

Overview of Regulatory Framework and Statutory Laws for NPOs: Part 1

Income Tax and TDS

Definition of Charitable Purpose (Sec 2(15))

- Includes relief of the poor, education, yoga, medical relief, environment preservation, monuments, etc.
- Does not include activities in nature of business/trade unless:
 - Done in course of charitable work
 - Receipts do not exceed 20% of total receipts

Registration under Income Tax Act

New Regime (From 1.4.2021)

- Sec 12AB replaces 12AA
- Valid for 5 years, then renewal
- Types:
 - Re-registration under 10(23C)/12A/80G
 - Provisional registration
 - Statement and receipt of donations (80G)

Section 80G – Donations

Form 10BD

- File by 31st May for each FY
- Capture donor details incl. PAN/Aadhaar or ID proof
- Proportionate split allowed

Form 10BE

- Issue after filing 10BD
- Download from portal; only 10BE valid for claiming benefit

Income Exemptions (Sec 11)

Sec 11(1)

- Income from property held for charitable purposes not taxable if:
 - Applied in India for such purpose
 - Up to 15% can be set aside

Deemed Application (Form 9A)

- For income not received/applied within year
- To be used in following year

Accumulation (Form 10)

- Income not applied can be set apart for up to 5 years
- Must be declared and invested in specified modes
- Cannot transfer to non-12A entity

Sec 11(4) & 11(4A)

- Business income exempt only if:
 - Incidental to charitable objective
 - Separate books maintained

Section 11(5) – Modes of Investment

- Savings certificates, Post Office, Scheduled Banks

- Public sector bonds, UTI units, Government securities
- Property, Housing finance bonds, Infrastructure bonds, etc.

Disallowances

Cash Payments (Sec 40A(3))

- No deduction if > Rs. 10,000 paid in cash
- Applies to staff reimbursements too

Non-Deduction of TDS (Sec 40(a)(ia))

- 30% of expense disallowed if TDS not deducted

Sections 12A and 13

Sec 12A

- Conditions to avail Sec 11 & 12 exemptions

Sec 13(1)

- Exemptions not available if:
 - Trust benefits a particular religious community/caste
 - Trust benefits specified persons (Sec 13(3))

Sec 13(3) - Specified Persons

- Author/founder, major donor, trustee, manager, relatives, entities with substantial interest

Sec 13(2) - Deemed Benefit to Specified Persons

- Includes:
 - Lending without interest/security
 - Providing property/services without compensation
 - Overpayment of salary
 - Below-value sales or above-value purchases

Filing Process

- File Form 9A / Form 10 first
- Followed by Form 10B / 10BB (Audit Report)
- Then ITR-7 (Return)

Objectives of TDS

- Regular inflow to government
- Prevent tax evasion
- Widen tax base

Important TDS Sections

- 192 – Salary
- 194C – Contract payments
- 194J – Professional/technical fees
- 194I – Rent

Section 192 – TDS on Salary

- Based on slab rates
- ₹50,000 standard deduction
- Tax rebate ₹12,500 if income up to ₹5 lakh

New Tax Regime

- Optional from FY 2020–21
- No exemptions like 80C, HRA, etc.

Section 194C – Contractors

- 1% for individual/HUF, 2% for others
- Limits:

- ₹30,000 single invoice
- ₹1,00,000 aggregate per FY

Includes:

- Ads, catering, manpower supply, transport, manufacturing, etc.

Section 194J – Professional Services

- Exemption limit: ₹30,000
- Includes legal, medical, accountancy, consultancy, etc.

Section 194I – Rent

- Exemption limit: ₹2,40,000 per FY

Section 269ST – Cash Receipt Limit

- Max ₹2 lakh from a person per day/transaction/event
- Penalty equals amount received

Other IT Act Provisions

Sec 115BBC – Anonymous Donation

- Tax @ 30% plus cess if details missing

Sec 115TD – Exit Tax

- Triggered if:
 - Registration cancelled
 - Merger with non-eligible entity
 - Assets not transferred to eligible entity on dissolution

Sec 194Q - TDS on Goods Purchase (from 1 July 2021) Sec 194R - TDS on Perquisites (from 1 July 2022)

- Deduct 10% if value > ₹20k
- Depends on invoice name

Lower Tax Deduction Certificate (Sec 197)

- Apply to AO for reduced/no TDS

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