

7

CHAPTER

Formation and Registration of NGO's

Chapter Coverage

S. No.	Topic
7.1	Section 8 Company
7.2	Trust
7.3	Society
7.4	Tax Exemption to all NGOs (Section 8 Company/Trust/Society)

Regulatory Framework Coverage**The Companies Act, 2013**

Section 8

The Companies (Incorporation) Rules, 2014

Rules 19-22

The Indian Trust Act, 1882**The Societies Registration Act, 1860****7.1 Section 8 Company**

History of Company with Charitable purpose	The concept of Section 8 companies was introduced in Companies Act, 2013 that permitted companies with charitable objects etc. to be registered without the words 'Limited' or 'Private Limited'. The restriction was that the Companies were permitted to use the profits only for the purpose for which the company was promoted and there was a prohibition on distribution of dividend.
Recommendation by Bhabha Committee	Based on the recommendation of the Bhabha Committee, Companies Act, of 1956 was passed. The Companies Act of 1956 came into force from 1st April, 1956 and was largely based on the English Companies Act of 1948. Section 25 of Companies Act, 1956 was introduced for such companies based on English Companies Act, 1948. Bhabha committee also recommended to permit partnership firms (though not a legal entity) to be members of section 25 companies and provided for cession of membership of a partnership firm in a section 25 companies on the dissolution of the partnership
The Companies Act, 2013	The Companies Act, 2013 continues with the provision for such companies and provides for a framework for the same under section 8 of the Companies Act, 2013. Section 8 continues to provide for restriction on application of profits and permits the same only for the purpose for which the company is promoted, prohibits declaration of dividend, continues to permit partnership firms to be a member of section 8 Companies Act, 2013.
Regulatory Framework for Section 8 Company	Where it is proved to the satisfaction of the Central Government that a person or an association of persons proposed to be registered under this Act as a limited company – (a) has in its objects the promotion of commerce, art, science, sports, education, research, social welfare, religion, charity, protection of environment or any such other object; (b) intends to apply its profits, if any, or other income in promoting its objects; and (c) intends to prohibit the payment of any dividend to its members.

	<p>The Central Government may, by licence issued in such manner as may be prescribed, and on such conditions as it deems fit, allow that person or association of persons to be registered as a limited company under this section without the addition to its name of the word "Limited", or as the case may be, the words "Private Limited" and thereupon the Registrar shall, on application, in the prescribed register such person or association of persons as a company under this section.</p>
Rule 19 of the Companies (Incorporation) Rules, 2014 (License Under Section 8 for New Companies with Charitable Objects etc.):	
	<ul style="list-style-type: none"> ◆ A person or an association of persons (hereinafter referred to in this rule as "the proposed company"), desirous of incorporating a company with limited liability under sub-section (1) of section 8 without the addition to its name of the word "Limited", or as the case may be, the words "Private Limited", shall make an application in SPICe+ (Simplified Proforma for Incorporating company Electronically Plus: INC-32) along with the fee as provided in the Companies (Registration Offices and Fees) Rules, 2014 to the Registrar for a license under sub-section (1) of section 8 of the Companies Act, 2013. ◆ The memorandum of association of the proposed company shall be in Form No.INC.13. ◆ The application under sub-rule (1) shall be accompanied by the following documents, namely: <ul style="list-style-type: none"> (a) the memorandum and articles of association of the proposed company; (b) the declaration in Form No.INC.14 by an Advocate, a Chartered Accountant, Cost Accountant or Company Secretary in practice, that the memorandum and articles of association have been drawn up in conformity with the provisions of section 8 and rules made thereunder and that all the requirements of the Act and the rules made thereunder relating to registration of the company under section 8 and matters incidental or supplemental thereto have been complied with; (c) an estimate of the future annual income and expenditure of the company for next three years, specifying the sources of the income and the objects of the expenditure; (d) the declaration by each of the persons making the application in Form No. INC.15.
Features of a Section 8 Company	<p>Certain features of a Section 8 company can be summarized as under:</p> <ol style="list-style-type: none"> 1. It is formed for promoting commerce, art, science, sports, education, research, social welfare, religion, charity, protection of environment or any such other object; 2. The profits, if any, are applied in promoting its objects; 3. It prohibits the payment of dividends to its members; 4. The name of the Company can be incorporated without using the word "Limited" or "Private Limited" as the case may be; 5. There is no requirement of any minimum paid up capital; 6. It is exempted from stamp duty registration; 7. Many privileges and exemptions are available to such a company. Section 8 companies have been granted total/partial exemptions from various sections of the Companies Act, 2013; 8. A One Person Company cannot function as a Section 8 Company; 9. Section 8 company has its independent corporate legal entity, similar to private company, public company or a Limited Liability Partnership and hence enjoys credibility in the eyes of the public.
Exemptions available to Section 8 Company	<ul style="list-style-type: none"> ◆ As per proviso to section 2(85), section 2(85) does not apply to a Section 8 Company and accordingly, a Section 8 Company cannot be treated as a small company. Likewise, a small company on conversion to a Section 8 Company shall cease to be a small company. ◆ Section 8 companies are no longer required to appoint a company secretary to ensure compliance with the provisions of the Companies Act, 2013. This exemption will result in cost reduction for the section 8 companies.

	<ul style="list-style-type: none"> ◆ In line with the relaxation announced for private limited companies, section 8 companies too are no longer required to maintain a minimum share capital. ◆ Section 96(2) <i>inter alia</i> covers time, date & place of annual general meeting. In case of Section 8 companies, the time, date and place of each annual general meeting are decided upon before-hand by the board of directors having regard to the directions, if any, given in this regard by the company in its general meeting. ◆ By amendment to section 101, it is proposed that only 14 days' notice shall be required to convene an annual general meeting of a section 8 company. This is in contrast to the earlier limit of 21 days. Provisions which pertain to sharing of financials and other associated documents before the meetings have also been amended to reflect such new timelines. ◆ Section 118 deals with minutes of proceedings of general/board and other meetings. Provision of Section 118 does not apply to Section 8 companies except that minutes may be recorded within thirty days of the conclusion of every meeting in case of companies where the articles of association provide for confirmation of minutes by circulation. ◆ In sub-section (1), for the words "twenty one days", the words "fourteen days" shall be substituted. Section 136(1) deals with the rights of members to copies of audited financial statement, before twenty one days before the date of annual general meeting. Section 8 companies may send the audited financial statements 14 days before the date of annual general meeting. ◆ Section 149(1) is not applicable to section 8 companies. Clause (b) and First proviso to sub-section (1) of Section 149 shall not apply, which relates to maximum number of directors and requirement of passing a special resolution for increase in stipulated maximum number of Director is not applicable to Section 8 Companies. ◆ The cluster of sub-sections of Section 149 given herein pertains to independent directors. These provisions will not apply to a Section 8 Company. ◆ Section 150 shall not apply. Section 150 deals with manner of selection of independent directors and maintenance of databank of independent directors, which is not applicable to Section 8 companies. ◆ Proviso to sub- section (5) of section 152 shall not apply, it relates to appointment of independent directors which is not applicable to section 8 companies. ◆ Section 8 companies shall no longer be required to hold the first meeting of the board within 30 days of incorporation of the company. A meeting of the directors shall however still be required once every six calendar months. ◆ Section 160 deals with right of persons other than retiring directors to stand for directorship. Section 160 shall not apply to section 8 companies whose articles provide for election of directors by ballot. ◆ Section 165(1) shall not apply which deals with restrictions on number of directorships. Directorship of Section 8 Companies are not reckoned for this purpose. ◆ In case of Section 8 companies the quorum for the board meetings shall be either eight members or twenty-five per cent of its total strength whichever is less. However, the quorum shall not be less than two members. ◆ Section 177(2) requires audit committee to have majority of independent directors. It is not required for Section 8 Companies. ◆ Section 8 companies shall not be required to form the Nomination and Remuneration Committee and the Stakeholders Relationship Committee as provided in Section 178 of the Act, as the section has been exempted from compliance for such companies.
--	---

	<ul style="list-style-type: none"> ◆ Section 179(3) deals with resolutions to be passed at meetings of the Board. Section 179(3)(d), (e) and (f) pertains to resolution to borrow money, to invest funds of the company and to grant loans or give guarantee or provide security in respect of loans. These items may be decided by the Board by circulation in case of Section 8 companies. ◆ In case of Section 8 Companies it shall apply only if the transaction with reference to section 188 on the basis of terms and conditions of the contract or arrangement exceeds one lakh rupees. ◆ The exceptions, modifications and adaptations shall be applicable to a Section 8 company which has not committed a default in filing its financial statements under section 137 or annual return under section 92 of the said Act with the Registrar. ◆ Section 8 Companies enjoy limited liability even without adding the words "Limited" or "Private Limited". No, it does not affect their limited liability.
Minimum Requirement For Section 8 Company	<ul style="list-style-type: none"> ◆ Minimum 2 Shareholders (for Private Limited-NGO) and 7 Shareholders for (Public Limited-NGO). [Section 3(1)(a) and Section 3 (1)(b)]. ◆ Minimum number of Directors required is 2 Directors or 3 Directors, in case company is proposed to be incorporated as private company or public company respectively. [Section 149(1)(a)] ◆ DIN is mandatory for all directors ◆ DSC is required for all Directors ◆ Section 8 company shall have at least one director who has stayed in India for a total period of not less than one hundred and eighty-two days during the financial year. However, in case of a newly incorporated company the requirement under this sub-section shall apply proportionately at the end of the financial year in which it is incorporated. [Section 149(3)].
Point to be decided by Promoters before formation of the company	<p>Before formation of the company, the promoters must decide on the following:</p> <ul style="list-style-type: none"> (a) the proposed name to be applied; (b) objects to be carried by the Company; (c) proposed registered office address; (d) authorized capital; (e) number of promoters, number of directors, and number of shares to be subscribed by each promoter.
<p>Note: In deciding the proposed name, the following rules have to be borne in mind:</p> <ol style="list-style-type: none"> (i) the proposed name of a section 8 company under the Companies Act, 2013 does not include the words Foundation, Forum, Association, Federation, Chambers, Confederation, Council, Electoral Trust and the like, etc. (ii) The proposed name should not fall in the ambit of undesirable names specified in Rule 8A of the Companies (Incorporation) Rules, 2014. (iii) There is no requirement to add the word Limited or Private Limited to its name. [Proviso to Section 4(1)(a) and Section 8(1)] 	
Steps to be followed After deciding on the name and the structure of the proposed Section 8 company	<p>After deciding on the name and the structure of the proposed company, the following steps will be taken:</p> <ol style="list-style-type: none"> 1. It has to be ensured that all the proposed directors should have valid DIN. If not, steps are to be taken for applying for DIN and obtaining the same. 2. Digital Signature for any one of the Directors is required to digitally sign the E-Forms to be submitted with the Registrar of Companies.

	<p>3. Memorandum of Association and Articles of Association has to be drafted. Care must be taken to ensure see that:</p> <ul style="list-style-type: none"> (a) Objects of Section 8 Company must be the promotion of Commerce, Art, Science, Sports, Education, research, social welfare, religion, Charity, protection of environment or any such other object [Section 8(1)(a)]. (b) the proposed company should intend to apply its profits, if any or other income in promoting its objects. [Section 8(1)(b)]. (c) it should intend to prohibit the payment of dividend to its members. [Section 8(1)(c)].
--	--

Note: A Partnership firm or an LLP can become the member of Section 8 Company. The provisions of respective Acts need to be complied with by the partnership firm or LLP as the case may be.

Application for Incorporation of Section 8 Companies	<p>1. The incorporation procedure can be carried out through web-form SPICe+ deals with the single application for reservation of name, incorporation of a new company and/or application for allotment of DIN and/or application for PAN and TAN, GSTIN Application (if applied), EPFO Registration, ESIC Registration, Opening of Bank Account for the Company, Profession Tax Registration (only for Maharashtra & Karnataka) and Shops and Establishment Registration. This Form is accompanied by supporting documents including details of Directors & subscribers, MOA and AoA etc.</p> <p>2. Once the e-Form is processed and found complete, company would be registered and CIN would be allocated. Also DINs gets issued to the proposed Directors who do not have a valid DIN. Maximum three Directors are allowed for using this integrated form for filing application of allotment of DIN while incorporating a company.</p> <p>3. The proposed Section 8 company shall make an application in SPICe+ (Simplified Proforma for Incorporating company Electronically Plus: INC-32) along with the specified fees to the Registrar for a license under sub-section (1) of section 8.</p> <p>4. Incorporation application is filed in Form SPICe+ including the following attachments:</p> <ol style="list-style-type: none"> 1. Memorandum of Association in Form No.INC. 13; 2. Article of Association; [<i>Section-8 Companies are mandatorily required to file MOA and AOA as pdf attachments to SPICe+ (INC-32)</i>]. 3. Declaration in Form No.INC.14 by an Advocate, a Chartered Accountant, Cost Accountant or Company Secretary in practice; 4. Address Proof of the subscribers; 5. Identity proof of subscribers; 6. PAN card of the subscribers to the Memorandum; 7. An estimate of the future annual income and expenditure of the company for next three years, specifying the sources of the income and the objects of the expenditure; 8. The declaration by each of the persons making the application in Form No. INC.15; 9. Proof of Office address (Conveyance/Lease deed/Rent Agreement along with rent receipts); 10. Self-Declaration by subscribers in INC-9; 11. NOC from the owner to use the premises; 12. Utility bill of the premises, not older than last 2 months; 13. Optional Attachments, if any.
---	--

	<p>5. For Agile Pro-S</p> <ol style="list-style-type: none"> 1. Proof of Principal place of business 2. Proof of appointment of Authorized Signatory for GSTN; if applied 3. Proof of Identity & Address of Authorized Signatory for opening of Bank Account 4. Specimen Signature of Authorized Signatory for EPFO <p>6. Certificate of Incorporation: If the Concerned Registrar of Companies is satisfied that all the requirements of the Companies Act, 2013 have been complied with, a Certificate of Incorporation is issued which carries a unique Company Identification Number (CIN).</p>
QUESTION	
<p>Ques 1: Ehsan along with his nine friends desires to incorporate a Company, not for profit, for the protection of environment, as permissible under the Companies Act, 2013. Advise them on procedural aspect for the incorporation and formation of such company.</p> <p><i>Hint: Refer Topic Application for Incorporation of Section 8 Companies.</i></p>	

7.2 Trust	
Introduction	A Trust is a relationship in which a person or entity holds a valid legal title to a certain property which is known as the Trust property. The Trust is bound by a fiduciary duty to exercise that legal title for the benefit of any one or more individuals or group of individuals or organisations, who are known as the Beneficiaries. The Trust shall be governed by the terms of the Written Trust agreement.
Definition of Trust	Trust is defined in section 3 of the Indian Trust Act, 1882 as an obligation annexed to the ownership of property and arising out of a confidence reposed in and accepted by the owner, or declared and accepted by him, for the benefit of another or of another and the owner.
Objectives of a Trust	As per Section 4 of the Indian Trusts Act, 1882, a trust may be created for any lawful purpose. The purpose of trust is lawful unless it: <ul style="list-style-type: none"> ◆ is forbidden by law. Or ◆ involves or implies injury to the person or property of another, or ◆ is fraudulent, or ◆ is of such nature that, if permitted, it would defeat the provisions of any law, or ◆ the Court regards it as immoral or opposed to public policy.
Persons who can create a Trust	According to Section 7 of Indian Trusts Act, 1882, a trust may be created by the following persons: <ul style="list-style-type: none"> ◆ Every person competent to Contract under Section 11 of Indian Contract Act, 1872. ◆ By or on behalf of minor with the permission of a principal civil court of original jurisdiction. ◆ Hindu Undivided Family. ◆ Association of person (AOP) ◆ Trust by a Woman. ◆ Company.
Persons who can be a Trustee	As per Section 10, any person who is capable of holding property may be a trustee; except to the condition of discretion of trust, in that case, he cannot execute it unless he is competent to contract.

Difference between Public Trust and Private Trust	<ul style="list-style-type: none"> ◆ Public Trust: In a Public Trust, the interest is vested in an uncertain and fluctuating body. They are the general public or class thereof. ◆ Private Trust: On the other hand, in a Private Trust, beneficiaries are definite and ascertained individuals. ◆ Public Trust: Public trusts have larger and wider domain. ◆ Private Trust: Whereas, private trusts have limited and narrow domain. ◆ Public Trust: If the beneficiaries make up a large or substantial body of public, then the trust in question is public. ◆ Private Trust: On the other hand, if the beneficiaries are a narrow and specific group such as the employees of a company then the trust is private. <p>A trust for the benefit of employees of a company however numerous would not be considered as public charitable.</p> <p><i>Example, an industrialist who creates a trust for the benefit of his 5,000 people, their spouses and children is considered private because who the beneficiaries are known.</i></p> <p>While a public trust is set up for what is called 'uncertain and fluctuating body of persons', it is possible to create a sectarian or communal trust as a public charitable trust. There are trusts which are only for specific religious communities. However, such trusts may not be tax-exempt.</p>
Exemptions available to Trusts	<ul style="list-style-type: none"> ◆ Tax exemption under section 10 of the Income-tax Act, 1961: Total tax exemption is available for certain types of trusts which include those which are formed for any of the activities related to sports, education, scientific research, professions, or promotion of khadi and village based industries, hospitals etc. and are notified as charitable or religious institutions. ◆ Tax exemption under section 11 of Income-tax Act, 1961: Any income, profits or gains obtained by a trust from a property held by the trust established wholly for the purposes of religious or charitable nature shall not be included in the total income of the trust and it is not taxable. ◆ Tax exemption under section 12 of the Income-tax Act, 1961: The incomes that are excluded from the computation of taxable income of trust or society are as follows: <ul style="list-style-type: none"> ■ Income which is derived from the property that is held under the authority of trust with the purposes which are wholly charitable or religious in nature. ■ Income which is kept aside to the extent that does not exceed 25% of the total income received in lieu of the property. ■ In cases of charitable trusts, specifically those formed before 1st of April, 1961, income which is acquired from the property which is held partially for religious or charitable purposes within India. ■ In furtherance of the above case, the income which is set apart to a certain extent and which does not exceed twenty five per cent of the total income. ■ In cases of income that is obtained from a trust created before 1st April, 1952 for charitable purposes and spent outside India. ■ Income made by way of voluntary contributions towards the corpus of the trust. ■ Charitable trusts created for the benefit of any of the socially and economically backward castes such as Scheduled Castes, Scheduled Tribes or women or children. ◆ Tax exemption for a Private Trust: The taxability of the Trust depends upon the type of the trust. In the case of a non-discretionary trust, all income is taxable in the hands of the beneficiaries. But if the beneficiaries are minors, the income is to be clubbed with that of the parent with the higher income.

Formation of Trust	
Step 1: Creation of a Trust Deed.	
Step 2: Obtain the signatures of Settlor, Trustees and Witnesses at the appropriate places. Their photographs and Identity proof is also to be furnished. Deed must be witnessed by at least two witnesses. Settlor must sign all the pages of the Trust Deed.	
Step 3: Print the Trust Deed on stamp paper of appropriate value, depending on the stamp duty applicable in the State of execution.	
Step 4: Register the Original deed in a Sub-Registrar office paying registration charges. A photocopy of the Deed is also required to be submitted. The photocopy of the Deed should also contain the signature of settlor on all the pages.	
Step 5: At the time of registration, the settlor and witnesses must be personally present with their identity proof in original.	
Step 6: Sub- Registrar retains the photocopy and returns the original copy of the Trust Deed.	
Step 7: Trust can apply for a permanent account number for the trust and open a bank account for it as it is a separate entity.	
Questions For Practice	
Ques 1: Discuss formation of Trust?	
<i>Hint: Refer Topic formation of Trust.</i>	
Ques 2: Discuss objectives of a Trust?	
<i>Hint: Refer Topic Objectives of a Trust.</i>	
Ques 3: Discuss difference between Public Trust and Private Trust?	
<i>Hint: Refer Topic discuss difference between Public Trust and Private Trust.</i>	
Ques 4: List out persons who can create a Trust?	
<i>Hint: Refer Topic Persons who can create a Trust.</i>	

7.3 Society

Definition	A society is an association of persons united together by mutual consent to deliberate, determine and act jointly for some common purpose. Societies are usually registered for promotion of charitable activities like education, art, religion, culture, music, sports, etc.
Purposes for Formation of Society	According to Section 20 of the Societies Registration Act, 1860, societies can be formed for the following purposes: <ul style="list-style-type: none"> ◆ Charitable societies, ◆ Military orphan funds or societies established at the several presidencies of India, ◆ Societies established for the promotion of science, literature, or the fine arts for instruction, the diffusion of useful knowledge, ◆ Diffusion of political education, ◆ Foundation or maintenance of libraries or reading-rooms for general use among the members or open to the public . ◆ Public museums and galleries of paintings and other works of art, collections of natural history, mechanical and philosophical inventions, instruments, or designs.
Advantages of Society	<ul style="list-style-type: none"> ◆ Simple process of formation and registration. ◆ Record-keeping requirements are minimum and compliance is easy. ◆ Cost of compliance is low. ◆ Least possibility of interference by the regulator. ◆ Exemption from tax due to charitable nature of operations.

Disadvantages of Society	<ul style="list-style-type: none"> ◆ Tax exemption extended to societies may apply to public trusts only to the extent the Income Tax department accepts their activities as being charitable. ◆ The concept of equity investment or ownership is virtually absent resulting in not attractive for commercial investors interested in microfinance. ◆ Commercial investors regard the investments in such entities as risky mainly on account of their lack of professionalism and managerial practices and political leanings and are reluctant to provide large scale funding to such bodies. ◆ Not allowed to collect savings from their clients. ◆ It is vulnerable to the implication under the Money Lenders Act of various State Governments.
Consequences of Registration/ Non-Registration of Society	<p>The registration gives the society a legal status and is essential for :</p> <ul style="list-style-type: none"> ◆ obtaining registration and approvals under Income-tax Act; ◆ lawful vesting of property in the societies; ◆ provides authenticity and recognition to the society before all authorities and the world at large; and ◆ opening bank accounts and transaction of business. ◆ claiming benefits under the Income-tax Act.
Benefits of forming a Society	<ul style="list-style-type: none"> ◆ Under Income Tax Act and subject to fulfilment of certain conditions a society can avail of exemption from income tax, if it obtains registration under section 12A/12AA of the Income-tax, 1961. Registration under section 12A is one-time registration. ◆ Donors to societies may claim a rebate under Income-tax Act for donations made to the Society provided the society has applied and obtained approval under section 80G. ◆ Societies, being NGO's receive various grants from government and other agencies generally make grants to societies registered under section 12A. ◆ Societies run on democratic principles and ensure wider participation by members in the activities. ◆ Scope for removing inefficient management and effect changes in the management to ensure better governance
Steps for Registering Society in India	<p>For Society registration, the establishing members must agree with the name of society first and then prepare for the Memorandum, followed by Rules & Regulations of the society.</p> <p>Stage 1: Selection of a Name:</p> <ul style="list-style-type: none"> ◆ When selecting a name for society registration, it is vital to understand that according to Society Registration Act, 1860, an identical or similar name of a currently registered society will not be allowed. ◆ The proposed name shall not suggest any patronage of State Government or Government of India or contravene the provisions of the Emblem & Names Act, 1950. <p>Stage 2: Memorandum of Association:</p> <ul style="list-style-type: none"> ◆ Memorandum of society along with Rules & Regulations of society must be signed by every establishing member, witnessed by Gazetted Officer/Notary Public/ Chartered Accountant/Oath Commissioner/Advocate/Magistrate first class/Cost Accountant with their official stamping and complete address. ◆ The memorandum must also contain details of members of the society registration along with their names, addresses, designations, and occupations. ◆ The following documents have to be prepared, submitted and signed for registration: <ul style="list-style-type: none"> ■ Requesting society registration by providing covering letter, signed by all establishing members.

	<ul style="list-style-type: none"> ■ Duplicate copy of memorandum of association of society along with certified copy. ■ Duplicate copy of Rules & Regulations of society along with duplicate copy duly signed by all establishing members. ■ Address proof of registered office of society as well as no-objection certificate (NOC) issued by landlord. ■ Affidavit by secretary or president of society declaring relationship among subscribers. ■ Few minutes of meeting regarding the society registration along with providing some essential documents.
--	---

Note(s):

- ◆ A Society can be created by a minimum of seven or more persons. Apart from persons from India, companies, foreigners, as well as other registered societies can also register for the Memorandum of the society.
- ◆ Society registration is maintained by state governments. The application for society registration must be created to the specific authority of the state where the registered office of society is situated.

Documents required for Society Registration in India	<ul style="list-style-type: none"> ◆ PAN Card of all the members of the proposed society has to be submitted along with the application. ◆ Residence Proof of all the members of the society also has to be submitted. The following can be used as a valid residence proof: <ul style="list-style-type: none"> ■ Bank Statement. ■ Aadhaar Card. ■ Utility Bill. ■ Driving License. ■ Passport. ◆ Memorandum of Association has to be prepared which will contain the following clauses and information: The work and the objectives of the society for which it is being established: <ul style="list-style-type: none"> ■ Details of the members forming the society. ■ It will contain the address of the registered office of the society. ◆ Articles of Association also have to be prepared which will contain the following information: <ul style="list-style-type: none"> ■ Rules and regulations by which the working of the society will be governed and the maintenance of day to day activities. ■ Rules for taking the membership of the society. ■ Information about the Auditors. ■ Forms of Arbitration in case of any dispute between the members of the society. ■ Ways for the dissolution of the society will also be mentioned. ■ Details about the meetings of the society and the frequency with which they are going to be held is to be mentioned. ◆ A covering letter mentioning the objective or the purpose for which the society is being formed will be annexed to the beginning of the application. It will be signed by all the founding members of the society. ◆ Copy of the proof of address where the registered office of the society located along with a NOC from the landlord if any has to be attached.
---	---

- ◆ **List of all the members of the governing body** has to be given along with their signatures.
- ◆ **Declaration has to be given by the president of the proposed society** that he/she is willing and competent to hold the said post.

QUESTION

Ques 1: Moorthy wants to form a society to promote the 'Beti Bachao, Beti Padao Movement' of Government of India. He seeks your advice on the following:

- (i) The purpose for which a society can be formed under the Societies Registration Act, 1860;
- (ii) Whether the foreigners and other registered societies can be member of a society?

Hint: Refer Topic 7.3 SOCIETY.

Questions For Practice

Ques 1: List out documents required for Society Registration in India.

Hint: Refer Topic Documents required for Society Registration in India.

Ques 2: Discuss advantages and disadvantages of Society?

Hint: Refer Topic advantages of Society and disadvantages of Society.

7.4 Tax Exemption to all NGOs (Section 8 Company/Trust/Society)

An NGO can acquire 12A certificate from the Income Tax Department. Thus, an NGO acquiring such a certificate is exempted to pay income tax for the entire lifetime on its surplus income. Also, an NGO must obtain 80G certificate. This certificate allows donors, that is persons or organizations making donations to an 80G certified NGO, to avail deduction. Thus, such a deduction is given to the donors under section 80G of the Income-tax Act.

Notification No. 19/2021 dated 26/03/2021 issued by CBDT, pertaining to procedure for registration of fund/trust/charitable institutions etc.

- ◆ Notification Substitutes/Amends/Inserts rules related to registration of fund/trust/charitable institutions. All NGOs that are already APPROVED under Section 12A/12AA and Section 80G as of this date & all such NGOs who shall be seeking PROVISIONAL REGISTRATIONS with the Department shall file their Applications in Form-10A.
- ◆ All NGOs having provisional registrations shall at the time of seeking Final Registrations. Also, all NGOs in the future at the time of applying and obtaining subsequent registrations shall file their applications on Form-10AB.
- ◆ Form-10G (for applying Registration u/s 80G) has been done away with & Form-10A or Form-10AB is a common Form for both types of Registrations applied either Section 12AB and/or Section 80G Registrations.

Question For Practice

Ques 1: Write Short Note On: Tax Exemption to all NGOs (Section 8 Company/Trust/Society).

Hint: Refer Topic 7.4 Tax Exemption to all NGOs (Section 8 Company/Trust/Society).

