

Charitable Trust Taxation

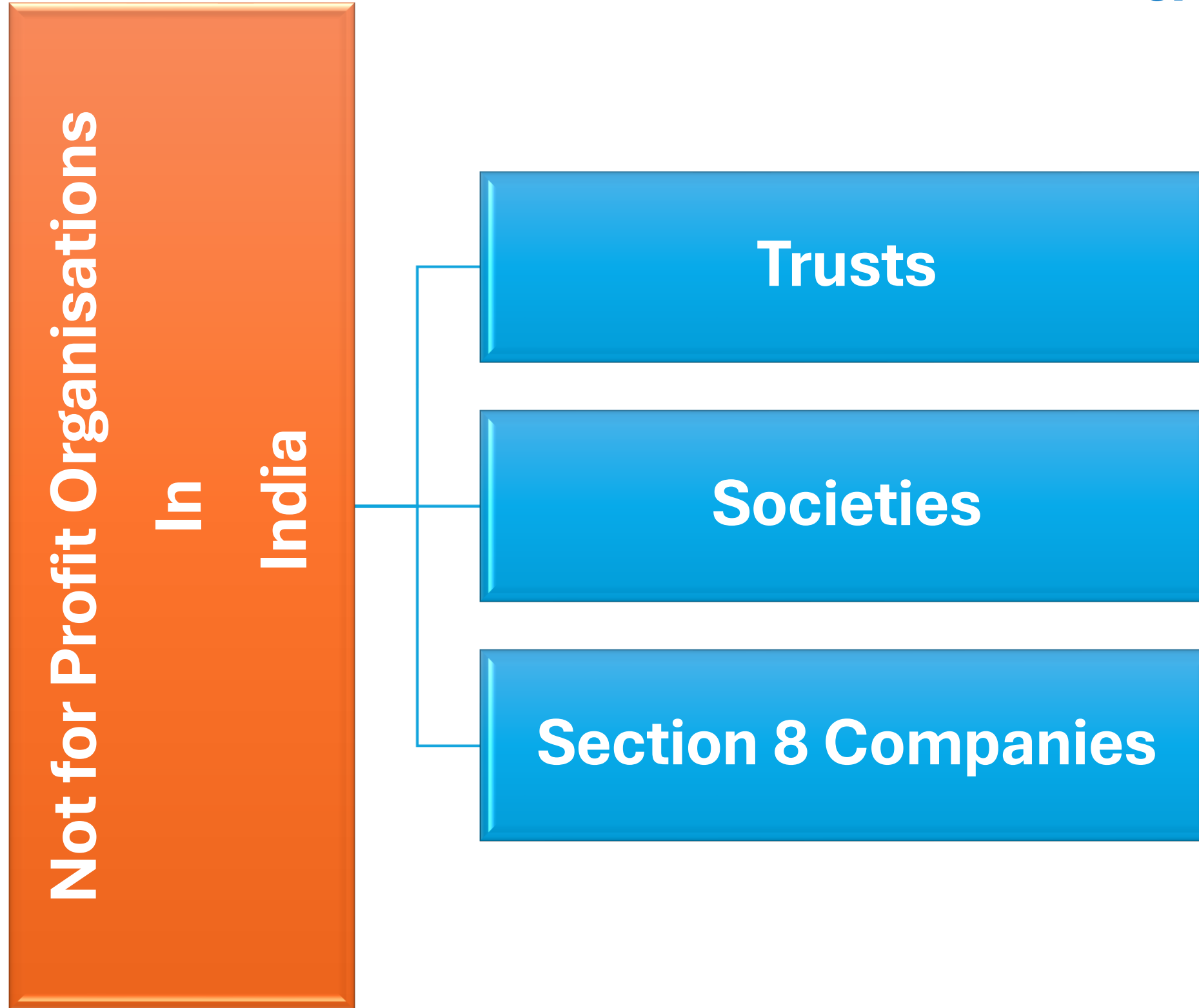


CA. PRAMOD JAIN

FCA, FCS, FCMA, LL.B, MIMA, DISA, IP

ICAI – Vadodra Branch (WIRC)

6th August 2025



PROVISIONS

Chapter I

- S. 2(15)

Chapter III

- S. 10(23C),
- S. 11, 12, 12A, 12AA, 12AB, 12AC
- S. 13

Chapter VIA

- S. 80G

Chapter XII

- S. 115BBC, 115BBI

Chapter XIIEB

- S. 115TD, 115TE, 115TF

CHARITABLE PURPOSE S. 2(15)

- Relief of the poor,
- Education,
- Yoga,
- Medical relief,
- Preservation of environment (including watersheds, forests and wildlife)
- Preservation of monuments or places or objects of artistic or historic interest
- Advancement of any other object of general public utility
 - Except - if it involves carrying on of any activity in nature of trade, commerce or business, or any activity of rendering any service for a cess or fee or any other consideration, unless:
 - such activity is undertaken in course of actual carrying out of such advancement of any other object of general public utility; and
 - aggregate receipts from such activity or activities during PY, do not exceed 20% of total receipts, of trust undertaking such activity of that PY



CSR – S. 135 R.W. SCHEDULE VII

1. **Eradicating hunger, poverty and malnutrition, promoting health care including preventive health care and sanitation including contribution to the Swach Bharat Kosh set-up by the Central Government for the promotion of sanitation] and making available safe drinking water.**
2. **Promoting education, including special education and employment enhancing vocation skills especially among children, women, elderly and the differently abled and livelihood enhancement projects.**
3. **Promoting gender equality, empowering women, setting up homes and hostels for women and orphans; setting up old age homes, day care centres and such other facilities for senior citizens and measures for reducing inequalities faced by socially and economically backward groups.**
4. **Ensuring environmental sustainability, ecological balance, protection of flora and fauna, animal welfare, agroforestry, conservation of natural resources and maintaining quality of soil, air and water including contribution to the Clean Ganga Fund set-up by the CG for rejuvenation of river Ganga.**

CSR – S. 135 R.W. SCHEDULE VII

5. **Protection of national heritage, art and culture including restoration of buildings and sites of historical importance and works of art; setting up public libraries; promotion and development of traditional art and handicrafts;**
6. **Measures for the benefit of armed forces veterans, war widows and their dependents, Central Armed Police Forces (CAPF) and Central Para Military Forces (CPMF) veterans, and their dependents including widows;**
7. **Training to promote rural sports, nationally recognised sports, paralympic sports and olympic sports**
8. **Contribution to the prime minister's national relief fund or Prime Minister's Citizen Assistance and Relief in Emergency Situations Fund (PM CARES Fund)] or any other fund set up by the central govt. for socio economic development and relief and welfare of the schedule caste, tribes, other backward classes, minorities and women;**

CSR – S. 135 R.W. SCHEDULE VII

9. (a) Contribution to incubators or research and development projects in the field of science, technology, engineering and medicine, funded by the Central Government or State Government or Public Sector Undertaking or any agency of the Central Government or State Government; and
- (b) Contributions to public funded Universities; Indian Institute of Technology (IITs); National Laboratories and autonomous bodies established under Department of Atomic Energy (DAE); Department of Biotechnology (DBT); Department of Science and Technology (DST); Department of Pharmaceuticals; Ministry of Ayurveda, Yoga and Naturopathy, Unani, Siddha and Homoeopathy (AYUSH); Ministry of Electronics and Information Technology and other bodies, namely Defense Research and Development Organisation (DRDO); Indian Council of Agricultural Research (ICAR); Indian Council of Medical Research (ICMR) and Council of Scientific and Industrial Research (CSIR), engaged in conducting research in science, technology, engineering and medicine aimed at promoting Sustainable Development Goals (SDGs).

CSR – S. 135 R.W. SCHEDULE VII

10. Rural development projects

11. Slum area development.

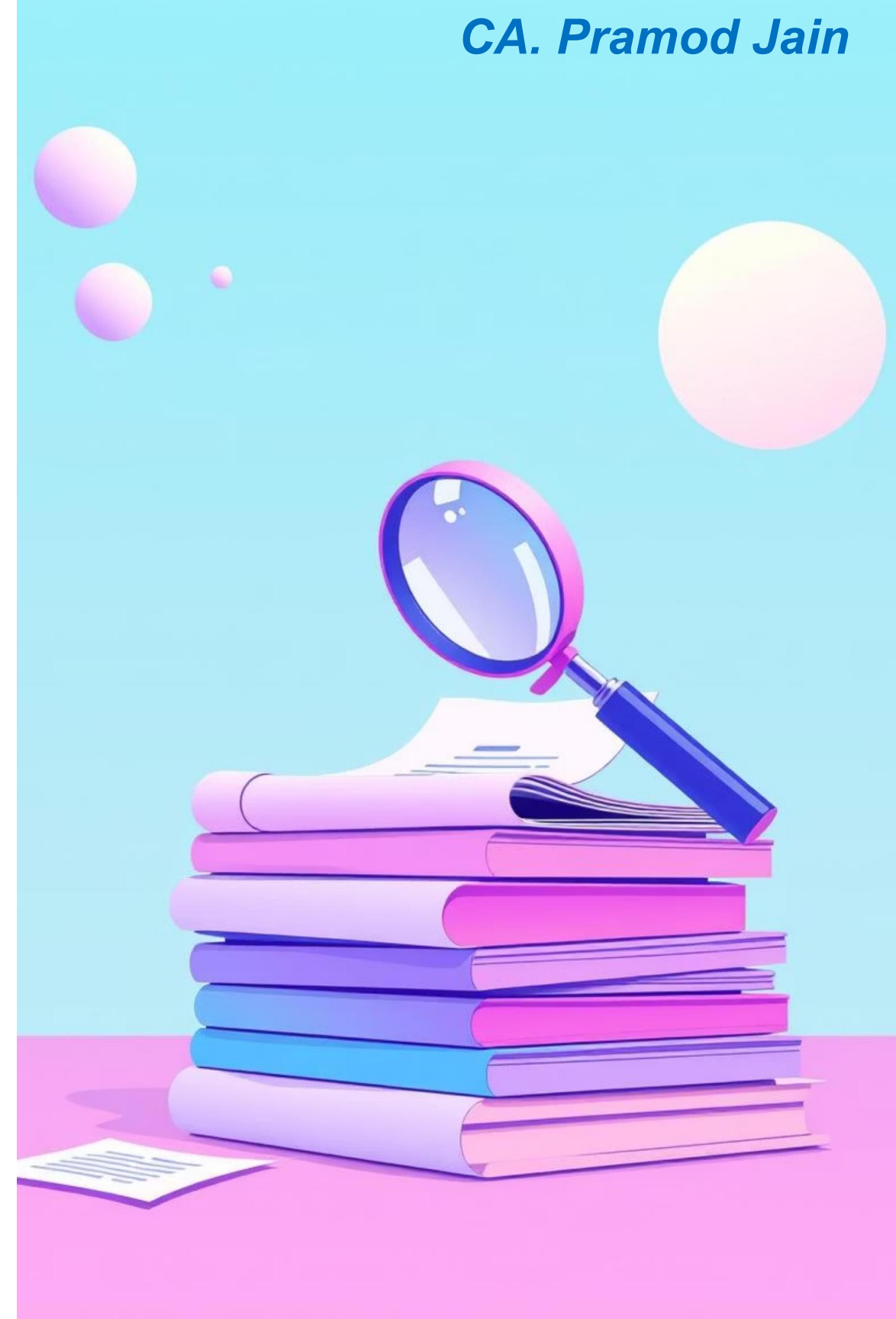
Explanation.- For the purposes of this item, the term `slum area' shall mean any area declared as such by the Central Government or any State Government or any other competent authority under any law for the time being in force.

12. Disaster management, including relief, rehabilitation and reconstruction activities.

KEY TAX REGIMES & CLARIFICATIONS

Two main regimes are S. 10(23C) and Section 11/12.

Despite both offering benefits for educational and medical institutions, there were significant differences in their treatment and a lack of clarity, leading the department to redraft S. 10(23C).



REGISTRATION CHANGES

- **Sunset for Registrations u/s 10(23C) clauses (iv), (v), (vi) or (via). Last date to register was before 1st October 2024.**
- **Renewal of registration u/s 10(23C) (iv), (v), (vi) or (via) to be u/s 12A(1)(ac)(ii)**
- **Apart from entities approved u/s 10 clause (1), (23C), (23EC), (46) or (46A), entities under clauses (23EA), (23ED), & (46B) not be allowed to avail exemption u/s 11.**

CHARITIES

- **Registration application u/s 12AB & 80G for 5-year registration to be processed within 6 months from **end of quarter** - Earlier end of month.**
- **For registration u/s 12A – Pr. CIT / CIT allowed to condone delay for filing late application**
- **Provision for merger of charitable trusts & institutions proposed by inserting s. 12AC**

CHARITIES

- **Trusts registered u/s 12A(1) (ac) (i to v) and whose TI of each of 2 yrs does not exceed Rs. 5 crs. preceding to PY in which such application is made, period of validity extended from 5 to 10 yrs.**
 - i. **Trust is already existing registered u/s 12A , within 3 months from 1st April, 21;**
 - ii. **Trust or institution is registered u/s 12AB / 10(23C) (iv), (v), (vi) or (via) and period of said registration is due to expire, at least 6 months prior to expiry of said period;**
 - iii. **Trust has been provisionally reg. u/s 12AB at least 6 months prior to expiry of period of provisional reg. or within 6 months of commencement of its activities, whichever is earlier;**
 - iv. **Reg. of trust has become inoperative due to first proviso to s. 11(7), at least 6 months prior to commencement of AY from which the said reg. is sought to be made operative;**
 - v. **Trust or institution has adopted or undertaken modifications of objects which do not conform to conditions of reg., within 30 days from date of said adoption or modification;**
 - vi. **In any other case, where activities of trust or institution have—**
 - **(A) not commenced, at least one month prior to the commencement of the PY relevant to the AY from which the said registration is sought;**
 - **(B) commenced and no income or part thereof of the said trust or institution has been excluded from the total income on account of applicability of..., or s. 11/12, for any PY ending on or before the date of such application, at any time after the commencement of such activities.**

CHARITIES

- Provided that where the application is filed beyond the time allowed in sub-clauses (i) to (vi), the Pr. 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
- 80G !!!
- Explanation (g) to section 12AB (4) amended to clarify that an incomplete application will not be treated as a specified violation for cancellation of registration.
- *“(g) the application referred to in clause (ac) of sub-section (1) of section 12A ~~is not complete or it~~ contains false or incorrect information”*

Evolving "Application of Income" Rules

Trusts have to spent 15% of its income on its charitable or religious objects in India to claim tax exemption i.e., usually 85% of its total income.



Inter-Trust Donations

Previously, trusts could apply 15% of their total receipts and then claim 100% application for donations to other trusts. Circular No. 3 dated March 6, 2024, - only 85% of the donated amount to another trust will be considered as applied income to prevent double benefit of accumulation.

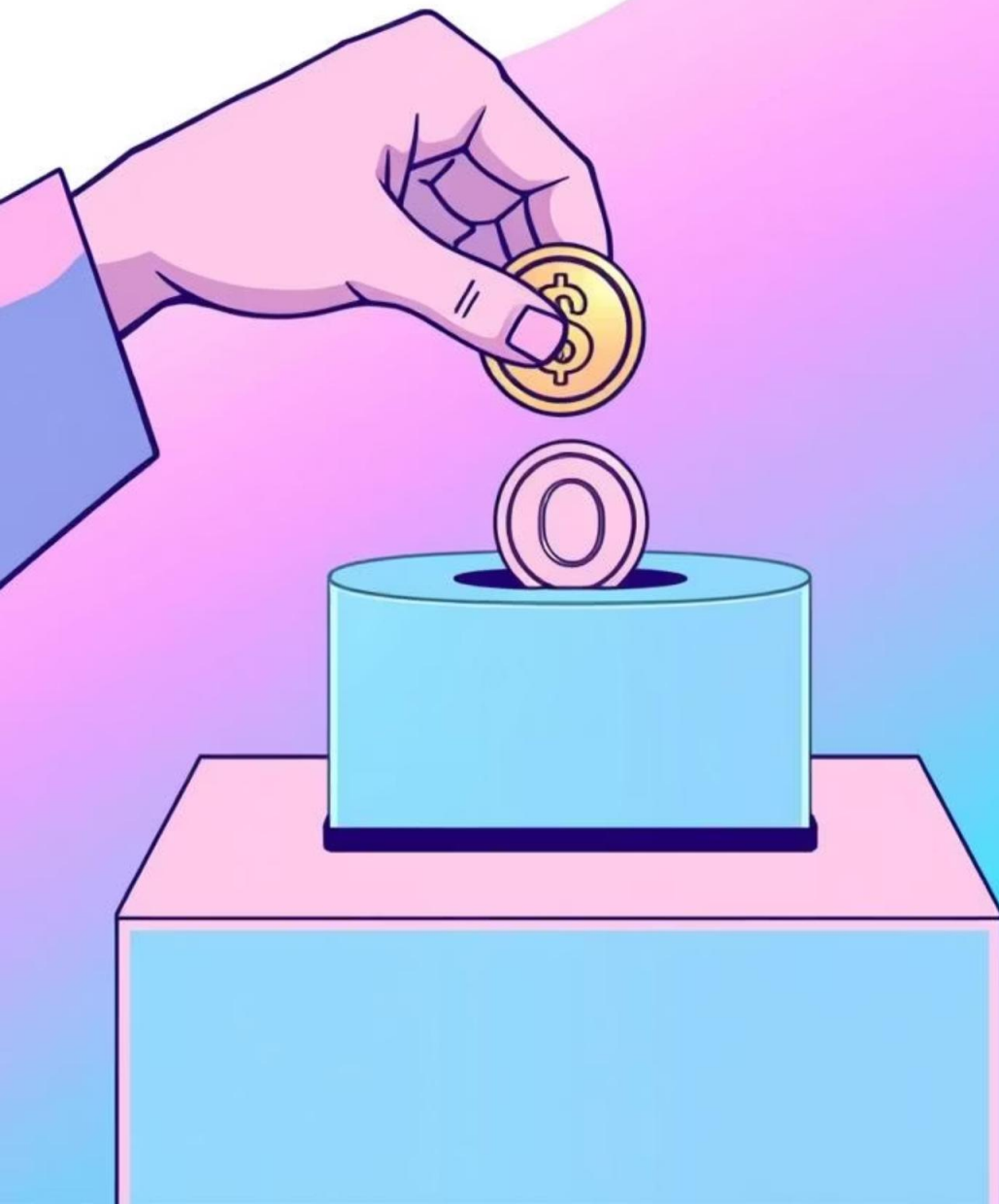


Loan Repayment for Construction

Spending a loan is no longer "application." Only loan (plus interest) repayment within 5 years is considered "application of income." "Previously, taking a loan for construction and spending it was considered "application."

These amendments aim to ensure proper utilization of funds for charitable purposes and prevent misuse of tax exemptions.

Corpus Donations



- *Must be kept in modes specified under Section 11(5) for full exemption; otherwise, it becomes taxable.*
- *Any corpus donation made out of normal contributions is not application*
- *Application made from corpus is no longer "application." w.e.f. 1.4.2021. Now refurbishing (depositing back) the corpus within 5 years is considered as "application of income."*

NOT AN APPLICATION



- If actually not paid
- S. 40(a)(ia)
- S. 40A(3) /(3A)
- Depreciation (if asset treated as application)



Accreted Income Tax (Section 115TD)

30% Tax on FMV

- *Imposed if a trust merges with an unregistered entity, converts, dissolves without donating assets to a registered trust, or has its registration cancelled.*
- *If a trust with provisional registration commenced activities but failed to regularize its registration within 6 months, even after September 30, 2023 amnesty, it will now lose its exemption. The entire accreted income (FMV of assets minus liabilities) will be subject to a 30% tax u/s 115TD(3).*

Assets Remain Public Property

Crucially, even after paying this tax, the assets remain public property and cannot be privately claimed.



Unregistered Religious & Charitable Institutions

Section 56(2)(x), effective April 1, 2017, all receipts, including donations, exceeding ₹50,000 are 100% taxable without any deductions.

This aims to curb the misuse of unregistered entities for tax evasion.

ANONYMOUS DONATIONS

- **S. 115BBC** taxes anonymous donations to charitable trusts at 30% if they exceed 5% of total donations or ₹1 lakh, whichever is higher.
- However, it specifically excludes religious trusts.



SPECIFIED VIOLATIONS – S. 115BBI

| S. No. | Section | Violation |
|--------|---|---|
| 1 | 11(1)(a) | Income accumulated or set apart in excess of 15% of the income where such accumulation is not allowed under any specific provision of this Act |
| 2 | Explanation 4 to 3 rd Proviso to S. 10(23C) or S. 11(1B) / (3) | Income set apart being not received, etc. or set apart specifically for 5 years, and not applied or not applied for purpose or not kept in modes u/s 11(5) or donated to another trust. |
| 3 | 3 rd Proviso of S. 10(23C)(b) or S. 13(1)(d) | Not invested in modes as per section 11(5) |
| 4 | 21 st Proviso of S. 10(23C)(b) or S. 13(1)(c) | Applied for benefit of persons u/s 13(3) |
| 5 | S. 11(1)(c) | Applied outside India without Board specific approval |

FORMS FOR DEFERRING APPLICATION

- **Form 9A:** A form filed by a trust to declare that certain income, though accrued, has not been received, and thus cannot be applied in the current year, with an undertaking to apply it upon receipt or in the following year.
- **Form 10 :** When sets aside a portion of its income, not immediately applied, for future application towards its charitable objects for 5 years . with specific conditions.
- **No Form -** Up to 15% can be accumulated without conditions, and forms.

SPECIFIED PERSONS

- **S. 13 - persons who have made substantial contributions (over ₹50,000 in aggregate in lifetime of the trust), their relatives, or concerns in which they have a substantial interest. Now:**
 - **Persons whose total contribution exceeds ₹1 lakh in the relevant year or ₹10 lakh cumulatively.**
 - **Relatives of these contributors will not be included in the specified persons under section 13.**
 - **Concerns in which such persons have a substantial interest will also not be included in the specified persons u/s 13.**

BOOKS & RECORDS

➤ Books & Records to be maintained - Rule 17AA notification dt. 10.08.2022:

- Cash book; ledger; journal;
- Copies of bills, whether machine numbered or otherwise serially numbered, wherever such bills are issued by assessee..;
- Original bills wherever issued to person & receipts in respect of payments made..;
- Any other book that may be required to be maintained in order to give a true & fair view of state of affairs of the person & explain the transactions effected
- 10 types of activities, sub records..
- Voluntary contribution containing details of name of donor, address, PAN (if available) & Aadhaar no (if available)
- Name & address of person to whom any credit or payment is made & object for which such application is made
- Books & documents to be kept at reg. office. If other place, Resolution & intimate to JAO in 7 days
- To be maintained for 10 years

FORM 10B / 10BB

- Notification dt. 21.2.2023
- Rule 16CC & 17B substituted
- Form No. 10B where:
 - Total income of such trust or institution, without giving effect to the provisions of sections 11 and 12 of the Act, **exceeds Rs. 5 Crs during PY**; or
 - Such trust or institution has **received any foreign contribution** during PY; or
 - Such trust or institution has **applied any part of its income outside India** during PY;
- Form No. 10BB in other cases.

FORM 10B / 10BB - COMMON

- **Similar to Form 3CB**
- **B/s & I&E are in agreement with books**
- **Obtained all the information necessary for purposes of audit**
- **Proper books maintained at address mention in s. no. 14 of annexure**
- **True & Correct annexure - Comments**
- **True & Fair View - B/S & I&B / PL**
- **Observations / qualifications**
- **Formats of financial statements - ICAI**

Formats of Financial Statements for NPOs

Trusts

Societies



Name of the NPO.....

Balance Sheet as at (Rs. in.....)

| | Particulars | Note | 31 March 20XX | 31 March 20XX |
|------------|------------------------------------|----------|---------------|---------------|
| I | Sources of Funds | | | |
| 1 | NPO Funds | 3 | 0 | 0 |
| (a) | Unrestricted Funds | | | |
| (b) | Restricted Funds | | | |
| 2 | Non-current liabilities | | | |
| (a) | Long-term borrowings | 4 | - | |
| (b) | Other long-term liabilities | 5 | - | - |
| (c) | Long-term provisions | 6 | - | - |
| 3 | Current liabilities | | | |
| (a) | Short-term borrowings | 4 | - | - |
| (b) | Payables | 7 | | |
| (c) | Other current liabilities | 8 | - | - |
| (d) | Short-term provisions | 6 | - | - |
| | Total | | - | - |

Name of the NPO.....

Balance Sheet as at

| | Particulars | Note | 31 March 20XX | 31 March 20XX |
|--------------|--|-----------|---------------|---------------|
| II | Application of Funds | | | |
| 1 | Non-current assets | | | |
| (a) | Property, Plant and Equipment and Intangible assets | 9 | | |
| (i) | Property, Plant and Equipment | | | |
| (ii) | Intangible assets | | | |
| (iii) | Capital work in progress | | | |
| (iv) | Intangible asset under development | | | |
| (b) | Non-current investments | 10 | - | - |
| (c) | Long Term Loans and Advances | 11 | - | - |
| (d) | Other non-current assets (specify nature) | 12 | - | - |
| 2 | Current assets | | | |
| (a) | Current investments | 10 | - | - |
| (b) | Inventories | | | |
| (c) | Receivables | 13 | - | - |
| (d) | Cash and bank balances | 14 | - | - |
| (e) | Short Term Loans and Advances | 11 | - | - |
| (f) | Other current assets | 15 | - | - |
| | Total | | | |

Income & Expenditure A/c



Name of the Non-Corporate Entity.....

Income and Expenditure Account for the year ended

(Rupees in.....)

| | Particulars | Note | 31 March 20XX | | | 31 March 20XX | | |
|------------|--|-----------|---------------------------|-------------------------|-------|---------------------------|-------------------------|-------|
| | | | Unrestr icted funds | Restri cted funds | Total | Unres tricted funds | Restri cted funds | Total |
| I | Income | | | | | | | |
| (a) | Donations and Grants | | | | | | | |
| (b) | Fees from Rendering of Services | | | | | | | |
| (c) | Sale of Goods | | | | | | | |
| II | Other Income | 16 | | | | | - | - |
| III | Total Income (I+II) | | | | | | - | - |

| | Particulars | Note | 31 March 20XX | | | 31 March 20XX | | |
|-----|--|------|------------------------|-------------------------|-------|---------------------------|-------------------------|-------|
| | | | Unrestric ted funds | Restrict ed funds | Total | Unrestri cted funds | Restrict ed funds | Total |
| IV | Expenses: | | | | | | | |
| (a) | Material consumed/distributed | 17 | | | | | - | - |
| (b) | Donations/contributions paid | | | | | | | |
| (c) | Employee benefits expense | 18 | | | | | - | - |
| (d) | Depreciation and amortization expense | 19 | | | | | - | - |
| (e) | Finance costs | 20 | | | | | - | - |
| (f) | Other expenses | 21 | | | | | - | - |
| (g) | Religion/charitable expenses | | | | | | | |
| (h) | Other Expenses (specify nature) | | | | | | | |
| | Total expenses | | | | | | - | - |
| | Excess of Income over Expenditure for the year before exceptional and extraordinary items (III - IV) | | | | | | | |

| | Particulars | Note | 31 March 20XX | | | 31 March 20XX | | |
|------|--|------|------------------------|-------------------------|-------|---------------------------|-------------------------|-------|
| | | | Unrestric ted funds | Restrict ed funds | Total | Unrestr icted funds | Restrict ed funds | Total |
| VI | Exceptional items (specify nature & provide note/delete if none) | | | | | | - | - |
| VII | Excess of Income over Expenditure for the year before extraordinary items (V-VI) | | | | | | - | - |
| VIII | Extraordinary Items (specify nature & provide note/delete if none) | | | | | | - | - |
| IX | Excess of Income over Expenditure for the year (VII-VIII) | | | | | | - | - |
| | Appropriations Transfer to funds, e.g., Building fund | | | | | | | |
| | Transfer from funds | | | | | | | |
| | Balance transferred to General Fund | | | | | | | |

FORM 10B

- **1-6 - Basic details – PAN, Name, AY, address, etc.**
- **7-8 - Legal – type, instrument or not**
- **9 Registration details**
- **10 Management - details, change, company more than 5%**
- **11-12 - Objects – objects, modifications..**
- **13 - Commencement of activities – provisional, when applied**
- **14 - Details of place, where books & records maintained**
- **15-16 – Advancement of gen. pub. utility**
- **17 - Business Undertaking – 11(4)**
- **18 – Business incidental to objects – 11(4A)**

FORM 10B

- **19 – TDS on receipts**
- **20 – S. 13 applicable**
- **21-27 – Voluntary contributions received – 10 BD filed – reconciliation with total donations, cash donation exceeding 2k, from other trust, in kind, anonymous, foreign, corpus, etc.**
- **28-30 – Income to be applied – donation + other income – applied outside India**
- **31 – Application of Income – object-wise, exceeding 50 L to a person details, not actually paid, revenue, capital, back to corpus, repayment of loan, disallowed from application (TDS, 40A(3), corpus donation, not same objects, donation to other than 12A trust, application outside India for which permission not taken,) , set apart 11(2), 15% - total 21 sub clauses**

FORM 10B

- **32 – Taxable Income (30-31)**
- **33 - 34 – Taxable 30% u/s 115BBI, anonymous**
- **35 – Other income - 12(2), 11(4)**
- **36 – capital asset 11(1A)**
- **37 – Application of income out of 6 sources – 11(2), upto 15%, corpus, loans, other – mode (electronic/other)**
- **38 – application resulting in payment / cr. to a person exceeding 50 L from 37**
- **39 – S. 13(10), reason, income, its computation**
- **40 – Exp. For religious purposes**
- **41-42 – Person referred in 13(3) – details, transactions of 13(2)**
- **43-49 – Specified violations – s. 12AB(4) – other than object, etc. deprecation, S. 269SS, 269 ST, 269T,**

FORM 10B - SCHEDULES

- 1. Corpus details**
- 2. Foreign Contributions**
- 3. Loans & Borrowings**
- 4. Income applied outside India**
- 5. Deemed Application u/s 11(1) / 11(1A) – Form 9A/10**
- 6. Accumulated Income taxed in earlier years S. 11(1B) – last 5 years**
- 7. Accumulation details**
- 8. Accumulated Income taxed in earlier years S. 11(3) – last 5 years**
- 9. Whether any part of income/ property is lent, to specified person**

FORM 10B - SCHEDULES

- 10.** Details of land, building, etc. which is, or continues to be, made available during PY for use of specified person
- 11.** Details of salary, allowance or otherwise which is paid to specified person
- 12.** Details of services made available to specified person
- 13.** Details of any share, security purchased from specified person
- 14.** Details in case of other property being immovable
- 15.** Details of any share, etc. sold by or on behalf of the trust to a specified person
- 16.** Details in case of other property being immovable
- 17.** Details of any income/property which is diverted in favour of any specified person

FORM 10B - SCHEDULES

- 18. Details of any funds that are invested in any concern in which specified person has a substantial interest**
- 19. Other law Violation**
- 20. TDS disallowable, deducted but not paid**
- 21. S. 40A(3) disallowance**
- 22. S. 40A(3A) disallowance**
- 23. S. 269 SS detail > 20K**
- 24. S. 269 ST detail**
- 25. S. 269T detail**
- 26. TDS / TCS**

FORM 10BB

- **1-6 - Basic details – PAN, Name, AY, address, etc.**
- **7-8 - Legal – type, instrument or not**
- **9 - Management - details, change, company more than 5%**
- **10 - Commencement of activities – provisional, when applied**
- **11 - Details of place, where books & records maintained**
- **12-20 – Voluntary contributions received – 10 BD filed – reconciliation with total donations, cash donation exceeding 2k, from other trust, in kind, anonymous, foreign, corpus, etc.**
- **21 – income other than donation**
- **22 – income required to be applied – 20+21**

FORM 10BB

- **23 – Application of Income – object-wise, exceeding 50 L to a person details, not actually paid, revenue, capital, back to corpus, repayment of loan, disallowed from application (TDS, 40A(3), corpus donation, not same objects, donation to other than 12A trust, application outside India for which permission not taken,) , set apart 11(2), 15% - total 19 sub clauses**
- **24 – Taxable Income (23-24)**
- **25 – Taxable u/s 115BBI**
- **26 – Anonymous @30%**
- **27 – Application of income out of 6 sources – 11(2), upto 15%, corpus, loans, other – mode (electronic/other)**

FORM 10BB

- **28-29 – Person referred in 13(3) – details, transactions of 13(2)**
- **30 – Specified violations – s. 12AB(4) – other than object, etc.**
- **31 - Deprecation**
- **32 – TDS deduction required or not**

FORM 10BB - SCHEDULES

- 1. TDS disallowable, deducted but not paid**
- 2. S. 40A(3) disallowance**
- 3. S. 40A(3A) disallowance**
- 4. TDS / TCS**



CHARITIES

- 2.50 Lac ITR for **AY 2023-24**.
- They applied **Rs 10.01 Crs.** for charitable & religious purposes in **FY 2022-23**
- **1961 provisions**
 - **Chapter I:** Charitable Purpose (S. 2(15))
 - **Chapter III:** S. 10(23C), 11, 12, 12A, 12AA, 12AB, 12AC & 13
 - **Chapter VIA:** Section 80G
 - **Chapter XII / XIIEB:** Sections 115BBC, 115BBI, 115TD, 115TE, 115TF

CHARITIES

- **2025 Bill – Sections 332 to 355**
 - Unified term "**registered non-profit organization**" is used instead of various terms like trust, institution, etc.
 - "Registration" replaces "approval"
 - All provisions are consolidated in Part B of Chapter XVII under "Special Provisions for Registered NPOs."
- **Capital gains u/s 11(1A) done away with.**
- **Deemed application under Explanation 1(2) of section 11(1) done away with. Accumulation u/s 11(2) for upto 5 years continues.**

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www.caprmodjain.com

pramodjain@lunawat.com

+91 9811073867



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