What Commercial Activities Are Permitted for a Registered Non-profit Organisation (RNPO) under the Income Tax Act, 2025

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(Sections 344–346, Income Tax Act, 2025 — Part B of Chapter XVII: Special Provisions for Registered Non-Profit Organisations)

> **Note:** As part of the transition to the Income Tax Act, 2025, the concepts of "previous year" and "assessment year" have been replaced with a single concept of a "tax year". Throughout the series, "tax year" refers to the financial year beginning on 1 April and ending on 31 March.

Introduction

This is the fourth issue in a seven-part series explaining how the Income Tax Act, 2025 ("the Act") taxes Registered Non-Profit Organisations (RNPOs).

In the previous issue, *Application of Income of RNPO — What Expenditure Qualifies as Application of Income Towards RNPO's Charitable/Religious Purposes*, we discussed the three routes by which an RNPO satisfies its 85% application requirement: direct application under Section 341, formal accumulation under Section 342, and the automatic 15% deemed accumulation under Section 343.

This issue examines how the Income Tax Act, 2025 treats commercial activities undertaken by RNPOs. The Act first recognises that an RNPO may itself own a business undertaking as part of its property (Section 344). It then lays down the conditions under which income from such business activities can continue to qualify for exemption (Section 345). Finally, where the RNPO is established for the advancement of any other object of general public utility, the Act prescribes additional restrictions on commercial activities (Section 346).

The three provisions should be read together. Section 344 explains what constitutes a business undertaking held by an RNPO and how its income is determined. Sections 345 and 346 then prescribe the conditions under which the income from such business activities continues to qualify for exemption.

Business Undertaking Held as Property (Section 344)

Section 344 recognises that an RNPO may hold a business undertaking as part of its property and explains how its income is computed. Whether the income from that business undertaking ultimately qualifies for exemption depends on the conditions prescribed under Sections 345 and 346, discussed below.

The term "property held by an RNPO" includes business undertakings and assets such as land, buildings, or investments. Where an RNPO claims that the income from a business undertaking qualifies for exemption, the Assessing Officer (AO) may independently determine the income of the undertaking. The computation must be made in accordance with the provisions of the Income Tax Act, 2025, in the same manner as for any other business entity. If the income determined by the AO is higher than the income reflected in the undertaking's books of account, the excess amount is deemed not to have been applied towards the RNPO's charitable or religious purposes. Consequently, this excess is treated as specified income under Section 337 of the Act and taxed at 30% (covered in the earlier issue).

Note: The term "business undertaking" has not been defined in the Act per se. However, as per the rulings of the Supreme Court, its meaning has been built through a set of consistent tests carried forward from the corresponding provision of the Income Tax Act, 1961:

- **Ownership, not mere involvement:** For a business to qualify as a business undertaking **held** by an RNPO, it must be **owned by the RNPO** and form part of its property or assets. Mere participation in the management of a business or receipt of its profits is not sufficient. For example, an RNPO does not "hold" a business simply because it receives a share of its profits or assists in its management if the business itself is owned by another person. The requirement of Section 344 is satisfied only where the **business undertaking itself forms part of the RNPO's property**.
- **Mere common ownership does not, by itself, trigger "held" status:** Overlapping trustees, directors, or promoters between the RNPO and a separate business entity does not make that entity's business the RNPO's property. If a business is run through a separately incorporated entity with common promoters or directors, the relevant compliance question shifts — from whether it is "property held" under Section 344, to whether that entity is a "related person" under Section 355 (covered in the later issue), triggering the stricter related-person taxation rules under Section 337.
- **How the business came to be held:** The crucial question is whether the business undertaking itself has become the property of the RNPO. This may happen where the business is settled upon the RNPO or is subsequently acquired and vested in the RNPO. However, if the trustees merely carry on a business on behalf of the RNPO without the business undertaking itself becoming trust property, the business is not automatically regarded as one held by the RNPO.

Illustration 1

Context: An RNPO operating an educational institution also owns and runs a printing press as part of its property, treating it as a business undertaking held under the RNPO. For Tax Year 2027, the RNPO's own accounts show income of ₹12 lakh from the printing press, which it includes as regular income and claims is eligible for the benefits available under this Part.

Step 1: On assessment, the AO examines the printing press's accounts and, applying the Act's normal assessment provisions, determines the undertaking's actual income for the year to be ₹18 lakh, higher than the ₹12 lakh shown in the RNPO's own books.

Step 2: The excess determined by the AO = ₹18 lakh − ₹12 lakh = ₹6 lakh. As per the provisions, this ₹6 lakh is deemed to have been applied to purposes other than the RNPO's registered charitable or religious purpose.

Result: Only the ₹12 lakh shown in the printing press's own accounts is treated as regular income eligible for the RNPO's 85% application computation. The ₹6 lakh excess determined by the AO is treated as specified income under Section 337 and taxed at a flat 30% for tax year 2027, the year to which the income relates, regardless of how the RNPO may have intended to apply it.

Note: Repeated cases of the AO assessing specified income (other than those arising from a bona fide difference in computation) under Section 337 may lead to a questioning of the charitable status of the RNPO.

Restriction on Commercial Activities by a Registered Non-Profit Organisation (Section 345)

The thumb rule is that an RNPO *(other than an RNPO carrying out advancement of any other object of public utility)* may carry out commercial activity only if the following two conditions are fulfilled:

1. **Such commercial activity is *incidental* to the attainment of the objectives of the RNPO;** and
2. **Separate books of account are maintained for such activities.**

Separate books of account require the income and expenses of the business activity to be recorded clearly and separately from the RNPO's other accounts. This means that anyone reviewing the accounts should be able to identify what the business earned and spent on its own, without those amounts being mixed with the RNPO's other funds.

What Does "Incidental" Mean?

A business activity is "incidental" to an RNPO's objectives if the money it earns is genuinely used to fund those objectives, even if the activity itself has nothing to do with what the RNPO actually does on the ground.

The Supreme Court explained this principle in *CIT vs. Thanthi Trust* (2001). The trust owned and operated a Tamil-language newspaper, while its charitable objectives were to promote education by running schools, hostels, and scholarship programmes. Although newspaper publishing was not, in itself, an educational activity, the Court held that the business was incidental to the trust's educational objectives because its surplus was legally required to be applied towards those charitable purposes.

The Court emphasised that the test is not whether the business activity itself is charitable, but whether it is carried on to support and finance the RNPO's charitable objectives.

Restriction on Commercial Activities by RNPOs Carrying Out Advancement of Any Other Object of General Public Utility (Section 346)

An RNPO carrying out *advancement of any other object of general public utility* may carry out any commercial activity only if the following three conditions are fulfilled:

1. Such commercial activity is undertaken in the course of actual carrying out of advancement of any object of the general public utility;
2. The aggregate receipts from such commercial activity or activities do not exceed 20% of the total receipts of such RNPO of the relevant tax year; and
3. Separate books of account are maintained by such RNPOs for such activities.

Note: Sections 345 and 346 both deal with business or commercial activities carried on by RNPOs. However, they apply to different categories of RNPOs. Under the Income Tax Act, an RNPO may be established for charitable purposes, religious purposes, or both. Among charitable purposes, the Act recognises the following seven categories:

- **Relief of the poor:** Helping needy, poor, or disadvantaged people.
- **Education:** Running schools, colleges, or training programs.
- **Yoga:** Teaching and promoting yoga practices.
- **Medical relief:** Providing healthcare, hospitals, or medical aid.

- **Preservation of the environment:** Protecting forests, wildlife, and watersheds.
- **Preservation of monuments:** Saving places or objects of historic or artistic interest.
- **General public utility**

Section 345 lays down the general rule for RNPOs carrying out charitable or religious activities. It permits an RNPO to carry on a business undertaking, provided the business is incidental to the attainment of its objectives and separate books of account are maintained.

Section 346 is a special provision that applies only to RNPOs whose charitable purpose is the advancement of any other object of general public utility. Since organisations in this category are more likely to undertake activities that resemble commercial businesses, the Act imposes an additional safeguard. Besides maintaining separate books of account, the receipts from such commercial activities must not exceed 20% of the RNPO's total receipts during the tax year.

In other words, Section 345 provides the general framework for business activities carried on by RNPOs, while Section 346 prescribes stricter conditions for RNPOs pursuing the charitable purpose of general public utility.

Identifying a General Public Utility (GPU) Object

The Income Tax Act, 2025 does not define the expression "general public utility." Over the years, the courts have evolved the following guiding principles to determine whether an RNPO falls within this category.

The Primary Charitable Purpose of the RNPO is What Matters

Whether an RNPO is regarded as pursuing a GPU object depends on its primary charitable purpose. The focus is on the purpose for which the RNPO was established, rather than on individual activities that it may undertake in carrying out that purpose.

Illustration: A university may publish journals, organise seminars, and conduct teacher training programmes. These activities do not change its primary charitable purpose, which remains education. Similarly, an RNPO should be classified based on its primary charitable purpose, rather than on every activity it undertakes.

The Object Must Benefit the Public

The object must promote the welfare of the general public or a sufficiently identifiable section of the public, rather than serving individual interests.

GPU is a Residuary Category

"Object of general public utility" indicates that this category is intended to cover charitable purposes that do not fall within the other six recognised charitable purposes. This understanding flows from the statutory language and has been recognised by the Supreme Court while interpreting the scope of GPU.

Judicial Support: *Addl. CIT vs. Surat Art Silk Cloth Manufacturers' Association* (1980).

Applying the Judicial Principles — Illustrative Examples

RNPO's Dominant Object	Likely Classification
Running schools	Education
Running hospitals	Medical relief
Scholarships for disadvantaged students	Education
Relief and rehabilitation of disaster victims	Relief of the poor
Preservation of forests and wildlife	Preservation of environment
Promotion of trade and industry	General Public Utility
Professional regulation (e.g. ICAI)	General Public Utility

Note: The table only illustrates the likely classification of an RNPO's dominant object under the recognised charitable purposes. Whether the RNPO qualifies for exemption depends on compliance with the other applicable provisions of the Act, including Sections 345 and 346.

Conclusion

Commercial activities do not automatically deprive an RNPO of the tax benefits available under the Income Tax Act, 2025. However, the Act subjects such activities to specific conditions.

An RNPO may hold a business undertaking as part of its property, but the income from that business qualifies for exemption only where the statutory conditions are satisfied. For RNPOs carrying out charitable or religious purposes, the business activity must be incidental to the attainment of their objectives and separate books of account must be maintained.

RNPOs established for the advancement of any other object of general public utility are subject to an additional restriction: receipts from commercial activities must not exceed 20% of their total receipts. These provisions seek to ensure that commercial activities remain a means of supporting charitable purposes, rather than becoming an end in themselves.

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