Income Tax for NGOs (Part I)

FAQ: Income Tax for Charitable Institutions

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Q1. What are the types of entities that can be registered for undertaking charitable purposes?

For charitable purpose, the following entities can be constituted:

- Society
- Trust
- Not-for-Profit Company

While the aforementioned entities have separate incorporation laws, the Income Tax law applies uniformly for all.

Q2. Are NGOs and other charitable and non-profit organisations entitled to claim tax exemption under income tax law in India? Are donors who contribute to such organizations also entitled to any tax deduction?

Yes, a tax exemption can be claimed, subject to fulfilment of a set of specified conditions. Donors who contribute to such organisations can also claim tax deduction to the extent of a specified proportion of their contribution (50 per cent in most cases).

Q3. What is the justification for such exemption?

NGOs and other voluntary/non-profit organisations supplement governmental efforts in promoting economic and social development and thus serve as partners in the advancement of welfare activities. Genuine voluntary organizations have the advantage of local presence, possess local knowledge, and also bring in additional resources which help meet social and economic goals of the government. The revenue foregone by way of tax exemption is therefore employed effectively for achieving the nation's developmental goals.

Q4. Who are the authorities responsible for granting such an exemption?

For each type of exemption, the Income Tax law specifies the authority competent to grant the necessary approval.

Q5. Section 11 exempts income from property held for "charitable purposes". What is meant by "charitable purpose"?

Section 2(15) defines "charitable purpose" which includes:

- Relief of the poor
- Education
- Yoga
- Medical relief
- Preservation of environment (including watersheds, forests and wildlife) and
- Preservation of monuments or places or objects of artistic or historic interest, and
- The advancement of any other object of general public utility:
  Provided that the 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 fee or any other consideration, irrespective of the nature of use or application, or retention, of the income from such activity, unless—

i) such activity is undertaken in the course of actual carrying out of such advancement of any other object of general public utility; and

ii) the aggregate receipts from such activity or activities during the previous year, do not exceed twenty per cent of the total receipts, of the trust or institution undertaking such activity or activities, of that previous year.

Q6. How is "income" defined in the case of a charitable trust or institution?

"Income" in the case of a charitable trust or institution has to be understood in the broadest of terms. As in the case of any other assessee, it will include income falling under different heads, including profits and gains of business or profession, capital gains, income from house property and income from other sources (such as dividends, interest on securities, etc.).

Additionally, in the case of a charitable trust or institution, donations (voluntary contributions), which otherwise do not possess the character of "income", are also to be included in income. All these amounts will, in the first instance, be included in the income of the charitable trust or institution, and, thereafter, exemption can be claimed subject to fulfillment of prescribed conditions.

Q7. What conditions are required to be fulfilled by a charitable or religious trust seeking exemption under Section 11?

To ensure that only organizations engaged in bona fide charitable or religious activities are allowed to claim exemption from tax, the law has prescribed a number of legal and procedural requirements. Taxpayers would be well-advised to go through the relevant provisions, particularly, Sections 11, 12, 12A, 13, 115BBC and 139(4A) of the Income Tax Act, and Rules 17, 17A, 17B and 17C of the Income Tax Rules.

For the sake of brevity and easy reference, however, the DOs & DON'Ts for the claim of exemption by a charitable or religious trust under Section 11 are summarised below:-

Dos:

(i) The trust must be a public charitable or public religious trust and not a private trust.

(ii) Income claimed to be exempt must be derived from property held under trust.

(iii) The trust must be wholly for charitable or religious purposes.

(iv) If the trust or institution has taxable income for the year before claiming exemption under Sections 11 and 12, its accounts must be audited by a Chartered Accountant (or other person competent to audit accounts under Income Tax Act) and audit report in the prescribed Form must be filed with the return of income.

(v) The trust must be registered by the Commissioner/Director of Income Tax under Section 12AB.

(vi) Activities of the trust must be carried out in India unless specific exemption is obtained

(vii) 85% or more of the income for the year must be applied to (i.e., put to use) for charitable or religious purposes, and the balance (i.e. 15% or less) must be accumulated or set apart for future application to charitable or religious purposes, or If 85% of the income is not applied to charitable or religious purposes during the year, the same must be accumulated or set apart for future application for definite and specified purposes.
For this purpose, the assessee must:
a, give a notice in writing (in Form No.10) to the Assessing Officer within the due date of filing of return of income
b, invest the money so accumulated or set apart only in specified modes.

The maximum period for which such income can be accumulated or set apart is 5 years.

(viii) If income of the trust or institution includes any income from business, such business must be incidental to the objectives of the trust, and separate accounts must be maintained for such business.

(ix) If the trust or institution had taxable income during the year without giving effect to Sections 11 and 12, it must file a return of income.

(x) Capital gains, if any during the year (whether short or long term), must be reinvested in a new capital asset in order to be deemed to have been applied to charitable purposes.

Don'ts:

(i) Property must not be held under trust for private religious purposes but for the benefit of the public.

(ii) The trust or institution must not have been created or established for the benefit of a particular religious community or caste (other than SC/ST/Backward Classes, women and children).

(iii) Under the terms of the trust or rules of the institution, no part of its income must directly or indirectly be for the benefit of the author/founder/trust/ institution/trustee/ manager or other such interested person

(iv) No part of the income or property of the trust or institution must actually be used or applied during the previous year either directly or indirectly for the benefit of any such person.

(v) None of its funds should be invested or continue to remain invested during the previous year otherwise than in the modes specified under Section 11(5) (this is subject to specified exceptions such as assets held as corpus, accretions to the same by way of bonus shares, debentures acquired under certain circumstances etc.).

(vi) Anonymous donations, if any, will be taxable at the rate of 30 per cent as per Section 115BBC of Income Tax Act.

(vii) The purposes for which income is sought to be accumulated or set apart for future accumulation must not be vague or non-specific, and cannot travel beyond the objects of the trust. The amount so accumulated cannot be applied to a different purpose, must continue to remain invested in the specified modes, and cannot be credited or paid to any other trust or institution.

Q8. What is the procedure for registration of a trust by the Commissioner of Income Tax?

The new regime for registration introduced from 1.4.2021 is now applicable for all charitable institutions for provisional and regular registration and 80G approval.

There is no perpetual registration or approval now for charitable institutions.

Q9. Is there a mechanism of provisional registration under Section 12 A of Income Tax Act for charitable institutions?

A charitable institution formed but which has not commenced charitable activity can obtain provisional registration by filing Form 10A which will be valid for a period of 3 years. The institution will have to apply in Form 10AB within 6 months of commencement of charitable activity or 6 months prior to 3 years - whichever is earlier.

Q10. Upon registration, from which Assessment Year does an assessee become eligible for exemption under Sections 11 and 12?

Upon registration, exemption under Sections 11 and 12 are available from the Assessment Year immediately after the financial year in which the application was made.

Q11. Who is competent to Audit the accounts of the trust for the purpose of Section 12A?

A Chartered Accountant or a person entitled to be appointed as an auditor of companies is authorized to carry out the requisite audit. The 3 conditions laid down in Section 12A are as follows:

a. The provisions of section 11 and section 12 shall not apply in relation to the income of any trust or institution unless organization is registered under section 12AA now 12AB

b. Books of accounts of the organization have been audited by the Chartered Accountant

c. Organization has furnished the return of income for the previous year in accordance with the provisions of sub-section (4A) of section 139, within the time allowed under that section.

Q12. What are “anonymous donations”? To what extent are they exempt in the hands of a charitable or religious trust or institution?

“Anonymous donation” has been defined as a voluntary contribution where the trust or institution receiving such contribution does not maintain record of identity indicating the name and address and other requisite particulars of the person making such contribution. Anonymous donation does not apply to religious trust or charitable cum religious trust unless donation is for education or medical institution. Anonymous donation can be received upto Rs.1 lakh or 5% of total donation received whichever is higher in a financial year beyond which tax at maximum marginal rate (MMR) would be attracted.

Q13. What are “corpus donations”? Are they taxable in the hands of a charitable or religious trust or institution?

Income in the form of voluntary contributions made with a specific direction from the donor that they shall form part of the corpus of the trust or institution, are generally referred to as “corpus donations”. Such donations are fully exempt from tax under Section 11(1)(d) of the Act.

Q14. What is the rate of taxation applicable to the taxable income, if any, of a charitable or religious trust or organization?

Income derived from property held under trust wholly for charitable or religious purposes, to the extent it is not exempt under Sections 11 and 12 is liable to tax at normal rates applicable to an Association of Persons (AOP). Further, in cases where exemption under Section 11 is forfeited by a trust or institution on account of a default under Section 13(1)(c) or 13(1)(d) (i.e., where the trust or institution either directly or indirectly benefits its author, founder or any other person mentioned under Section 13(3), or because the funds of the trust or institution were invested otherwise than in the specified modes), income of such trust or institution will be taxable at the rate (including surcharge) applicable to the highest slab of income for the assessment year under consideration.

Q15. What is the extent of tax deduction available to a donor who contributes to charitable or religious trust or institution?

Under Section 80 G of the I-T Act, donors to such organizations are eligible for deduction as a percentage of the amount donated by them. In most cases the rate of exemption applicable is 50 per cent of the amount donated. For a donor to claim such exemption, the trust or institution to which the donation has been made must be one which has been approved by the Income Tax Department for this purpose.

Q16. What is the procedure to be followed by a trust or institution for obtaining approval under Section 80G?

The trust or institution can make an application in Form No. 10A and obtain approval in Form 10AC for a period of 3 years for provisional registration and 5 years for regular registration.

Q17. For what period is the approval granted by the Commissioner valid for 80G?

For 3 years in case of provisional registration and 5 years for regular registration

Q18. What type of organizations can claim the benefit of exemption under Section 10(23C)?

Apart from the various funds set up by the government (such as the Prime Minister’s National Relief Fund) which are specifically mentioned in Section 10(23C), a university or other educational institution, a hospital or other such institution as well as various other religious or charitable funds, trusts, institutions are eligible for the benefit of Section 10(23C) provided they are approved for this purpose by the prescribed authority [the jurisdictional Chief Commissioner of Income Tax or Director General of Income Tax(E)].

Q19. What is Section 13 of the Income Tax Act?

Section 13(1): Section 11 i.e. exemption of income does not apply in case of:

1. Trust for private religious purposes which does not ensure for the benefit of the public.
2. Trust for charitable purposes or a charitable institution created or established after the commencement of this Act, any income thereof if the trust or institution is created or established for the benefit of any particular religious community or caste.
3. If such trust or institution has been created or established after the commencement of this Act and under the terms of the trust or the rules governing the institution, any part of such income ensures, directly or indirectly for the benefit of any person referred to in sub-section (3).
4. If any part of such income or any property of the trust or the institution (whenever created or established) is during the previous year used or applied, directly or indirectly for the benefit of any person referred to in sub-section (3).
5. Non compliance of Section 11(5)-permitted modes of investment

Under Section 13(2), the following conditions will trigger disallowance:

1. if any part of the income or property of the trust or institution is, or continues to be, lent to any person referred to in sub-section (3) for any period during the previous year without either adequate security or adequate interest or both.
2. if any land, building or other property of the trust or institution is, or continues to be, made available for the use of any person referred to in sub-section (3), for any period during the previous year without charging adequate rent or other compensation;
3. if any amount is paid by way of salary, allowance or otherwise during the previous year to any person referred to in sub-section (3) out of the resources of the trust or institution for services rendered by that person to such trust or institution and the amount so paid is in excess of what may be reasonably paid for such services;
4. if the services of the trust or institution are made available to any person referred to in sub-section (3) during the previous year without adequate remuneration or other compensation;
5. if any share, security or other property is purchased by or on behalf of the trust or institution from any person referred to in sub-section (3) during the previous year for consideration which is more than adequate;

6. if any share, security or other property is sold by or on behalf of the trust or institution to any person referred to in sub-section (3) during the previous year for consideration which is less than adequate
7. if any income or property of the trust or institution is diverted during the previous year in favor of any person referred to in sub-section (3):

Section 13(3) defines the following categories as specified persons:

1. the author of the trust or the founder of the institution.
2. 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;
3. where such author, founder or person is a Hindu undivided family, a member of the family;
   (cc) any trustee of the trust or manager (by whatever name called) of the institution;
4. any relative of any such author, founder, person, member, trustee or manager as aforesaid;
5. any concern in which any of the persons referred to in clauses (a), (b), (c), (cc) and (d) has a substantial interest.

Here, "relative", in relation to an individual, means—

1. spouse of the individual;
2. brother or sister of the individual;
3. brother or sister of the spouse of the individual;
4. any lineal ascendant or descendant of the individual;
5. any lineal ascendant or descendant of the spouse of the individual;
6. spouse of a person referred to in sub-clause (b), sub-clause (c), sub-clause (d) or sub-clause(e)
7. any lineal descendant of a brother or sister of either the individual or of the spouse of the individual

Q20. What are the income tax returns and forms that are filed by charitable institutions?

- Form 9A-deemed application
- Form 10-Accumulation
- Form 10B/BB-Audit Report
- Form ITR 7- IT return

Q21. What are the current provisions related to Audit Report for charitable institutions

As per IT Rules 2023, eligibility for Audit Report in 10B is as follows:

- If the total income of the trust or institution exceeds Rs.5 crore during the previous fiscal year.
- In case a trust or institution receives any amount of foreign contribution.
- In case any institution or trust has used any amount of its income outside India in the previous year.

Applicable uniformly for 12A and 10(23C) entities.

If 10B not applicable, 10BB to be used.

Very elaborate form specially 10B as against simple form earlier.

Q22. What are section 11(5) modes of investments

The forms and modes of investing or depositing the money referred to in clause (b) of sub- section (2) shall be the following, namely :—

1. investment in savings certificates as defined in clause (c) of section 2 of the Government Savings Certificates Act, 1959 (46 of 1959), and any other securities or certificates issued by the Central Government under the Small Savings Schemes of that Government;
2. deposit in any account with the Post Office Savings Bank
3. deposit in any account with a scheduled bank or a co-operative society engaged in carrying on the business of banking (including a co-operative land mortgage bank or a co-operative land development bank)

4. investment in units of the Unit Trust of India established under the Unit Trust of India Act, 1963 (52 of 1963)
5. investment in any security for money created and issued by the Central Government or a State Government
6. investment in debentures issued by, or on behalf of, any company or corporation both the principal whereof and the interest whereon are fully and unconditionally guaranteed by the Central Government or by a State Government
7. investment or deposit in any public sector company:
8. deposits with or investment in any bonds issued by a financial corporation which is engaged in providing long- term finance for industrial development in India and which is eligible for deduction under clause (viii) of sub- section (1) of section 36
9. deposits with or investment 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 construction or purchase of houses in India for residential purposes and which is eligible for deduction under clause (viii) of sub-section (1) of section 36;
10. deposits with or investment 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
11. investment in immovable property.

Additional as per Rule 17C (March 2018)

- Investment in units of any scheme of a mutual fund
- deposit with authority for low cost housing
- Stock certificate of Sovereign Gold Bonds
- Debt instruments of infrastructure finance company
- Acquiring shares of NSDC, Depository.

Q23. What type of associations are entitled to seek notification under Section 35(1)(ii) or 35(1)(iii) and to exemption under Section 10(21)? What is the procedure for claiming such exemption?

After the recent amendments, approved “research associations” (and not necessarily “scientific” research associations as was the case earlier) are now eligible for notification under Section 35 and exemption from tax under Section 10 (21). However, all such associations must be approved by the central government for this purpose. The restrictions which apply to a trust or institution claiming exemption under Section 11 regarding manner of application and accumulation of income, investment of funds, business income etc. also apply to such research associations with necessary modifications. For further details, please see Chapter 10. The procedure for seeking approval of the central government under Section 35 is also discussed in detail in Chapter-10 (Para-10.3 to 10.10). The central government may reject an assessee's application for approval under this Section where it is not satisfied regarding the eligibility of the assessee. The central government may also withdraw the approval already granted by it for the reasons discussed in Para-10.7.

Q24. Where a trust fund or institution is approved by the central government under Section 35, can an Assessing Officer still reject the claim of such trust or fund or institution to exemption under Section 10 (21)?

In such cases, the Assessing Officer, if he is of the view that the contravention of Section 10(21) has taken place, is required to intimate the central government of the contravention. He can complete the assessment by denying the benefit of Section 10(21) only if the central government withdraws the notification.

Q25. Can you state the changes in recent budgets for charitable institutions in the past 3 years?

Budget 2025

- Government has liberalized period of registration for small NGOs i.e. those whose income in past 2 years preceding date of application is upto Rs.5 cr. Such NGOs will be registered for 10 years instead of 5 years on renewal and will not have to undergo the pain of renewal every 5 years. For instance, if 5 year NGO registration under 12AB or approval under 80G is valid upto AY 25-26 i.e. 31.3.2025, it needs to apply for12AB/80G renewal before 30.9.2025. If income in FY 24-25 and FY 23-24 is upto Rs. 5 cr, the renewal will be granted for 10 years by the Department after process of inquiry.

- Government has provided clarification that Incomplete information provided to Income Tax Department will not be a specified violation calling for cancellation of 12AB registration. This step is welcome.
- The definition of Specified Person under Section 13 which includes among others a person (other than founder, author) making substantial contribution of Rs.50.000/- has been revised to Rs.100,000/- in a year and Rs.10 lakhs in aggregate up the relevant year. This would reduce the reporting requirements for NGOs.

Budget 2024

- Merger of first 10(23C)-approval category with second regime Section 12 of registration under income tax-Section 11(7) effective 1.10.2024
- Section 80G can be applied even if charitable status benefit taken which was not allowed-effective 1.10.2024
- Condonation of delay in filing registration application for all categories by PCIT/CIT in case of reasonable cause effective 1.10.2024
- Timeline for disposal of application under 12AB/80G-6 months from end of the quarter in which application made effective 1.10.2024
- Merger of a charities with same/similar objects-new section 12AC specifying situations of merger when accreted tax will not be applicable effective 1.4.2025

Budget 2023

- Application made from corpus funds or through loans and borrowings only if replenished/repaid in 5 years
- Retrospective section 11 exemption benefit withdrawn
- Inter charity donations of local funds-85% of amount as application
- Exemption benefit not available for Updated IT Return
- Timeline for filing Form 9A and 10
- No provisional registration for existing unregistered entities
- Exit tax in case of non renewal, non re registration or not converting provisional to normal registration
- Incorrect or incomplete information in Form 10A a specified violations inviting cancellation of registration

Q26. What are the provisions related to maintenance of books of accounts for charitable institutions

Maintenance of books of accounts and records/documents:

- There was no regulation regarding books of accounts by NGOs upto FY 21-22
- Section 12A(1)(b)(i) inserted for maintaining of books of accounts and other documents wef AY 23-24.
- Not applicable if total income is below threshold chargeable to tax.
- Rule 17AA inserted from 10.8.2022 providing for four sub rules

Books of accounts & other documents

The specified books of accounts shall include:

1. cash book
2. ledger
3. journal
4. copies of serially numbered receipts, original copy of invoices, etc

Other documents include:

a. Record of all the projects and institutions run by the organisation

b. Record of income of the organisation during the previous year

> (I) voluntary contribution containing details of name of the donor, address, permanent account number (if available) and Aadhaar number (if available);
> (II) income from property held under trust referred to under section 11 of the Act along with list of such properties;
> (III) income of trust other than the contribution referred in items (I) and (II)

c. Record of application out of the income during the year

> (I) application of income in India, containing details of 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, amount credited or paid
> (II) application of income outside India, containing details of 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;

(III) deemed application of income referred in section 11(1) of the Act containing details of the reason for availing such deemed application;

(IV) income accumulated or set apart as per section 11(2) containing details of the purpose for which such income has been accumulated;

(V) money invested or deposited in the forms and modes specified in 11(5)

(VI) money invested or deposited in the forms and modes other than those specified in 11(5)

d. Record of specified application out of the income of preceding years

e. Record of voluntary contribution with a specific direction to form Corpus

(I) the contribution received containing details of name of the donor, address, permanent account number and Aadhaar number;

(II) application out of such voluntary contribution referred to in item (I) containing details of 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; amount credited or paid towards corpus to 12AB or 10(23C) institution;

(III) the forms and modes specified in section 11 (5) of the Act in which such voluntary contribution, received during the previous year, is invested or deposited;

(IV) money invested or deposited in the forms and modes other than those specified in 11(5)

f. Record of contribution received under 80G(2)(b) being treated as corpus

g. Record of Loans and Borrowings

(I) information regarding amount and date of loan or borrowing, amount and date of repayment, name of the person from whom loan taken, address of lender, permanent account number and Aadhaar number (if available) of the lender;

(II) application out of such loan or borrowing containing details of 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;

(III) application out of such loan or borrowing, received during any previous year preceding the previous year, containing details of amount of application, name and address of the person to whom any credit or payment is made; (IV) repayment of such loan or borrowing (which was applied during any preceding previous year and not claimed as application) during the previous year

h. Record of properties held by the assessee

(I) immovable properties containing details of,

(i) nature, address of the properties, cost of acquisition of the asset, registration documents of the asset;
(ii) transfer of such properties, the net consideration utilized in acquiring the new capital asset;

(II) movable properties including details of the nature and cost of acquisition of the asset

i. Record of specified persons, as per section 13 (3) of the Act

(I) containing details of their name, address, permanent account number and Aadhaar number(if available);
(II) transactions undertaken with specified persons under 13(3) containing details of date and amount of such transaction, nature of the transaction and documents to the effect that such transaction is, directly or indirectly, not for the benefit of such specified person

j. Any other document

2. Form of keeping books of accounts and documents: Kept in written form or electronic form or digital form or print-outs of data stored in electronic form or in digital form or any other form of electromagnetic data storage device.

3. Place of maintaining books of accounts and other documents: shall be kept and maintained at its "registered office“. If the accounts are maintained other than the registered office or at various project locations, intimate assessing Officer in writing, giving full address of the other places supported by resolution of the board

4. Period for which books of accounts & other documents should be kept: Kept and maintained for a period of ten years from the end of the relevant assessment year

- Organization having income subject to section 11(4) and 11(4)(a) to maintain a separate set of books of account of such income in line with the provision under Income Tax Act.

5. Implication of Non-Maintenance of Books of Account:

Section 13(10) and (11) inserted with effect from f AY 22-23 stating that

Income chargeable to tax shall be computed after allowing a deduction for expenditure incurred for the objects of the institution as specified in this section subject to fulfillment of the following conditions, namely:

(a) Such expenditure is not from the corpus standing to the credit of such trust or institution

(b) Such expenditure is not from any loan or borrowing;

(c) Claim of depreciation is not in respect of an asset, acquisition of which has been claimed as an application of income in the same or any other previous year; and

(d) Such expenditure is not in the form of any contribution or donation to any person.

(e) Such expenditure violating section 40(3) and 40(a)(ia) disallowed

(f) Carry forward of loss and expenditure/decurion not allowed except under the Code from section 11-13.

Income Tax for NGOs (Part I)

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Charitable purpose and Types of charitable institutions under income tax

Types of entities that can register as charitable institutions in India

For charitable purpose, the following entities can be constituted:

- Trust
- Society
- Not for profit Company

While above entities have separate incorporation laws, the Income Tax law applies uniformly for all these entities.

Definition of Charitable purpose in Income Tax

Section 2(15) "charitable purpose" includes:

✓ Relief of the poor,

✓ Education,

✓ Yoga,

✓ Medical relief,

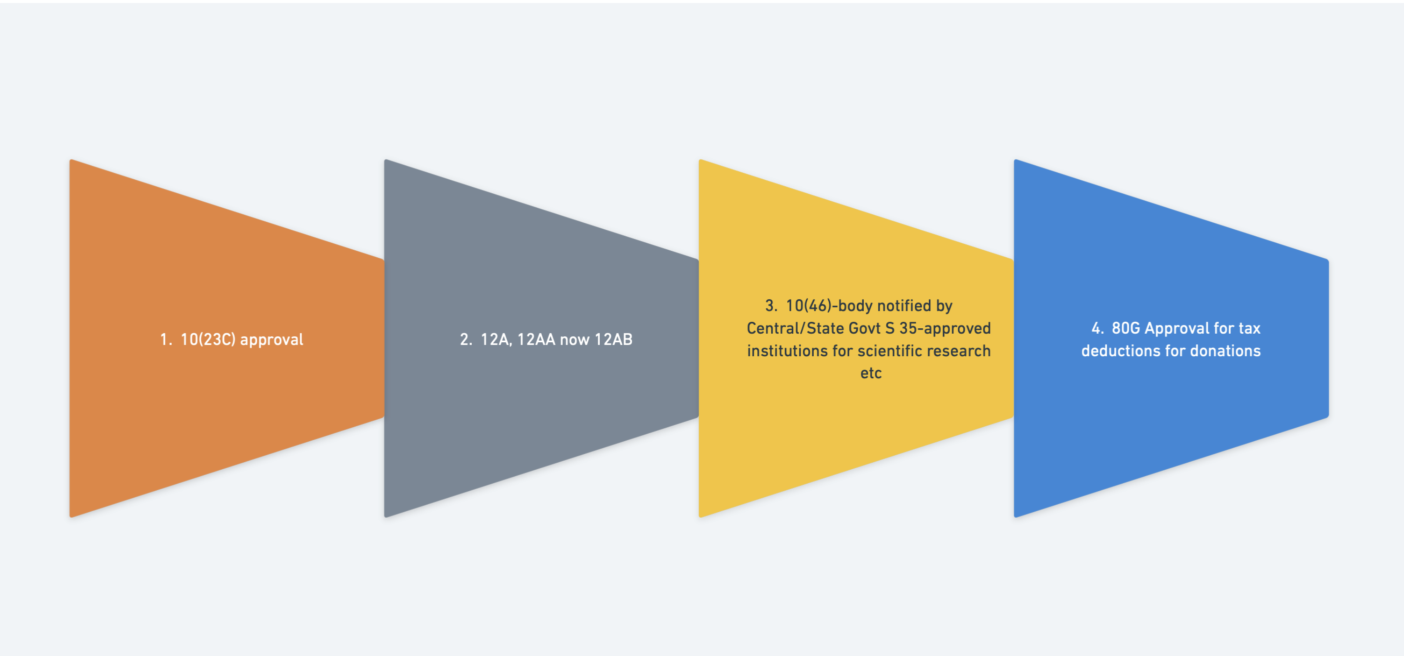
✓ Preservation of environment (including watersheds, forests and wildlife) and

✓ Preservation of monuments or places or objects of artistic or historic interest, and

✓ The advancement of any other object of general public utility:

Provided that the 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 fee or any other consideration, irrespective of the nature of use or application, or retention, of the income from such activity, unless:

1. Such activity is undertaken in the course of actual carrying out of such advancement of any other object of general public utility; and
2. The aggregate receipts from such activity or activities during the previous year, do not exceed 20% of the total receipts, of the trust or institution undertaking such activity or activities, of that previous year;



Illustrated:

1. *10(23C) approval*
2. *12A, 12AA now 12AB*
3. *10(46)-body notified by Central/State Govt S 35-approved institutions for scientific research etc.*
4. *80G Approval for tax deductions for donations*

Section 10(23C) entities

Section	Non Approval	Section	Approval
10(23C)(iiiab)	Educational institution wholly/substantially financed by Govt	10(23C)iv	National Fund/Charitable institution of national importance
10(23C)(iiiac)	Medical institution wholly/substantially financed by Govt	10(23C)v	Religious institution or religious cum charitable institution notified by Govt
10(23C)(iiiad)	Educational institution gross receipts less than Rs.5 cr in a FY	10(23C)vi	Educational institution gross receipts more than Rs. 5 cr in a FY
10(23C)(iiiae)	Medical institution gross receipts less than Rs.5 cr in a FY	10(23C)via	Medical institution gross receipts more than Rs.5 cr in a FY

2 recent Landmark SC judgements in October 2022

- 10 (23C)(vi) entities should be solely (exclusively) for educational purposes, can undertake business activity incidental to the main object but not otherwise. Can generate surplus in course of pursuing main objects
- For GPU entities, commercial activity only for advancement of GPU. Markup has to be reasonable for such commercial activity. The commercial activity should not be feeding

charity

New scheme of Registration-latest update

New regime of registration for charitable organisations wef 1.4.2021

- Re-registration/approval of charitable entities u/s 10(23C), 12A,35 and 80G approval for a period of 5 years, thereafter renewal once every 5 years. Perpetual registration abolished.
- Department wants to have database and better control/monitoring on charitable institutions which has been fragmented and decentralised until now

Types of Approvals:

1. Re-registration/Revalidation of existing registered entities-5 years
2. Provisional registration for new entities-3 years
3. Regular registration for existing unregistered entities-5 years
4. Provisional to Normal registration for new entities- Total period 5 years
5. Modification of objects clause for 12A entities
6. If registered both under 10(23C) or 10(46) and 12A, then retain 10(23C) or 10(46) for 5 years
7. Renewal of registration after 5 years

New Regime and Forms

Coverage:

1. Re registration/re approval under 10(23C)/12A/80G-existing registered
2. Registration/re approval under 10(23C)/12A/80G-existing un-registered
3. Provisional registration under 10(23C)/12A/80G-new entities
4. Statement of donation u/s 80G

5. Receipt/Certificate of donation u/s 80G

Forms:

1. 10A-Re-registration and provisional registration
2. 10AC-Approval of 10A by CIT
3. 10AB-Registration of existing unregistered entities, conversion of provisional to normal registration, Renewal, change in objects and one of the two registrations made inoperative.
4. 10AD- Approval of 10AB by CIT
5. 10BD-Statement of donations u/s 80G
6. 10BE-Receipt of donation u/s 80G

Action for existing registered entities

- Common Form 10A for 10(23C), 12AA, 80G, 35 entities-select code for respective sections e.g. 01 for 12A and 11 for 80G.
- CIT order within 6 (earlier 3) months from end of quarter in 10AC Form. Registration valid for 5
  years. No inquiry, instantly granted.
- Upto 30.6.2024, condonation of delay was granted through CBDT circulars from time to time.
- WEF 1.10.2024, for condonation of delay in filing under 12A(1)(ac) i.e. reregistration, renewal,
  object modification, registration by unregistered entities, conversion of provisional to regular,
  inoperative clause, application to PCIT/CIT showing reasonable cause for delay. Provision activated
  in Form 10AB

Renewal of 12AB registration and 80G approval of existing registered entities

- Renewal in Form 10AB 6 months before expiry of 5 years and after due inquiry process
- Most 12AB and 80G registration have been issued upto AY 26-27. Som renewal application in 10AB have to be filed by 30th Sep 2025 separately for 12AB and 80G.
- Renewal will be in Form 10AD for both 12Ab and 80G.
- In Finance Act 2025, Small NGOs i.e. where income is less than Rs. 5 cr in previous 2 years preceding the year in which renewal application is made will get 12AB registration for 10 years instead of 5 years. Not applicable for 80G approval and for provisional registration, registration by unregistered institutions which remains as 5 years. Applicable from 1.4.2025

Action for Provisional 12Ab Registration & 80G approval

- Effective from previous year relevant to assessment year from which the registration is sought. Applicable only when charitable activity not commenced as confirmed in 10A and 10AB. Existing charitable entities debarred from provisional registration route.
- CIT approval in Form 10AC within 6 (earlier 1) month from end of quarter in which application made. No inquiry
- Validity 3 years, convert to normal registration within 6 months of commencement of charitable activities or 6 months before expiry of provisional registration whichever is earlier.
- For conversion to regular registration, Form 10AB. Due process of inquiry and registration period 5/10 years

Accreted Income or Exit Tax-Section 115TD of IT Act (1.6.2016)

1. Accreted income is excess of fair market value of assets over total liabilities of Trust. Accreted income is taxed at MMR
2. Conditions when 115TD triggered:
    - 12AB registration cancelled
    - Modification of objects not applied for regn/not in line with condition of registration and application rejected
    - Merged into an entity not with similar objects and not registered under 12AB

    - failure to transfer assets upon dissolution to another 12AB/10(23C) entity within 12 months
    - Newly added: non registration, non renewal, non conversion of provisional to regular registration wef 1.10.24

Merger of charities with same/similar objects-new section 12AC specifying situations of merger when accreted tax will not be applicable effective 1.4.2025

Department's power to cancel registration

Power to cancel registration for Specified Violations i.e.

- spent income for other than object
- business income not incidental and no separate books
- private religious purpose, particular religious community/caste
- violation of other laws which affect achievement of objectives
- benefits u/s 13 (not reasonable)
- section 11(5) non compliance
- conditions not complied specified in registration certificate (Form 10AC).

Reference by AO to CIT/PCIT who shall pass order within 6 months from quarter in which notice was issued.

Conditions of registration as per 10AC-12AB

- Alter object/rules with prior approval of CIT and effective after approval
- On dissolution, surplus assets to institution with similar object and no asset to specified persons
- Merged or converted to non charitable entity will attract 115TD
- 12AB registration does not entitle automatic 80G benefit
- 12AB registration subject to fulfilling conditions under section 11 and 12-conditional
- Change in constitution document should not result in questioning charitable status
- Maintain accounts, separate accounts for incidental business, file ITR

- Change of registered office outside jurisdictional CIT with prior approval
- Registration cancelled if activities are not genuine, not as per object or registration obtained fraudulently
- No benefit under s197 based on 12AB registration
- Voluntary contribution through bank account whose number should be with the CIT
- Entity to comply with provisions of IT Act and Rules
- 12AB registration is instantly granted, if later it is found information not complete (deleted by Finance Act 2025), false etc, URN will be automatically granted as through it was never issued.

Conditions of registration as per 10AC-80G

- Change in deed/bye-laws shall be affected after due procedure and approval of the Competent Authority as per law and intimation to Department
- Any change in the trustees or address shall be intimated to Department
- Maintain books of accounts as prescribed and also get them audited as per the provisions of section 80G(5)(iv) read with section 12A(1)(b)/10(23C) of the Income Tax Act,1961.
- Certificate of donation shall be issued to the donor in form no 10BE
- No cess/fee/consideration shall be received in violation of section 2(15)
- File return of income of trust/society/non profit company as per section 139(1)/(4A)/(4C) of IT Act
- Apply to donations only if applicant is established in India for charitable purpose, fulfils the conditions laid down in section 80G(5) of the Income Tax Act, 1961 and the religious expenditure does not exceed the limit specified in section 80G(5B) of the said Act.
- If the applicant derives any income, being profits and gains of business, it shall maintain separate books of account as provided in section 80G(5)(i) of IT Act. Donation shall not be used, directly or indirectly, for the purposes of such business and a certificate shall be issued to every person making a donation that the applicant maintains separate books of account in respect of the business and the donation received by it will not be used for the purpose of the business.
- The approval and the Unique registration number has been instantly granted and if application is fully or partly incomplete (deleted by Finance Act 2025) or by providing false/ incorrect information or documents required to be provided under section 11, the

Unique Registration Number (URN) shall be cancelled and deemed to have never been granted.

Anonymous donation-Section 115BBC of IT Act

1. For charitable trust, if name and address of donor is not known, it is anonymous donation.
2. Not applicable to Religious Truss or charitable cum religious trust except where the donation is for an educational or medical institution
3. Tax payable 30%. Threshold: Rs.1 lakhs or 5% of total donation received whichever is higher.

Section 80G:

Statement of donation

- 80G provisions: Cash donation upto Rs.2k permitted, not in kind and only through banking channels. No anonymous donation permitted u/s 80G
- 80G deduction-100%/50% with or without qualifying limit i.e. subject to 10% of adjusted Gross Taxable income. Donation to charitable institutions falls under 50% with qualifying limit.
- 80GGA deduction-100% for donation for scientific research and rural development projects
- Form 10BD-Statement of Donation provided approved under 80G

1. Donation type:
   - Corpus
   - Specific
   - Others
2. UIN of donor-PAN, Aadhar
3. If PAN / Aadhaar is not available then either the passport No./Elector’s photo identity/Driving License/Ration Card/Taxpayer identification Number where the person

resides outside India.

4. Mode of receipt-cash, kind, electronic and cheque, others
5. File by 31st May for each FY. Fee and
6. Penalty for delayed filing

Section 80G approval can be applied even if charitable status benefit taken which was not allowed earlier-effective 1.10.2024

Receipt/certificate of donation

1. Form 10BE
2. 31st May for previous financial year
3. Linked to UIN of donor
4. Penalty for delay
5. Generation and download of donation receipt from web portal after filing 10BD
6. Issue the system generated 10BE to donor for claiming 80G benefit.

Code of Taxation for Charitable Institutions

Chapter III-Incomes which do not form part of total income

1.	**Section 11** Income from property held under trust fc religious purposes.
2.	**Section 12** Income of trusts or institutions from volu contributions for charitable and relgious Section 12A – Conditions for applicability and 12 Section 12AA – Procedure for Registratior Section 12AB – Procedure for Registratior regime
3.	**Section 13** Section 11 not to apply in certain cases.

Section 11

Income from property held for charitable or religious purposes

Section 11(1): the following income shall not be included in the total income of the previous year of the person in receipt of the income—

- Income derived from property held under trust wholly for charitable or religious purposes, to the extent such income is applied to such purposes in India; and to the extent to which the income so accumulated or set apart is not in excess of fifteen per cent of the income from such property;
- Income in the form of voluntary contributions made with a specific direction that they shall form part of the corpus of the trust or institution and provided it is deployed in Section 11(5) modes of investment .

Deemed Application-1 year

As per clause (2) of Explanation to section 11(1):
If, in the previous year, the income applied to charitable or religious purposes in India falls short of eighty-five per cent of the income derived during that year from property held under trust, or, as the case may be, held under trust in part, by any amount—

1. for the reason that the whole or any part of the income has not been received during that year, or
2. for any other reason,

Then at the option of the person in receipt of the income (such option to be exercised before the expiry of the time allowed under sub-section (1) of section 139 for furnishing the return of income in form -9A), be **deemed to be income applied** to such purposes during the previous year in which the income was derived.

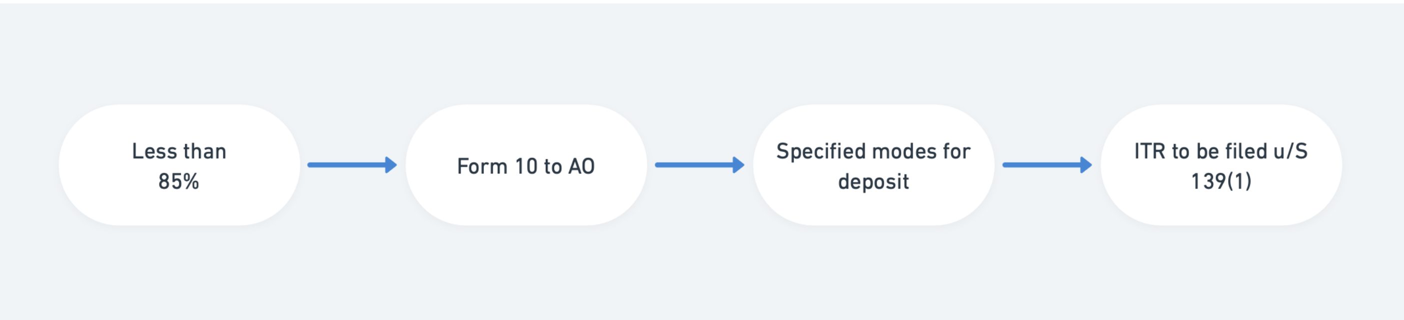
Note: If DA amount is not utilized in the next year then the amount will be taxable income.

Accumulation: 5 years

As per section 11(2):

If, in the previous year, the income applied to charitable or religious purposes in India falls short of eighty-five per cent of the income derived during that year from property held under trust, but is accumulated or set apart, either in whole or in part, for application to such purposes in India, such income so accumulated or set apart shall not be included in the total income of the previous year of the person in receipt of the income, provided the following conditions are complied with, namely:

1. such person furnishes a statement in the prescribed form (Form 10) and in the prescribed manner (Online) to the Assessing Officer, stating the purpose and period for which the income is being accumulated or set apart which shall in no case exceed five years (not applied amount taxable in 5th year alone);
2. the money so accumulated or set apart is invested or deposited in the forms or modes specified in sub-section (5) and utilised for the purpose for which accumulated
3. Not transferred to an entity covered under Section 12A of the Act
4. Form 10 is furnished on or before the due date specified under section 139 (1) for furnishing the return of income for the previous year.
5. Repurposing of accumulation can be permitted by the Department.



Illustrated: Less than 85% ➡ Form 10 to AO ➡ Specified modes for deposit ➡ ITR to be filed u/S 139(1)

Section 11(4)

Business income of charitable institution

- (4) For the purposes of this section "property held under trust" includes a business undertaking so held, and where a claim is made that the income of any such undertaking shall not be included in the total income of the persons in receipt thereof, the Assessing Officer shall have power to determine the income of such undertaking in accordance with the provisions of this Act relating to assessment; and where any income so determined is in excess of the income as shown in the accounts of the undertaking, such excess shall be deemed to be applied to purposes other than charitable or religious purposes.
- (4A) Sub-section (1) or sub-section (2) or sub-section (3) or sub-section (3A) shall not apply in relation to any income of a trust or an institution, being profits and gains of business, unless the business is incidental to the attainment of the objectives of the trust or institution, and separate books of account are maintained by such trust or institution in respect of such business.

Section 11(5)

Modes of investment

The forms and modes of investing or depositing the money referred to in clause (b) of sub- section (2) shall be the following, namely:

1. Investment in savings certificates as defined in clause (c) of section 2 of the Government Savings Certificates Act, 1959 (46 of 1959), and any other securities or certificates issued by the Central Government under the Small Savings Schemes of that Government;
2. Deposit in any account with the Post Office Savings Bank
3. Deposit in any account with a scheduled bank or a co-operative society engaged in carrying on the business of banking (including a co-operative land mortgage bank or a co-operative land development bank)

4. Investment in units of the Unit Trust of India established under the Unit Trust of India Act, 1963 (52 of 1963)
5. Investment in any security for money created and issued by the Central Government or a State Government
6. Investment in debentures issued by, or on behalf of, any company or corporation both the principal whereof and the interest whereon are fully and unconditionally guaranteed by the Central Government or by a State Government
7. Investment or deposit in any public sector company:
8. Deposits with or investment in any bonds issued by a financial corporation which is engaged in providing long- term finance for industrial development in India and which is eligible for deduction under clause (viii) of sub- section (1) of section 36
9. Deposits with or investment 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 construction or purchase of houses in India for residential purposes and which is eligible for deduction under clause (viii) of sub-section (1) of section 36;
10. Deposits with or investment 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
11. Investment in immovable property.

Further additions to 11(5)

Additional as per Rule 17C (March 2018)

- Investment in units of any scheme of a mutual fund
- Deposit with authority for low cost housing
- Stock certificate of Sovereign Gold Bonds
- Debt instruments of infrastructure finance company
- Acquiring shares of NSDC, Depository

Example of Computation

Case 1	

Income derived from property held under trust wholly for charitable purposes	1000
Less: Expenditure (Income applied to charitable purposes in India)	-850
Less: Accumulation under section 11(1)(a) No Specific Form	-150
Taxable Income	NIL
Case 2	
Income derived from property held under trust wholly for charitable purposes	1000
Less: Expenditure (Income applied to charitable purposes in India)	-600
Less: Accumulation under section 11(1)(a) No Specific Form	-150
Less: Accumulation under section (11) (2): Form 10, Specific Purpose	-250
Taxable Income	NIL
Case 3	
Income derived from property held under trust wholly for charitable purposes (Rs 200 was received in March)	1000
Less: Expenditure (Income applied to charitable purposes in India)	-650
Less: Accumulation under section 11(1)(a) No Specific Form (15% of 1000)	-150
Less: Accumulation as per clause (2) of Explanation to section 11(1), Form 9	-200
Taxable Income	NIL

Disallowance of Cash/bearer Payments

Section 40(A)(3) provides that “Where the assessee incurs any expenditure in respect of which a payment or aggregate of payments made to a person in a day, otherwise than by an account payee cheque drawn on a bank or account payee bank draft or use of electronic clearing system through a bank account [or through such other electronic mode as may be prescribed], exceeds Ten Thousand Rupees, no deduction shall be allowed in respect of such expenditure”.

Note:

1. The expenditure as disallowed above, will be taxed @ 30%
2. The cash payments made by staffs and reimbursed by organisation shall also be treated as cash payment
3. Disclose non-compliances in ITR, if same noticed by Assessing Office during Income Tax Assessment, additional penalty and interest may also be levied.
4. Exceptions in Rule 60D

Disallowance for Non Deduction of Tax at Source

Section 40(a)(ia) provides that 'Where the assessee fails to deduct the whole or any part of the tax in accordance with the provisions of Chapter XVII-B then the amount equal to 30% of expenditure shall not be allowed at the time of computation of Income’

Note:

1. The expenditure as disallowed above, will be taxed @ 30%
2. Disclose non-compliances in ITR, if same noticed by Assessing Office during Income Tax Assessment,
   additional penalty and interest may also be levied.

Example of Computation

Case 4	

Income derived from property held under trust wholly for charitable purposes	1000
Less: Expenditure (Income applied to charitable purposes in India)	-650
Less: Accumulation under section 11(1)(a) No Specific Form (15% of 1000)	-150
Less: Accumulation under section (11) (2): Form 10, Specific Purpose	-200
Add: Expenditure disallowed under section 40 and 40A (30% Expenditure)	30
Taxable Income 30	30
Tax on Income @ 30%	9
Add: Surcharge @ 4%	0.36
Total Tax Liability	9.36

Section 12

Income of trust/ institution from Contribution

Section 12 (1):

Any voluntary contributions received by a trust created wholly for charitable or religious purposes or by an institution established wholly for such purposes (not being contributions made with a specific direction that they shall form part of the corpus of the trust or institution) shall for the purposes of section 11 be deemed to be income derived from property held under trust wholly for charitable or religious purposes and the provisions of that section and section 13 shall apply accordingly.

Section 12 (2):

The value of any services, being medical or educational services, made available by any charitable or religious trust running a hospital or medical institution or an educational institution, to any person referred to in clause (a) or clause (b) or clause (c) or clause (cc) or clause (d) of sub-section (3) of section 13, shall be deemed to be income of such trust or institution derived from property held under trust wholly for charitable or religious purposes during the previous year in which such services are so provided and shall be chargeable to income-tax notwithstanding the provisions of sub-section (1) of section 11

Section 12A

Conditions for Applicability of Section 11 & 12

- The provisions of section 11 and section 12 shall not apply in relation to the income of any trust or institution unless organisation is registered under section 12AA now 12AB
- Books of accounts of the organisation have been audited by the Chartered Accountant
- Organisation has furnished the return of income for the previous year in accordance with the provisions of sub-section (4A) of section 139, within the time allowed under that

Section 13

Section 13(1):

Section 11 not to apply when:

1. Trust for private religious purposes which does not ensure for the benefit of the public.
2. Trust for charitable purposes or a charitable institution created or established after the commencement of this Act, any income thereof if the trust or institution is created or established for the benefit of any particular religious community or caste.
3. If such trust or institution has been created or established after the commencement of this Act and under the terms of the trust or the rules governing the institution, any part of

such income ensures, directly or indirectly for the benefit of any person referred to in sub-section (3).

4. If any part of such income or any property of the trust or the institution (whenever created or established) is during the previous year used or applied, directly or indirectly for the benefit of any person referred to in sub-section (3).
5. Non compliance of Section 11(5)-permitted modes of investment

Section 13(6):

The exemption under section 11 or section 12 shall not be denied in relation to any income, other than the income referred to in sub-section (2) of section 12, by reason only that such trust has provided educational or medical facilities to persons referred to in sub section 3.

Section 13(3)

List of persons:

1. The author of the trust or the founder of the institution.
2. 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;
3. Where such author, founder or person is a Hindu undivided family, a member of the family;
    1. Any trustee of the trust or manager (by whatever name called) of the institution;
4. Any relative of any such author, founder, person, member, trustee or manager as aforesaid;
5. Any concern in which any of the persons referred to in clauses 1, 2, 3, 3.1 and 4 has a substantial interest.
6. "Relative", in relation to an individual, means:
    1. Spouse of the individual;
    2. Brother or sister of the individual;
    3. Brother or sister of the spouse of the individual;
    4. Any lineal ascendant or descendant of the individual;
    5. Any lineal ascendant or descendant of the spouse of the individual;
    6. Spouse of a person referred to in sub-clause 6.1, sub-clause 6.3, sub-clause 6.4 or sub-clause 6.5

7. Any lineal descendant of a brother or sister of either the individual or of the spouse of the individual

Section 13(2):

The income or the property of a trust deemed to have been used or applied for the benefit of a person referred to in 13(3)

1. If any part of the income or property of the trust or institution is, or continues to be, lent to any person referred to in sub-section (3) for any period during the previous year without either adequate security or adequate interest or both.
2. If any land, building or other property of the trust or institution is, or continues to be, made available for the use of any person referred to in sub-section (3), for any period during the previous year without charging adequate rent or other compensation;
3. If any amount is paid by way of salary, allowance or otherwise during the previous year to any person referred to in sub-section (3) out of the resources of the trust or institution for services rendered by that person to such trust or institution and the amount so paid is in excess of what may be reasonably paid for such services;
4. If the services of the trust or institution are made available to any person referred to in sub-section (3) during the previous year without adequate remuneration or other compensation;
5. If any share, security or other property is purchased by or on behalf of the trust or institution from any person referred to in sub-section (3) during the previous year for consideration which is more than adequate;
6. If any share, security or other property is sold by or on behalf of the trust or institution to any person referred to in sub-section (3) during the previous year for consideration which is less than adequate
7. If any income or property of the trust or institution is diverted during the previous year in favour of any person referred to in sub-section (3)

Computation for exemption

- Determine Income-commercial sense/book income, not as per heads of income but as per books of account
- Reduce Application of income for charitable and religious purpose based on commercial sense
- Reduce 15% of remaining income
- In case income still remaining, then
    - Opt to spend income in subsequent year
    - Opt to accumulate income upto 5 years
- Applicability of incidental business income and proviso to section 2(15)
- Tax attracted if option in a and b not fulfilled
- Benefit to specified persons
- Funds put in specified modes of investment-corpus and Accumulation
- Provision cannot be claimed as application, actual spend/payment only is application.
- Application made from corpus funds or through loans and borrowings eligible only if replenished/repaid in 5 years
- Inter charity donations of local funds-85% of amount as application
- Carry forward of previous years deficit not allowed

Maintaining Books of accounts for NGOs

- There was no regulation regarding books of accounts by NGOs upto FY 21-22
- Section 12A(1)(b)(i) inserted for maintaining of books of accounts and other documents wef AY 23-24.
- Not applicable if total income is below threshold chargeable to tax.
- Rule 17AA inserted from 10.8.2022 providing for four sub rules

Books of accounts & other documents:

1. **The specified books of accounts shall include**
    1. cash book
    2. ledger
    3. journal
    4. copies of serially numbered receipts, original copy of invoices, etc
    5. **Other documents include:**

1. Record of all the projects and institutions run by the organisation
2. Record of income of the organisation during the previous year
    - voluntary contribution containing details of name of the donor, address, permanent account number (if available) and Aadhaar number (if available); income from property held under trust referred to under section 11 of the Act along with list of such properties (III) income of trust other than the contribution referred in items (I) and (II)
3. Record of application out of the income during the year
    - application of income in India, containing details of amount; name and address of the person and the object for application
    - application of income outside India, containing details of amount of application, name and address of the person and the object for which such application is made;
    - deemed application of income referred in section 11(1) of the Act containing details of the reason for availing such deemed application;
    - income accumulated or set apart as per section 11(2) containing details of the purpose for which such income has been accumulated;
    - money invested or deposited in modes specified in 11(5)
    - money invested or deposited in the forms and modes other than those specified in 11(5)
4. Record of specified application out of the income of preceding years
5. Record of voluntary contribution with a specific direction to form Corpus
    - details of name of the donor, address, permanent account number and Aadhaar number;
    - application out of such voluntary contribution referred to in item containing details of amount of application, name and address of the person to whom payment made and the object for which such application is made; amount credited or paid towards corpus to 12AB or 10(23C) institution;
    - the modes specified in section 11 (5) of the Act in which such voluntary contribution, received during the previous year, is invested or deposited;
    - money invested or deposited in the forms and modes other than those specified in 11(5)
6. Record of contribution received under 80G(2)(b) being treated as corpus

7. Record of Loans and Borrowings
    - amount and date of loan or borrowing, amount and date of repayment, name of the person from whom loan taken,
      address of lender, permanent account number and Aadhaar number (if available) of the lender;
    - application out of such loan or borrowing containing details of 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;
    - application out of such loan or borrowing, received during any previous year preceding the previous year, containing details of amount of application, name and address of the person to whom any credit or payment is made;
    - repayment of such loan or borrowing (which was applied during any preceding previous year and not claimed as application) during the previous year
8. Record of properties held by the assesse
    - immovable properties containing details of nature, address of the properties, cost of acquisition of the asset,
      registration documents of the asset;
    - transfer of such properties, the net consideration utilised in acquiring the new capital asset; (II) movable properties including details of the nature and cost of acquisition of the asset
9. Record of specified persons, as per section 13 (3) of the Act
    - containing details of their name, address, permanent account number and Aadhaar number(if available);
    - transactions undertaken with specified persons under 13(3) containing details of date and amount of such transaction, nature of the transaction and documents to the effect that such transaction is, directly or indirectly, not for the benefit of such specified person
10. Any other document

2. Form of keeping books of accounts and documents: Kept in written form or electronic form or digital form or print-outs of data stored in electronic form or in digital form or any other form of electromagnetic data storage device.

3. Place of maintaining books of accounts and other documents: shall be kept and maintained at its "registered office“. If the accounts are maintained other than the registered office or at various project locations, intimate sessing Officer in writing, giving full address of the other places supported by resolution of the board
4. Period for which books of accounts & other documents should be kept: Kept and maintained for a period of ten years from the end of the relevant assessment year
   - Organisation having income subject to section 11(4) and 11(4)(a) to maintain separate set of books of account of such income in line with the provision under Income Tax Act.
   - Maintaining Books of accounts for NGOs

Implication of Non-Maintenance of Books of Account:

Section 13(10) and (11) inserted wef AY 22-23 stating that Income chargeable to tax shall be computed after allowing a deduction for
expenditure incurred for the objects of the institution subject to fulfilment of the following conditions, namely:

- Such expenditure is not from the corpus standing to the credit of such trust or institution
- Such expenditure is not from any loan or borrowing;
- Claim of depreciation is not in respect of an asset, acquisition of which has been claimed as an application of income
- Such expenditure is not in the form of any contribution or donation to any person.
- Such expenditure violating section 40(3) and 40(a)(ia) disallowed
- expenditure not allowed except under section 11-13.

Income Tax Bill 2025

Provision for Charitable institutions

The Bill introduces the term “Registered Nonprofit Organization” (Registered NPO) as a unified definition for all charitable entities i.e. society, Trust, S8, Univ etc.

Consolidation of Provisions for NPOs into a Single Chapter: Chapter 17B-Special Provisions for Registered NPOs-(Clause 332-355). This chapter is divided into seven structured subparts:

- Registration – Application timelines, conditions for approval, and validity of registration.
- Income Computation – Rules regarding taxability and accumulation of income.
- Commercial Activities – Limitations on NPOs engaging in profit-generating activities.
- Compliance Requirements – Filing of tax returns, audit requirements, and disclosures.
- Penalties and Violations – Consequences for non-compliance.
- Deductions for donations under Section 133 (erstwhile 80G) – Regulations governing tax deductions on donations to NPOs.
- Interpretation – Definitions and explanations of key terms used in the chapter.

Changes in Taxability and Compliance Requirements: Under the current tax law, provisions related to the taxability of NPOs’ income are spread across multiple sections, such as:

- Section 115BBC – Taxability of anonymous donations.
- Section 115BBI – Taxability of certain specified income etc. The Bill consolidates these provisions under a single framework.

Simplified Application of Income Provisions: The Existing Section 11 provisions regarding the application of income are complex due to multiple explanations and cross-references. The new bill consolidates all application-related provisions in one section, making it easier to determine:

- What qualifies as an eligible application of income.
- The conditions required for the application of income to be tax-exempt.
- Treatment of funds applied from capital corpus and their replenishment.

Elimination of Deemed Application Concept: The new bill removes the deemed application concept for shortfall in 85% application out of income.

Enhanced Accumulation Provisions: Bill eliminates restrictions on the purpose of accumulation for five-year accumulation . Nonprofits can now accumulate funds for any objective within their registered mandate.

- Anonymous donation provision not applicable now only to religious institutions
- 15% income set apart is now called Deemed accumulated income and is to be invested in specified modes of investment

- Regular income has been defined to include receipts for charitable activity, voluntary contribution, incidental business income
- Application from corpus, loans and borrowings, deemed accumulated income etc not application
- Delay in Audit report is not specified non-compliance