisational knowledge

Arsha Vidya Parampara Trust v. Union of India & Anr., WP(MD) No. 29610 of 2025 (Madras HC - Madurai Bench, Decided on 19.12.2025)

- The Bhagavad Gita (moral philosophy), Vedanta (philosophical system), and Yoga (scientific discipline) are educational and cultural systems— not religious preaching
- NGOs teaching these subjects are legally entitled to receive foreign funding. The Court ruled that such funding cannot be restricted under the Foreign Contribution Regulation Act.
- India's philosophical traditions are part of national culture, predating modern religions. The State must not misclassify these knowledge systems as "religion" to suppress them.

CBDT Circular No. 06/2026: Key Highlights

Subject: Condonation of delay for filing Form No. 10AB (Section 80G Approval).

- **The Concern:** Entities whose 80G approval expired on 31.03.2026 missed the statutory deadline of 30.09.2025 to file Form No. 10AB due to bona fide reasons resulting in genuine hardship.
- **The Relief:** The CBDT has officially condoned this delay for applications filed electronically between 01.10.2025 and 31.03.2026
- **Previously Rejected Cases:** If an application filed within the above window was already rejected *solely* because it was late, the delay is now deemed condoned.
- **Processing Deadline:** Jurisdictional Commissioners (PCIT/CIT) must evaluate these applications on their merits and pass a final order on or before 31.12.2026
- **No Automatic Approval:** The circular clarifies that excusing the delay does not guarantee automatic 80G approval; applications will still be assessed strictly on their merits

17. Income Tax Act, 1961 vs Income Tax Act, 2025

The provisions relating to charitable trusts/ institutions under the Income-tax Act, 1961 were scattered across multiple sections, leading to complexity. The Income-tax Act, 2025 consolidates these provisions (Secs. 332–355) applicable to Registered NPOs into a dedicated framework, streamlining compliance while retaining the core principles of exemption.

Sr. No.	ITA, 1961 Section	ITA, 2025 Section	Provision
1	Sec. 2(15)	Sec. 2(23)	Definition of charitable purpose (Proviso shifted to Sec. 346)
2	Sec. 12A / 12AB	Sec. 332	Registration of NPOs; Renewal every 5 years (general) / 10 years for small NPOs
3	Sec. 11(7)	Sec. 333	Switching between exemption regimes
4	Sec. 11 (scattered)	Sec. 334–336	Tax on income of NPOs – Regular Income & Residual Income concept introduced; 85% of application requirement retained
5	Sec. 115BBC, 115BBI, 11(3), 11(4), 13(1)(c)(d)	Sec. 337	Specified income (anonymous donations, related party benefits, violations, etc.)
6	Sec. 11(1)(c)/(d)	Sec. 338–340	Exclusions from regular income; Corpus Donations; New connotation given: Deemed Corpus Donations
7	Sec. 11	Sec. 341	Application of income; allowable & not-allowable, deemed application, capital gains

Sr. No.	ITA, 1961 Section	ITA, 2025 Section	Provision
8	Sec. 11(2)	Sec. 342	Accumulation up to 5 years
9	-	Sec. 343	New connotation: Deemed accumulated income
10	Sec. 11(4), 11(4A), Proviso to 2(15)	Sec. 344–346	Commercial activities – only if incidental to objects; for GPU NPOs capped at 20% of receipts
11	Sec. 12A(1)(b)(i)	Sec. 347	Books of account
12	Sec. 12A(1)(b)(ii)	Sec. 348	Audit
13	Sec. 139	Sec. 349	Return filing
14	Sec. 11(5)	Sec. 350	Permitted investment modes (moved to Schedule XVI)
15	Sec. 12AB(4)/(5)	Sec. 351	Specified violations leading to cancellation of registration
16	Sec. 115TD, 115TE, 115TF	Sec. 352	Tax on accreted income
17	Sec. 13(10)	Sec. 353	Other violations (no books, audit, ITR, GPU breach)
18	Sec. 80G	Sec. 354	Donor deduction approval
19	Various scattered [2(15), 10(23C), 12AB, 115BBC]	Sec. 355	Interpretation & definitions consolidated (cancellation includes withdrawal, residual income, specified person/ provision)

The comparison highlights statutory changes; however, practical implications will depend on CBDT notifications, rules, and judicial interpretation.

18. Section 332(3) of Income Tax Act, 2025

Every application in respect of the cases specified in column B of the Table below shall be made to the Principal Commissioner or Commissioner within the time provided in column C of the said Table, who shall, on receipt of such application, follow the procedure provided in this section and shall pass an order within the time specified in column D of the said Table, and registration, if granted, shall be valid for a period specified in column E thereof

Sl. No.	Case	Time limit for furnishing application	Time limit for passing order	Validity of registration
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

18. Section 332(3) of Income Tax Act, 2025 (continued..)

Sl. No.	Case	Time limit for furnishing application	Time limit for passing order	Validity of registration
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

18. Section 332(3) of Income Tax Act, 2025 (continued..)

Sl. No.	Case	Time limit for furnishing application	Time limit for passing order	Validity of registration
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

19. Section 354(2) of Income Tax Act, 2025

The application under sub-section (1) shall be made in respect of the cases referred to in column B of the Table below within the time limit provided in column C of the said Table and the Principal Commissioner or Commissioner, on receipt of such application, shall follow the procedure provided in sub-sections (3) and (4), and shall pass an order in writing within the time limit provided in column D and approval, if granted, shall be valid for a period provided in column E of the said Table

Sl. No.	Case	Time limit for furnishing application	Time limit for passing order	Validity of approval
1	Where the activities of the applicant have not commenced	At any time during the tax year from which approval is sought	One months 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	At any time during the tax year from which approval 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 provisional approval 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

19. Section 354(2) of Income Tax Act, 2025 (continued..)

Sl. No.	Case	Time limit for furnishing application	Time limit for passing order	Validity of registration
4	Where the provisional approval of the applicant is due to expire and activities have not commenced	At least six months prior to the expiry of the provisional approval	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 period for approval of a registered non-profit organisation is due to expire	At least six months prior to the expiry of the said approval	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

20. Forms applicable (Income Tax Act 1961 vs Income Tax Act 2025)

Sl. No.	Form no. as per Income Tax Act 1961	Form no. as per Income Tax Act 2025	Purpose of the form
1	Form 10A	Form 104	Application for provisional registration/approval for new or newly established NGOs prior to commencing activities.
2	Form 10AB	Form 105	Application for regular registration, renewal of existing 5-year registration, or conversion from provisional to regular registration.
3	Form 10AC	Form 106	Order issued by the Principal Commissioner / Commissioner granting or rejecting provisional registration/approval.
4	Form 10AD	Form 107	Order issued by the tax authority granting/refusing regular registration, renewal, or cancelling the registration of an NGO.
5	Form 9A	Form 108	Application expressing option to treat unapplied income as deemed application of income (to be applied in the subsequent year).
6	Form 10	Form 109	Statement of accumulation of income set aside for specific charitable objects (for a period up to 5 years).

20. Forms applicable (Income Tax Act 1961 vs Income Tax Act 2025) (continued..)

Sl. No.	Form no. as per Income Tax Act 1961	Form no. as per Income Tax Act 2025	Purpose of the form
7	NA	Form 110	Application under section 342(5) for change of purpose for which income has been accumulated or set apart.
8	NA	Form 111	The Assessing Officer may, on an application received under sub-rule (1) and subject to the provisions of section 342(2), allow the registered non-profit organisation to apply its income for such other charitable or religious purposes in India which are in conformity with its objects
9	Form 10B / Form 10BB	Form 112	Audit Report required to be furnished by a accountant/auditor for NGOs seeking exemption under Chapter XVII-B.
10	Form 10BD	Form 113	Annual Statement of Donations received, required to be filed electronically by the NGO for donor matching.
11	Form 10BE	Form 114	Certificate of Donation issued by the NGO directly to donors as proof of contribution.

21. Tabular Mapping of Section 11 to 13 of Income Tax 1961 vis-à-vis Income Tax Act 2025

Attached below is the pdf file to access the tabular mapping:

PDF Document

THANK YOU

- Scan the code
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