

# **Assessment of Charitable Trusts and Institutions**



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## PREFACE

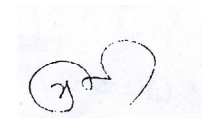
A number of Non Governmental Organizations across the world are supplementing the efforts of the Government in promoting social welfare and economic development. Tax administrations have also recognized the voluntary efforts of these NGOs and provided tax incentives to those engaged in charitable activities. The present booklet under 'Tax Payer Information Series' is an attempt to educate the taxpayers in NGO sector, be it a public trust or association or other non-profit entity, of the reliefs provided under the Income Tax Act, 1961 for charitable activities. A part from explaining the concept of 'Charitable Purposes', the booklet has also touched upon the procedure for registration, assessment, denial of exemptions, incentives given to the donors of the trust etc.

The booklet has been authored by Sh. Parneet Singh Sachdev, Pr. CIT- 4, Hyderabad. It is a continuation of our earlier booklet titled 'Assessment of Charitable Trusts & Institutions' which was published in 2012, and required to be revised due to changes in the tax provisions. Sh. Parneet Singh Sachdev has updated the booklet incorporating all amendments made by the Finance Act, 2014.

It is hoped that this booklet will be of help to those who have to deal with the provisions relating to the charitable trusts and institutions.

I am sure that this updated edition will be widely used by all the users. Any suggestion for further improvement of the booklet is welcome.

New Delhi  
Dated : 08.06.2015



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**This booklet should not be construed as an exhaustive statement of the Law. In case of doubt, reference should always be made to the relevant provisions in the Acts and the Rules.**

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# **CHAPTER-1**

## **INTRODUCTION**

**1.1** Non-Governmental Organizations (NGOs), whether public trusts, associations, or other non-profit entities (including non-profit companies), perform a vital role in supplementing governmental efforts in promoting economic development and social welfare. There is a need for such organizations not only because the resources at the command of the government are insufficient relative to need, but also because of their outreach and the wealth of local knowledge they possess, all of which can fruitfully be utilized for the benefit of society. NGOs exist in all countries, whether developed or developing. Tax administrations the world over recognize voluntary effort and provide incentives to genuine charitable organizations. Most often, this is done by either partially or fully exempting their incomes from tax, and also by providing tax incentives to donors in order to encourage them to contribute resources to such organizations. The Indian Income Tax Act, 1961 too incorporates several provisions to extend tax breaks and incentives to such organizations as well as to their donors.

**1.2** Recognizing the need to inform assesseees as well as the general public about taxation provisions relating to religious and charitable trusts and institutions, which are considerably different from the legal provisions dealing with other taxable entities such as business concerns, the then Directorate of Income Tax (RSP&PR), published a booklet on the subject entitled “Assessment of Charitable Trusts & Institutions” in the year 2002 under its ‘Taxpayer Information Series’.

**1.3** Needless to say, much time has elapsed since the publication of that booklet, and, in the meantime, several changes have taken place in the legal provisions as well as in the procedural requirements for claiming exemption. In this updated version, every effort has been made to incorporate the changes in law and procedures upto assessment year 2014-15.

**1.4** Like its earlier version, this booklet contains a brief narration of law and procedures as they stand at the time of its publication. The forms which have to be used by the assesseees in order to avail of the benefit of various provisions are compiled as Annexures to the booklet. It may be noted, however, that this booklet is not meant to be an exhaustive or authoritative exposition of law. In case of any doubt, taxpayers may please refer to the relevant Acts, Rules and the latest judicial decisions on the subject.

## **CHAPTER-2**

### **ADMINISTRATIVE STRUCTURE AND AUTHORITIES**

**2.1.** The provisions relating to the institutions and entities entitled to exemption under the direct tax laws are administered mainly by Director General of Income Tax (Exemption) and the Directorates headed by the Director of Income Tax (Exemption) working under the Director General of Income Tax (Exemption) in seven cities, namely, Delhi, Kolkata, Ahmedabad, Mumbai, Chennai, Hyderabad and Bangalore. In places not covered under the jurisdiction of aforesaid seven Directorates, the said provisions are administered by the territorial Commissioners of Income Tax (CsIT).

**2.2.** The hierarchy of central government authorities dealing with charitable and religious trusts and institutions entitled to various kinds of tax incentives under the I-T Act is briefly as follows:

- (i) The Central Government;
- (ii) The Central Board of Direct Taxes (CBDT);
- (iii) The Director General of Income Tax (DGIT);
- (iv) The Director/Commissioner of Income Tax (DIT/ CIT);
- (v) The Additional/Joint Director/Commissioner of Income Tax (Addl.DIT/ Addl.CIT/Jt.DIT/Jt.CIT);
- (vi) The Deputy/Assistant Director/Commissioner of Income Tax (DDIT/ DCIT/ADIT/ACIT);

- (vii) The Income Tax Officer (ITO); and
- (viii) The Inspector of Income Tax (ITI).

**2.3.** As is clear from the above, outside of the seven cities where Directors of Income Tax (Exemption) are located, the Commissioners of Income Tax and the I-T authorities working below them perform functions parallel to that of the Directorate within their respective jurisdictions. In fact, the Act makes mention only of Commissioner of Income Tax. However, the Central Board of Direct Taxes (CBDT), in exercise of **it's powers under the Act, has authorized<sup>1</sup> the Director of Income Tax (Exemptions) to discharge all the functions of CIT in the aforesaid cities.**

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<sup>1</sup> Notification S.No. 880(E) dated 14.09.01

## CHAPTER-3

### CHARITABLE PURPOSE

**3.1** The expression “charitable purpose” has been defined under Section 2(15) of the Act to include:

- (a) relief of the poor,
- (b) education,
- (c) medical relief, and
- (d) advancement of any other object of general public utility.

**3.2** Prior to Assessment Year 2009-10, business income of a charitable trust or institution was also eligible for exemption subject to conditions that such business should be incidental to the attainment of its objects, and that separate books of account are maintained for such business. With effect from 01.04.2009 (i.e., from assessment year 2009-10 onwards), however, the “advancement of any other object of general public utility” shall not qualify as a “charitable purpose” if the same involves the carrying on of any activity in the nature of trade, commerce or business, or rendering of any service in relation to any trade, commerce or business, for a consideration. This new restriction applies irrespective of the nature of use or application of the income arising from such activity. However, the rigour of this amendment has been reduced somewhat by a subsequent amendment brought in by the Finance Act, 2010 (with retrospective effect from 1-4-2009)\* to the effect that the said restriction shall not apply if the aggregate value of receipts from such activity during the given financial year does not exceed Rs. 25,00,000.<sup>2</sup>

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\* w.e.f 1-4-2009 the ceiling was ₹ 10,00,000. It was subsequently revised w.e.f 01-04-2012 to ₹ 25,00,000.

**3.3** Further, w.e.f. 01.04.09, preservation of environment (including watersheds, forests and wildlife), and preservation of monuments or places, or objects of artistic or historic interest have specifically been included within the ambit of “charitable purpose”.

**3.4** It may be added that the definition of “charitable purpose” remains an inclusive one and is not an exhaustive or exclusive one. In other words, purposes similar to those mentioned in the aforesaid definition could also constitute ‘charitable purpose’ under the Act. Courts have held that the expression ‘charitable purpose’ is sufficiently wide in scope to include a variety of activities. For instance, promotion of sports and games is a charitable purpose<sup>3</sup>, as is promotion of trade and commerce, even when the beneficiaries are confined only to a particular line of trade or commodity<sup>4</sup>. At the same time, however, the fact that remote and indirect benefits are derived by members of the public will not be sufficient to make the purpose a “charitable purpose” under the Act. Mentioned below are a few significant cases which help clarify the meaning of the expression “charitable purpose” for the purposes of income tax.

## **CHARITY**

**3.5** The word ‘Charity’ connotes altruism in thought and action. It involves an idea of benefiting others rather than oneself.<sup>5</sup>

**3.6** A commercial concern is not an object of relief of the poor on the ground that it provides employment. The object should provide relief directly and not indirectly.<sup>6</sup>

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<sup>2</sup> w.e.f. 01.04.2012.

<sup>3</sup> CBDT’s Circular No.395 dated 24.09.1984.

<sup>4</sup> *Bharat Diamond Bourse* [2003] 126 Taxman 365 (SC); *Surat Art Silk Cloth Manufactures Association* [1980] 121 ITR 1 (SC).

<sup>5</sup> *Andhra Chamber of Commerce* [1965] 55 ITR 722 (SC).

<sup>6</sup> *Yograj Charity Trust* [1976] 103 ITR 777(SC).

**3.7** For a trust to be accepted as a charitable trust for the purposes of exemption, it is necessary that the objects should be specific so as to confirm to the requirement of income tax law in this regard. Where they are too wide, the trust may not qualify for exemption.<sup>7</sup>

**3.8** The onus to prove that objects are of charitable nature is on the assessee.<sup>8</sup>

## **RELIEF OF THE POOR**

**3.9** The establishment of an industrial or commercial concern ordinarily envisages a profit making activity<sup>9</sup> and cannot be said to be a charitable purpose on the ground that it will provide employment to some poor persons.<sup>10</sup>

## **EDUCATION**

**3.10** The word ‘Education’ means training and developing the knowledge, skill, mind and character of students by normal schooling. Travelling also enhances knowledge, but that would not amount to ‘education’ in the context of Section 2(15).<sup>11</sup>

**3.11** The running of a private coaching institute for the purpose of training the students to appear at certain specified examinations upon taking specified sum from the trainees is not a charitable purpose.<sup>12</sup>

## **ADVANCEMENT OF ANY OTHER OBJECT OF GENERAL PUBLIC UTILITY**

**3.12** To serve a charitable purpose, it is not necessary that the object should be to benefit the whole of mankind or all persons in a

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<sup>7</sup> *Gangabai Charities* [1992] 197 ITR 416 (SC); *Assembly Rooms* [2000] 241 ITR 76 (Mad).

<sup>8</sup> *Indian Chamber of Commerce v. CIT* [1975] 101 ITR 796 (SC).

<sup>9</sup> *Dharmaposhanam Co.* [1978] 114 ITR 463 (SC).

<sup>10</sup> *Jaipur Charitable Trust* [1971] 81 ITR 1 (Del); *Yogiraj Charity Trust* [1976] 103 ITR 777 (SC).

particular country or state. It is sufficient if the intention to benefit a section of the public, as distinguished from a specified individual, is present. However, the section of the community sought to be benefited must be sufficiently defined and identifiable by some common quality of a public or impersonal nature.<sup>13</sup>

**3.13** An institution set up with the object of promoting trade or commerce is a charitable institution as it promotes common good through enhancement of business.<sup>14</sup> However, an institution which merely regulates or enhances the business of its members, is not a charitable institution. Thus, where the proprietors of hotels formed an association for obtaining articles on permit for supplying them to members and protecting their business interest, the association was held not to be a charitable one for the purpose of the Act<sup>15</sup>.

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<sup>11</sup>*Sole Trustee, Lok Shikshana Trust [1975] 101 ITR 234 (SC).*

<sup>12</sup>*Bihar Institute of Mining and Mine Surveying [1994] 208 ITR 608 (Pat.)*

<sup>13</sup>*Ahmedabad Rana Caste Association [1971] 82 ITR 704 (SC).*

<sup>14</sup>*Federation of Indian Chambers of Commerce & Industry [1981] 130 ITR 186(SC); Bar Council of Maharashtra [1981] 130 ITR 28 (SC).*

<sup>15</sup>*Madras Hotels Association [1978] 111 ITR 241 (Mad.)*

## CHAPTER-4

### REGISTRATION OF CHARITABLE TRUSTS<sup>16</sup> & INSTITUTIONS

**4.1** One of the key preconditions for charitable trusts and institutions seeking to claim exemption under Sections 11 and 12 of the Income Tax Act is registration under the Act. Section 12A enacts that the provisions of Section 11 and Section 12 which provide for exemption of income to such trusts and institutions, will not be applicable unless such trust or institution has made an application in the prescribed form<sup>17</sup> for registration to the Commissioner or Director, and it has been registered by the Commissioner or Director. Under the amended provisions of this Section which have come into effect from 01.06.2007, the earlier requirement of filing such an application within one year of creation of the trust (or establishment of the institution) has been removed. Similarly, the power of the Commissioner or Director to condone the delay in filing such application and to grant the benefit of exemption retrospectively from the date of creation of trust or establishment of the institution has also been done away with. Under the amended provisions, where an application is filed on or after the 1st day of June, 2007, exemption under Sections 11 and 12 shall be available only on a prospective basis from the assessment year which immediately follows the financial year in which the application is made.

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<sup>16</sup>*In law, a 'trust' signifies an obligation attached to the ownership of property, and arising out of the confidence reposed by the author of the trust in the trustees. In the I-T Act, however, the word has been used in a wider sense to include any other legal obligation, even if the legal requirements for creation of a trust are not strictly met.*

<sup>17</sup>*Form No.10A (See Annexure-I)*



- The Finance Act 2014 has made some further amendments by stating that where Eligible trusts or institutions which have been granted registration under section 12AA of the act will be eligible for benefits under sections 11 and 12 of the Act even for any earlier year which is pending assessment on the date of such registration. Further, no reopening of an assessment permitted, merely if such trust or institution has not obtained registration for the earlier assessment year. These benefits will not apply in a case where the registration was either refused or cancelled. Eligible educational institutions, hospitals and other institutions under Section 10 (23C) of the Act to be considered as substantially financed by the government only if the government grant to the institution exceeds such percentage (to be prescribed) of the total receipts (including voluntary contributions) during the previous year.
- Commissioner of Income-tax has been empowered to cancel registration granted to trusts or institutions deriving income from property held under trust under specified circumstances, such as investing in prohibited modes, applying income for benefit of trustees, etc.

**4.2** Section 12AA of the Income Tax Act and Rule 17A of the Income Tax Rules prescribe the procedure for registration of a trust where an application for registration under Section 12A has been received by the Commissioner or Director. The application for registration has to be made in Form No. 10A (**Annexure-I**). It should be accompanied by the following documents: -

- (i) Copy of the instrument by way of which the trust or institution etc. is created;
- (ii) If it has been in existence in the years prior to the year in

which application is made, accounts of the prior years (not exceeding three years).

**4.3** On receipt of the application, the CIT/DIT (E) has to pass an order either registering the trust or institution or rejecting the application. The registration may be rejected on the ground that the trust or its activities are not genuine. Under sub-Section (2) of Section 12A such an order registering or refusing registration has to be passed within a period of **six months** from the end of the month in which the application is made.

**4.4** The conditions required for registration have been stated briefly and in simple language. It mandates that the Commissioner or Director should satisfy himself about:-

- (i) the objects of the trust or institution, and
- (ii) the genuineness of its activities.

**4.5** It follows that the Commissioner or Director will enquire whether the object(s) of the trust or institution constitute religious or charitable purpose(s) within the meaning of Section 2(15).

**4.6** Section 12A(b) prescribes another important condition for claiming exemption under Sections 11 and 12. It requires a trust or an institution whose income for the previous year before claiming the deduction contemplated under Sections 11 and 12 falls within the tax bracket (i.e., its income exceeds the maximum amount which is *not chargeable to income-tax without giving effect to the provisions of Section 11 and Section 12*), to get its accounts audited by an Accountant. The Accountant's report in Form No. 10B (**Annexure-II**) has to be filed along with the return of income. A Chartered Accountant or other person mentioned in the Explanation to Section 288(2) of the Act is authorised to carry out such an audit.

**4.7** The following points should ordinarily be kept in mind at the time of making an application for registration:-

- (i) there should be a legally existent entity which can be registered;
- (ii) it should have a written instrument of creation or written document evidencing its creation;
- (iii) all its objects should be charitable or religious in nature;
- (iv) its income and assets should be made applicable exclusively towards the objects mentioned in the object clauses, and the rules and by-laws;
- (v) no part of its income should be distributable or distributed, directly or indirectly, to its members, directors or founders, related persons or relatives etc. claiming through them;
- (vi) in case of dissolution, its net assets after meeting all its liabilities, should not be revertible or reverted to its founder, members, directors or donors etc., but used for the objects by transfer to other trust/institution having objects of charitable purpose.

## **CHAPTER-5**

### **ASSESSMENT OF INCOME OF A CHARITABLE OR RELIGIOUS TRUST OR INSTITUTION**

**5.1** The legal framework which governs the taxability of income of public charitable entities (including a trust, a company registered under Section 25 of the Companies Act, 1956 a society registered under the Societies Registration Act, 1860, or such other entities) is contained in one or more of the following Sections of Act:-

- (i) Section 2(15);
- (ii) Section 2(24)(iia);
- (iii) Section 10;
- (iv) Sections 11, 12, 12A, 12AA and 13;
- (v) Sections 35(1)(ii) and 35(i)(iii);
- (vi) Section 115BBC.

### **INCOME**

**5.2** The term “income” has been defined under Section 2(24) of the Act to include a number of specified things. It is noteworthy that the definition, although very wide in scope, is still only an inclusive one, and not an exhaustive or exclusive one. In other words, in addition to the things specifically mentioned under Section 2(24), such other things which the word signifies in natural or common usage will also fall within the meaning of “income”. Further, the concept of income in the case of a religious or charitable

trust or institution differs from the concept of income in the case of other assesseees under the income tax law in one very significant respect. Under Section 2(24)(ia) of the Act, voluntary contributions (donations) received by these entities from their donors are to be taken as their income. This provision applies equally to a trust or institution which was created or established only partly for religious or charitable purposes. The Act deals with such voluntary contributions which are deemed to be the income of the trust or institutions under clause (ia) of Section 2(24) primarily in three ways. Firstly, anonymous contributions (if any) out of these are dealt with in the manner provided under Section 13(7) and 115BBC as described in the Para-5.4 below. Secondly, voluntary contributions which are in the nature of corpus donations are eligible for unconditional exemption (i.e., rules regarding the extent of application or accumulation of income do not apply to corpus donations) under Section 11(1)(d). Thirdly, voluntary contributions which are neither anonymous nor corpus donations are eligible for exemption under the other provisions of Section 11, subject to fulfilment of conditions specified therein.

## FILING OF RETURN

**5.3** A charitable or religious trust or institution is mandatorily required to file a return of income under Section 139(4A) if its income *without giving effect to the provisions of Sections 11 and 12* exceeds the maximum amount not chargeable to income-tax. In other words, such a trust or institution must file a return of income if it has taxable income for the year before claiming exemption under Sections 11 and 12. The report of the auditor in Form 10B mentioned in Para-4.6 has to be filed along with the return.

## ANONYMOUS DONATIONS

**5.4** A significant legal change has been brought about by Finance Act, 2006 with effect from 01.04.2007 by inserting a new provision (Section 115BBC) whereby anonymous donations will not enjoy exemption but would be chargeable to tax at the rate of 30 per cent from Assessment Year 2007-08 onwards. This provision, as it stands

after further amendment by Finance Act, 2009 lays down that from Assessment Year 2010-11 onwards, tax treatment of anonymous donations **(i.e., donations in respect of which the assessee fund/trust/institution etc. does not maintain records of identity indicating the name and address, or other particulars of the donor as are prescribed under the I-T Act) would be as follows:**

- i. Anonymous donations received by wholly religious institutions shall remain exempt from tax.
- ii. In the case of partly religious and partly charitable institutions, anonymous donations to medical or educational institutions run by them will be taxable at 30 percent if the same exceed 5 per cent of total donations received by such trust/institution or Rs. 1 lakh, whichever is more. Donations to partly religious and partly charitable institutions which do not run such medical or educational institutions shall remain exempt from taxation.
- iii. In the case of wholly charitable institutions, anonymous donations will be taxable at 30 percent if such donations exceed 5 per cent of total donations received by such trust or institution or Rs. 1 lakh, whichever is more.

## EXEMPTION OF INCOME

**5.5** Under Section 11, exemption of income has been provided for in respect of the following:

(i) Income “applied to” charitable/religious purposes in India: Section 11(1) (a) permits exemption of income derived from property held under trust wholly<sup>18</sup> for charitable or religious purposes to the extent it is actually applied to such purposes during the financial year. Courts have held that

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<sup>18</sup>A trust which was created prior to 01.04.1962 is entitled to claim exemption in respect of its income from property held only partly for charitable or religious purposes also, subject to the conditions mentioned in Section 11(1)(b).

the word “applied” means “to put to use” “to turn to use” or “to make use” or “to put to practical use.”<sup>19</sup> The Madras High Court in *Kannika Parameswari Devasthanam & Charities*<sup>20</sup> held that if the expenditure is on capital account on object (s) contained in the object clause, the expenditure will amount to application of income. Where the assessee had constructed a building out of accumulated and borrowed funds and the building was later rented out and a part of the rent was used for repayment of loan, the Karnataka High Court held<sup>21</sup> that such repayment of loan was application of income. Courts have also held that donation by one charitable trust to another would also amount to application of income by the donor trust.<sup>22</sup>

The law also provides for relaxation of the rule that at least 85 per cent of the income must be applied to charitable/ religious purposes during the previous year. Under Clause (2) of the Explanation to Section 11(1), it has been provided that where income so applied by a trust or institution falls short of 85 percent of the income derived during the year because such income was not actually received by the assessee during the year, it would be sufficient for the assessee to apply such amount in the year in which it is actually received or in the immediately following previous year. Where the amount applied during the year fall short of 85 percent for any other reason (i.e., for reason other than non-receipt during the year), it can be applied in the year immediately following the previous year in which such income was derived. In either of these circumstances, the assessee is required to exercise its option of postponing the application of income in writing before the due date for filing of return under Section 139 of the Act. Where the assessee has duly exercised such an option, the said amount will be treated as having been applied to charitable/religious purposes in the previous year in which the income was derived. As a natural corollary, the assessee cannot claim the amount as application of income again in the year in which it is actually applied.

<sup>19</sup>*The Rajasthan High Court in Mewar Charitable Foundation [1987] 164 ITR 439 (Raj.); The Gujarat High Court in Swetamber Murti Pujak Mandal [1995] 211 ITR 293 (Guj.).*

<sup>20</sup>*[1982] 133 ITR 779 (Mad.).*

<sup>21</sup>*Janmabhumi Press Trust [2000] 242 ITR 457 (Kar.).*

<sup>22</sup>*JK Charitable Trust [1992] 196 ITR 31 (All.); Nirmala Bakubhai Foundation [1997] 226 ITR 394 (Guj.).*

(ii) Income applied outside India (in certain cases): Section 11(1)(c) permits deduction of expenditure incurred outside India provided that such application of income promotes international welfare in which India is interested. However, for deduction of such expenditure, prior approval of the Board is required.

(iii) Corpus Donation: Corpus donations are to be excluded entirely from the assessable income of the trust or institution under Section 11(1)(d). In other words, voluntary contributions received with a specific direction from the donor that they shall form part of the corpus will get excluded from the taxable income of the trust or institution under Section 11(1)(d). The requirements of application during the year, the quantum of accumulation allowable and the procedural requirements such as filing of forms or exercising an option in writing etc., would not apply to these amounts.

(iv) Capital Gains: Section 11(1A) of the Act deals with capital gains arising or accruing to a charitable trust or institution. The position of law is that in the case of a charitable trust or institution eligible for exemption under Section 11, capital gains, whether long term or short term, will be deemed to have been applied to charitable purposes and will be exempt from tax to the extent they are reinvested in a new capital asset. The provision applies with necessary modifications to cases where the capital asset is held only partly (and not wholly) for religious or charitable purpose.

(v) Income “accumulated or set apart for application”: Under Section 11(1)(a), in addition to the income actually applied to charitable/religious purposes, income of the trust/institution to the extent of 15 per cent of the income derived during the year, if accumulated or set apart for future application to such purposes, is also eligible for exemption. No procedural requirements have been laid down for such accumulation of upto 15 per cent of the income derived during the year.

Apart from accumulation of 15 per cent of income permitted under Section 11(1)(a), however, a trust or institution is permitted under Section 11(2) to accumulate or set apart income for specific purpose(s). Such accumulation or setting apart of income has to be for definite and concrete purposes and should not be vague. The Calcutta High Court has held that while the purposes for which the income is accumulated cannot under any circumstances travel beyond the objects of the trust, listing all the objects

of the trust as the purpose of accumulation would not satisfy the requirements of Section 11(2)<sup>23</sup>. Stated briefly, the amount sought to be accumulated under Section 11(2) shall be excluded from taxable income provided the following conditions are satisfied:-

- (i) A notice is given in Form No.10 (**Annexure-III**) to the assessing officer setting out the amount and purpose for which it is accumulated, and
- (ii) The money so accumulated or set apart is invested in the forms or modes mentioned in Section 11(5).

As per Rule 17, the notice has to be given on or before the due date of filing the return under Section 139(1). However, subject to certain conditions, the Board has authorized the Commissioner or Director to extend the aforesaid time limit if good and sufficient reason is shown for the inability to give the notice in time<sup>24</sup>. The Circular stipulates satisfaction of five conditions before the time limit is extended. These are as under:-

- A. The genuineness of the trust is not in doubt;
- B. The failure to give notice to the Assessing Officer and invest the surplus in time was only due to over-sight;
- C. The trustees or settler have not benefited by such failure directly or indirectly;
- D. The trust agrees to invest the surplus before the extension of time is granted;
- E. The accumulation was necessary for carrying out the object of the trust.

The issue of time limit for giving notice was considered by Hon. Supreme Court in the case of Nagpur Hotel Owners

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<sup>23</sup>*Singhania Charitable Trust [1993] 199 ITR 819 (Cal).*

<sup>24</sup>*Circular No. 273 dated 03.06.1980.*

Association<sup>25</sup>. It was held that such a notice can be given at any time before the assessment is made. Thus, the time limit under Rule-17 is directory and not mandatory in nature. However, a notice given after completion of assessment will not satisfy the requirement of Section 11(2), as in such a case all particulars relevant for computation of income will not be available before the Assessing Officer for making the assessment.

Income accumulated or set apart under Section 11(2) for attainment of specific purposes has to be used for the specified purposes within specified period. An infringement of the conditions of accumulation can occur on any or all of the following grounds:-

- (i) It is applied to purposes other than charitable or religious purposes,
- (ii) It ceases to remain invested in the manner specified under Section 11(5),
- (iii) It is not applied for the purposes for which it was accumulated, or
- (iv) It is credited or paid to any other charitable or religious trust or institution or other such institution mentioned under Section 11(3)(d).

Upon the occurrence of any of the aforesaid events, the amount will be taken as the income of the previous year in which such event takes place. It may happen that an assessee is unable to apply accumulated income for the purposes for which it was accumulated because of reasons beyond his control. In such a situation, Section 11(3A) allows the assessee to make an application to the assessing officer requesting for change of purpose(s) for application of income. Upon such application, the Assessing Officer may allow the change if the substituted purposes are in conformity with the objects of the charitable trust or institution. However,

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<sup>25</sup>*[2001] 247 ITR 201 (SC).*

transfer of income to another charitable trust will not be allowed under this provision.

(vi) Business Income: Section 11(4) states that a business undertaking can be held as property under trust. Therefore, a legitimate claim can be made that the income of such business may not be included in the total income of the person receiving such income. In such a case, the assessing officer is required to assess the income of such business under the normal provisions of the Act. If there is a difference between income so determined and the income shown in the accounts, such difference shall not be regarded as having been applied to religious or charitable purpose, but shall be deemed to have been applied to purposes other than charitable/religious purposes. The point to be noted is that the income of the business has to be calculated under the normal assessment related provisions of the Act and not as per Chapter III which otherwise applies to income of charitable trusts and institutions.

Section 11(4A) deals with income of a trust or institution by way of a business which is incidental to attainment of its objects. The income of such a business will be entitled to exemption under Section 11 if separate books of account are maintained, otherwise, the income will not be entitled to benefit of exemption under Sections 11 and 12.

The above legal position, however, stands altered from Assessment Year 2009-10 onwards in view of the amendment to the Act brought about by the Finance Act, 2008 with effect from 01.04.2009. The legal position with effect from 1.4.2009 is discussed in Para-3.2. After this amendment, Section 11(4A) will have no practical application in so far as “advancement of any other activity of general public utility” is concerned. However, there is no change in the legal position in respect of trusts for other charitable purposes, including “relief of the poor”, “education” and “medical relief.”

## MODES OF INVESTMENT

**5.6** Section 11(5) mentions a number of modes of investment in which income accumulated and set apart under Section 11(2) must

be kept. For the sake of easy reference, these have been reproduced in **Annexure-IV**.

- Finance Act 2014 has amended section 11 of the Income Tax Act.
- In computing income of the charitable trusts/institutions, deduction or allowance for depreciation in respect of an asset, acquisition of which has been claimed as application of income in any year, is to be excluded.
- Funds, institutions, universities, etc approved/registered under Section 10(23C) and 12AA of the Act cannot claim exemption under any other provision of Section 10 of the Act, except for agricultural income or under Section 10(23C) of the Act.

## RATE OF TAX

**5.7** Income derived from property held under trust wholly for charitable or religious purpose (including voluntary contributions received from donors), to the extent it is not exempt under Sections 11 and 12, is liable to tax at the normal rates applicable to an Association of Persons (AOP), except for anonymous donations discussed in Para-5.4 above. Where, however, there is any default of the nature specified under Section 13(1)(c)<sup>26</sup> or 13(1)(d)<sup>27</sup>, Section 164 lays down that its income would be liable to tax at the maximum marginal rate, i.e., the rate of income-tax (including surcharge) applicable to the highest slab of income for the relevant assessment year.

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<sup>26</sup> A default of this nature occurs where income or property of the trust or institution either directly or indirectly benefits the author, founder or other such person specified under Section 13(3). Also see Sub-para (iii) & (iv) of Para-6.1 (Chapter-6) and Annexure-V.

<sup>27</sup> A default of this nature occurs where funds of the trust or institution are invested or deposited otherwise than in the manner specified under Section 11(5). Also see Sub-para (v) of para-6.1 (Chapter-6) and Annexure-IV.

## CHAPTER-6

### FORFEITURE OF EXEMPTION AND ITS CONSEQUENCES

**6.1** Section 13 mentions the circumstances under which benefit of provisions of Section 11 and Section 12 shall not be available to an assessee. These circumstances are listed as under :—

- (i) Income from property held under trust for private religious purposes and not for the benefit of public;
- (ii) Income of a charitable<sup>28</sup> trust or institution created or established for the benefit of a particular religious community or caste (other than SC/ST/Backward Classes, women and children);
- (iii) Income of a charitable or religious trust or institution under whose terms or rules any part of its income directly or indirectly benefits the author/founder/trustee/ manager or other such person specified under Section 13(3) (For a list of such persons, see **Annexure-V**);
- (iv) Income of a charitable or religious trust or institution if any part of its income or property is used or applied during the previous year either directly or indirectly for the benefit of any person specified under Section 13(3);
- (v) Income of a charitable or religious trust or institution, if any of its funds are invested or continue to remain

invested otherwise than in the modes specified under Section 11(5) during the previous year (this is subject to certain specified exceptions such as assets held as corpus, accretions to the same by way of bonus shares, debentures acquired under certain circumstances etc.);

- (vi) Income of a charitable trust or institution engaged in the advancement of “any other object of general public utility” if it involves carrying on of any trade, commerce or business activity.

**6.2** A special note may be made of the condition mentioned in sub-para (iv) above. The Act contains very stringent provisions barring the use of either the property or the income of a charitable or religious trust or institution in any manner whatsoever for the benefit of the author, founder, trustee, manager, a substantial contributor, or even a relative of any of these persons. The rigor of this provision needs to be well understood by assesseees seeking to claim exemption under Sections 11 and 12 of the Act. In one case, where a charitable trust had purchased a refrigerator and kept it at the disposal of the managing trustee while its own buildings were not ready, and no compensation was charged from the managing trustee, the Kerala High Court held that the trust was hit by Section 13 and was not entitled to claim exemption.<sup>29</sup>

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<sup>28</sup>This restriction will not apply to a “religious” trust or institution.

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<sup>29</sup> *Agappa Child Centre [1997] 226 ITR 211 (Ker.)*.

## CHAPTER-7

### APPROVAL UNDER SECTION 80G(5)

**7.1** Apart from exemption of income of the trust or institution itself under Sections 10(23C), 11 and 12 as described in the foregoing pages, a donor to such entities is also entitled to benefit of deduction from his own income on account of the donations made by him. The extent of deduction allowable is prescribed in Section 80G(1)(i). While contributions to certain funds/entities such as the Prime Minister's National Relief Fund, contributions to a university or educational institution of national eminence, and to specified funds set up by state governments for disaster relief etc. are entitled to 100 per cent deduction, others are eligible for exemption to the extent of 50 per cent of the amount donated. It may be noted here that with effect from 01.04.2013, donations exceeding Rs.10,000/- must be made other than in cash in order to be eligible for deduction. Section 80G(5) lays down the preconditions which must be satisfied cumulatively before a trust or institution can qualify for approval under Section 80G. These conditions are summarized as under:-

- (i) The income of the fund or institution would not be includible in its total income by virtue of provisions contained in Sections 11 and 12, Section 10(23AA) or Section 10(23C);
- (ii) As per instrument under which the fund or institution was created and as per rules governing it, no part of its income or assets is transferable, or to be applied for any purpose other than charitable purpose. Charitable purpose here would not include religious purpose in view of Explanation 3 below Section 80G. However, Section

80G(5B) permits application upto 5 per cent of the income for the year towards religious purposes;

- (iii) The fund or institution is not expressed to be for the benefit of any particular religious community or caste;
- (iv) It maintains regular books of account regarding its receipts and expenditure;
- (v) The institution or fund is either constituted as a public charitable trust, or a society registered under Societies Registration Act (or its equivalent legislation), or a company registered under Section 25 of the Companies Act, or a statutory university or recognised educational institution, or an institution financed by the central or state government;
- (vi) The institution or fund is approved by the Commissioner (or Director) in accordance with the rules made in this behalf.

**7.2** The requirement for approval by the CIT/DIT thus stems from the condition mentioned at (vi) above.

**7.3** Rule 11AA prescribes that an application for approval under Section 80G shall be made in triplicate in Form No.10G (**Annexure-VI**). It shall be accompanied by copies of following documents: -

- (i) order of registration under Section 12A or notification under Section 10 (23C);
- (ii) note on activities conducted since inception or in last three years, whichever is less; and
- (iii) accounts of the institution since inception or for the last three years, whichever is less.



**7.4** The rule also provides that the application (Form No. 10G) made by the assessee shall be disposed of within six months of the date on which the application was made. However, the time taken by the assessee in providing information called for by the CIT or in responding to enquiries made by him shall be excluded while calculating the aforesaid limitation period of six months.

**7.5** No formal procedure has been laid down either in the Act or the Rule for disposal of the applications. However, the fund or institution has a right to be heard before its application can be rejected. Orders passed by the Commissioner can now be challenged before the Income Tax Appellate Tribunal under Section 253. It is noteworthy that the Proviso to Section 80G(5)(vi) under which approvals granted by the Commissioner had a maximum validity period of five years has been deleted with effect from 1.10.2009. Accordingly, approval once granted is now valid forever unless withdrawn by the Commissioner where he is satisfied that the activities of the institution or fund are not genuine or are not being carried on in accordance with its objects.

**7.6** Two decisions regarding approval of a trust etc. under Section 12AA are noteworthy. In *East India Industries (Madras) Pvt. Ltd.*<sup>30</sup> the Hon. Madras High Court held that the question whether donation to an institution are deductible under Section 80G has to be decided with reference to all the objects of the institution. If some objects are non charitable, the institution is not eligible for approval. In *Upper Ganges Sugar Mills Ltd.*<sup>31</sup>, the Hon. Supreme Court has held that even if one object is wholly or substantially religious in nature, the institution is not eligible for approval under Section 80G.

<sup>30</sup> [1997] 65 ITR 611 (SC).

<sup>31</sup> 227 ITR 578 (SC).

## CHAPTER-8

### APPROVAL OF AWARD OR REWARD UNDER SECTION 10(17A)

**8.1** This Section exempts from tax any payment made, whether in cash or kind, in pursuance of an **award** instituted in the public interest by the Central Government, the State Government or by a body approved in this behalf by the central government. Similarly, a **reward** by the central or state government for the purposes approved by the central government in this behalf in the public interest is also exempt from tax. Thus, approval by the central government in the public interest is the only necessary precondition for exemption of the award or reward. In order to get approval for the exemption of awards from tax in the hands of the recipients, the institution is required to furnish information on the following points:-

1. Name, address & PAN of the institution :
2. Assessment Year for which approval is sought :
3. Instrument of creation of the institution containing inter alia MOA and rules & regulations :
4. Whether the institution is registered under Section 12A, or notified or approved under Section 10(23), 10(23C), 35(1)(ii) or 35(1)(iii) :
5. Purpose of award :
6. Copy of the scheme of the award, and rules and regulations for grant of award :

7. Amount and periodicity of the award :
8. Method of selection of the person(s) to be awarded :
9. Constitution of the Jury/ Selection Committee including interalia name, address & qualification of its members :
10. Name, address and qualification of the persons given awards in the last five years :
11. Copies of audited accounts since inception or last three years whichever is less :
12. Any other information in support of approval of the award :

**8.2** While instituting awards, the institution must keep following points in mind for the purpose of notification:-

- (i) Whether the award is in public interest;
- (ii) Whether the object clauses, and rules and regulations of the institution permit grant of the award;
- (iii) Whether the grant of award is in furtherance of aims and objects of the institution;
- (iv) Whether the objects of the institution are charitable in nature;
- (v) Whether selection criteria are fair and reasonable;
- (vi) Whether permission of the Board has been obtained under Proviso to Section 11(1)(c) in case the expenditure on award is to be incurred outside India.

## CHAPTER-9

### APPROVAL UNDER SECTION 10(23C)

**9.1** Section 10(23C) consists of twelve sub-clauses. Sub-clauses (i), (ii), (iii) and (iiia) exempt from tax the income of **Prime Minister's National Relief Fund, Prime Minister's Fund for Promotion of Folk Art, Prime Minister's Aid to Students' Fund** and **National Foundation for Communal Harmony** respectively. These do not require any elaboration.

**9.2** Sub-clause (iiib) takes out of the purview of taxation income of any **university or other educational institution** existing solely for educational purposes and not for profit, which is wholly or substantially financed by the government. Sub-clause (iiid) contains parallel provisions exempting the income of a university even where it is not wholly or substantially financed by the government, provided its aggregate annual receipts do not exceed a prescribed limit (currently the limit is Rupees one crore)<sup>32</sup>.

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<sup>32</sup>See Rule 2BC(1) of I-T Rules.

**9.3** Sub-clause (iiia) of Section 10(23C) takes away from the ambit of taxation the income of any **hospital or other such institution** for the reception and treatment of persons suffering from illness or mental defectiveness, or for reception and treatment of persons during convalescence, or of persons requiring medical attention or rehabilitation, provided that the hospital or the institution exists solely for philanthropic purposes are not for profit and it is wholly or substantially financed by the government. Clause (iiia) contains parallel provisions exempting the income of any hospital or other such institution even where it is not financed wholly or substantially by the government, provided its aggregate annual receipts do not exceed the prescribed limit (currently, the limit is Rupees one crore)<sup>33</sup>.

**9.4** Clauses (iv), (v), (vi) and (via) of Section 10(23C) deal with exemption of income of various kinds of religious or charitable funds/trusts/institutions etc. which are “**approved by the prescribed authority**” under the respective sub-clauses. Of these, **Sub-clause (iv)** deals with exemption of income of any fund or institution established for charitable purposes which may be approved by the prescribed authority taking into account the objects of the fund or institution or its importance throughout India or throughout any state(s) of India. In order to be eligible for exemption, such trust or institution should not be involved in any trade, commerce or business activity or rendering of any service in relation to such activity. **Sub-clause (v)** deals with exemption of income of any trust or institution wholly for public religious purposes or public religious and charitable purposes, which may be approved by the prescribed authority taking into account the manner in which its affairs are administered and supervised so as to ensure that the income is applied for its objects. The restriction on trade, commerce or business activity or rendering of any service in relation to it which applies to Sub-Section (iv) also applies to this Sub-Section.

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<sup>33</sup>Rule 2BC(2) of I-T Rules.

**Sub-clause (vi)** deals with exemption of income of any university or educational institution other than those mentioned in Sub-clauses (iiia) and (iiid) [see Para-9.2 above] which exists solely for educational purposes and not for purposes of profit, which may be approved by the prescribed authority. And finally, **Sub-clause (via)** deals with exemption of income of any hospital or other institution engaged in reception and treatment of persons suffering from illness or mental defectiveness or during convalescence or requiring medical attention or rehabilitation, other than those mentioned in Sub-clauses (iiia) and (iiia) [see Para-9.3 above] which may be approved by the prescribed authority. The “prescribed authority” for the purposes of all these sub-clauses is now the Chief Commissioner or the Director General of Income Tax<sup>34</sup>. The fund, trust, institution or other entity seeking exemption under each of the above sub-clauses [i.e., Sub-clauses (iv), (v), (vi), and (via)], is required to make an application in the prescribed forms, namely, Form No.56 and 56D [see Annexure-VII & VIII] to the CCIT or DGIT concerned for grant or continuation of exemption. Such application is required to be made before 30<sup>th</sup> September of the relevant Assessment Year from which exemption is being sought.

**9.5** The prescribed authority is empowered to call for the requisite documents, audited annual accounts and other relevant information as it considers necessary and is also empowered to make necessary enquiries to satisfy itself about the genuineness of the activities of the fund/trust/institution etc. within 12 months from the end of the month in which such application was received. Prescribed authority has to either grant the approval sought or has to pass an order rejecting the application.

**9.6** Conditions specified under Sub-Sections 11(1), 11(2) and 11(3) regarding application of income, accumulation of income and its

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<sup>34</sup>Rules 2C and 2CA of I-T Rules. Also see Notification No.195/2007, dated 30-5-2007 Notification No. So 1666 (E) dated 16.07.2010.[**Annexure-XIII**] for list CCsIT/DGsIT notified as “prescribed authority”.

use, are applicable to such a fund, trust, institution etc. As in the case of trusts or institutions claiming exemption under Sections 11 and 12, a fund/trust/ institution seeking to claim exemption under Section 10(23C)(iv), (v), (vi) or (via) is also required to get its accounts audited where its total income without giving effect to the said provisions exceeds the maximum amount not chargeable to tax during the year.

**9.7** The provisions of Section 11(5) relating to the forms and modes in which funds of the assessee trust, institution, etc. are to be invested are also applicable, subject to the specified exceptions including assets held as part of corpus, contributions received and maintained in kind in certain circumstances, etc.<sup>35</sup> Similarly, as regards business income too, provisions parallel to Section 11(4A)<sup>36</sup> have been incorporated into Section 10(23C) to specify that business income of such a fund, trust, institution etc. shall not be exempt unless the business is incidental to the attainment of its objects and separate books of account are maintained by it in respect of such business.

**9.8** As in the case of trust or institutions claiming exemption under Section 11, assessee seeking to claim exemption under Section 10(23C) too are barred from paying any amounts accumulated for future application to any other entity registered under Section 12AA or approved under Section 10(23C)(iv),(v),(vi) or (via). Such amounts, if paid or credited to any such entity shall not be treated as application of income to the objects of the fund, trust, institution etc., but shall be treated as its income chargeable to tax in the hands of the assessee fund, trust, institution etc.

**9.9** Anonymous donations (donations in respect of which the assessee fund/ trust/ institution etc. does not maintain records of identity indicating the name and address, or other particulars of the

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<sup>35</sup> See Clause (b) of the Third Proviso to Section 10(23C)

<sup>36</sup> See sub-para (vi) of para-5.5 [Chapter-5].

donor as are prescribed), also, will not be exempt but shall be included in the total income of the assessee fund, trust, institution etc.

**9.10** Application for approval by the prescribed authority under Sub-clause (iv) or (v) of Section 10(23C) has to be made in Form No.56 (**Annexure-VII**), while application for approval by the prescribed authority under Sub-clause (vi) or (via) has to be made in form No. 56-D (**Annexure-VIII**).

**9.11** It is noteworthy that the form to be filled up for notification under Sub-clauses (iv) and (v) is the same, namely, Form No. 56, and, similarly, the form to be filled up for approval under Sub-clauses (vi) and (via) is the same, namely, Form No. 56D. However, the considerations which the prescribed authority will keep in mind are different in each case. For Sub-clause (iv), consideration has to be given to the charitable objects of the fund or institution and its territorial importance. Sub-clause (v) lays greater emphasis on the manner in which the affairs are administered so as to ensure that the income is applied properly for the objects of the trust. Sub-clause (vi) lays emphasis on the factual position, namely, that the university or institution should be existing solely for educational purposes and not for profit. Therefore, if the aims and objects of the institution include objects other than educational, then such an institution will not be eligible for approval. For the same reason, the issue as to how the income of the institution is actually applied assumes great significance for the purposes of this sub-clause. Sub-clause (via) lays emphasis on existence solely for philanthropic purposes and not for the purposes of profit. Therefore, the form should be carefully filled up having regard to provision contained in the relevant sub-clause under which approval is being sought.

**Period of Validity - Circular No : 7/2010 dt 27-10-2010.**

**9.12** The prescribed authority is also empowered to withdraw the approval granted to any such fund, trust, institution etc. where subsequent to grant of approval, the authority is satisfied that the

assessee fund, trust, institution etc. has not applied its income wholly and exclusively to its objects or has invested in its funds in modes other than those prescribed or that the activities of the assessee fund, trust, institution etc. are not genuine or are not being carried out in accordance with one or more of the conditions subject to which approval was granted by the prescribed authority. Before withdrawing such approval, however, the prescribed authority is required to give a reasonable opportunity to the assessee to show cause why the approval should not be withdrawn.

## **CHAPTER–10**

### **NOTIFICATION UNDER SECTION 35(1)(ii)/(iii) AND EXEMPTION UNDER SECTION 10(21)**

**10.1** Section 10(21) exempts from tax the income of a “research association” approved for the purposes of Section 35(1)(ii) and Section 35(1)(iii), subject to certain conditions. This sub-Section, which previously applied only to a “scientific research association”, now<sup>37</sup> also applies to associations undertaking research in social science or statistical research.

**10.2** In order to be eligible for the benefit of deduction under Section 10(21), the research association has to fulfil the following conditions :-

- (i) It must be approved by the central government;
- (ii) It must apply its income or accumulate it for future application wholly and exclusively for its objects. Where it accumulates its income for future application, the provisions of Section 11(2) and 11(3) will apply to such accumulation subject to the modification that the notice for accumulation of income in Form No.10 in this case will have to be submitted to the central government and not the assessing officer.
- (iii) Subject to certain very specific exceptions (e.g., assets

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<sup>37</sup> With effect from 1.4.2011

held as corpus since 01.06.1973, debentures acquired before 01.03.1983, bonus shares issued on such corpus assets etc.), it must invest or deposit its funds in accordance with Section 11(5).

- (iv) Business income, if any, shall not be exempt unless the business is incidental to attainment of its objects and separate books of account are maintained for such business.

**10.3** The guidelines, form and manner in which approval under Section 35(1)(ii) or (iii) is to be obtained, have been specified in Rule 5C. An application for approval under Section 35(1)(ii) or (iii) by a research association has to be made in duplicate in Form No. 3CF-I [**Annexure-IX**] whereas in the case of a university, college or other institution, it is to be made in Form No. 3CF-II [**Annexure-X**]. The said application has to be made to the CIT/DIT(E) having jurisdiction over the applicant, at any time during the financial year immediately before the assessment year from which the approval is sought. If the association claims exemption under Section 10(21) of the Act, it has also to fill up the Annexure to Form No. 3CF-I.

**10.4** If any defect is noticed in the application in Form No. 3CF-I or 3CF-II or if any relevant document is not attached, the CIT/DIT (E) will send a deficiency letter to the applicant within one month from the date of receipt of the application form in his office. The applicant is required to remove the deficiency within fifteen days (extendable to thirty days). If the applicant fails to remove the deficiency within a maximum of thirty days, the CIT/DIT (E) will send his recommendation to the Member (IT), CBDT for treating the application as invalid, upon which, the Central Government may pass an order treating the application as invalid.

**10.5** Where the application form is complete in all respects, the CIT/DIT (E) may make necessary inquiry regarding the genuineness of the activity of the association/university/college/institution and send his recommendation to the Member (IT) either for grant of approval or for rejection of the application. He is required to do so within three months from the end of the month in which the application form was received in his office.

**10.6** Before granting approval under Section 35(1)(ii) or (iii), the Central Government may call for such documents or information from the applicant as it may consider necessary and may also get any inquiry made for verification of the genuineness of the activity of the applicant. Where the Central Government is satisfied, it may issue a notification under Section 35(1) to be published in the Official Gazette granting approval to the association or university or college or other institution. Otherwise, it may reject the application for reasons to be recorded in writing.

**10.7** The Central Government may withdraw the approval so granted where it is satisfied that the research association/university/college/other institution has ceased its activities or its activities are not genuine or are not being carried out in accordance with all or any of the conditions under Rule 5D or Rule 5E [See **Annexure-XI & XII** respectively].

**10.8** The applicant is entitled to a reasonable opportunity of being heard before an order treating the application as invalid or rejecting the application or withdrawing the approval, is passed. A copy of such order invalidating or rejecting the application or withdrawing the approval has to be communicated to the applicant, the Assessing Officer and the jurisdictional CIT/DIT (E).

**10.9** As per the Proviso to Section 143(3), the Assessing Officer, where he is of the view that a contravention of Section 10(21) has taken place, is required to intimate the Central Government of the

contravention. Thereafter, if the Central Government withdraws the notification, the assessment may be completed by denying the benefit of Section 10(21). Similarly, where the Assessing Officer is satisfied that the activities of the institution referred to in Section 35(1)(ii) or (iii) are not being carried out in accordance with any of the conditions subject to which it was approved under the said provision, he may, after giving a reasonable opportunity of showing cause to the assessee institution, recommend to the Central Government to withdraw the approval and Central Government may, by an order, withdraw the approval and forward a copy of the order to the assessee and to the Assessing Officer.

**10.10** The Form No. 3CF-I or II may be filled up carefully, having regard to the provisions contained in Sections 35(1)(ii)/(iii), 11(2), 11(3) and 11(5) as well as Rule 5D [see **Annexure-XI**] and Rule 5E [see **Annexure-XII**]. As the benefit is sought to be given in respect of scientific research, research in social science or statistical research activities, it has to be ascertained whether research is the sole object or only one of the objects of the university, association or institution. In case research is only one of the objects of the institution, then, it is incumbent on the institution to maintain separate books of account and furnish Income and Expenditure Account and Balance Sheet in respect of research activities. Such accounts have to be audited by an auditor, who should certify that expenditure incurred was for research work. Following points should be kept in mind while filling up the form:—

- (i) Where research is a part of the objects of the association/institution/university/college whether Income & Expenditure Account and Statement of Affairs are separately maintained for research activity and audited by the auditor;
- (ii) Whether income has been applied or accumulated, as the case may be, for research purposes only;

- (iii) Whether surplus funds are invested in the modes prescribed in Section 11(5);
- (iv) Details of research projects completed and research projects intended to be taken up in the ensuing years;
- (v) Any benefit granted to the interested/related persons, major donors etc.

## CHAPTER-11

### FREQUENTLY ASKED QUESTIONS (FAQs)

**Q.1 Are NGOs and other charitable and non-profit organizations entitled to claim tax exemption under income tax law in India? Are donors who contribute to such organizations also entitled to any tax deduction?**

**Ans.** Yes, such exemption is available to, (i) public charitable trusts or other legal obligations, (ii) university or other educational institutions, (iii) hospital or other institutions for treatment of persons, (iv) research associations, (v) a company formed under Section 25 of the Companies Act. Grant of exemption in each case is, however, subject to fulfilment of a set of specified conditions.

Donors who contribute to such organizations can also claim tax deduction to the extent of a specified proportion of their contribution (50 per cent in most cases).

**Q.2 What is the justification for such exemption?**

**Ans.** NGOs and other voluntary and non-profit organizations supplement governmental efforts in promoting economic and social development and thus serve as partners in 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.

**Q.3 Who are the authorities responsible for grant of such exemption?**

**Ans.** Please refer to Chapter-2 for a list of authorities who play a role in grant of exemptions under the income tax law. For each type of exemption, the law specifies the authority competent to grant the necessary approval.

**Q.4 What is a “trust”?**

**Ans.** Under general law, a ‘trust’ is defined as an obligation attached to the ownership of property, and arising out of the confidence reposed by the author of the trust in the trustees. In the I-T Act, however, the word has been used in a wider sense to include any other legal obligation, even where the legal requirements for creation of a trust are not strictly met.

**Q.5 Section 11 exempts income from property held for “charitable purposes”. What is meant by “charitable purpose”?**

**Ans.** “Charitable purpose” under Income Tax law as it now stands includes, (a) relief of the poor (b) education, (c) medical relief, (d) preservation of the environment (including watersheds, forests and wildlife), (e) preservation of monuments or places or objects of artistic or historic interest, and (f) advancement of any other object of general public utility (as distinguished from benefit of individuals or narrowly defined interest groups).

From 01.04.2009 onwards, “advancement of any other object of general public utility” does not include carrying on of business activity of any kind, regardless of the manner in which income earned from such business activity is intended to be utilized (an exception, has been made in cases where



receipts from such business activity do not exceed Rs. 10 lakhs, which stands increased to Rs.25 lakhs w.e.f. 01.04.2012).

For a detailed discussion regarding the expressions “charitable purpose”, “relief of the poor”, “education”, “medical relief”, and “advancement of any other object of general public utility”, please see Chapter-3.

**Q.6 How is “income” defined in case of a charitable trust or institution?**

**Ans.** “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 of income, 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 received (“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. For a detailed discussion, please see Chapter-5 (Para 5.2) of the booklet.

**Q.7 What conditions are required to be fulfilled by a charitable or religious trust seeking exemption under Section 11?**

**Ans.** 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 summarized 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 Commissioner/Director of Income Tax under Section 12AA.
- (vi) Activities of the trust must be carried out in India [specified exception exists – see Chapter-5, Para - 5.5(iii)]
- (vii) 85 per cent 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 per cent or less) must be accumulated or set apart for future application to charitable or religious purposes,

**or**

If 85 per cent 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 [see Annexure-IV]. 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 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/trustee/ manager or other such interested person (for a list of such persons, see Annexure-V).
- (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 [please see Chapter-5 (Para-5.4) for details].
- (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.

#### **Q.8 What is the procedure for registration of a trust by the Commissioner of Income Tax?**

**Ans.** The procedure for registration by CIT under Section 12AA is briefly as follows:

1. Application to be made by the trust or institution in Form 10A accompanied by, (a) original/certified copy of trust deed/instrument and an extra copy, (if created without an instrument, original or certified copy of documents evidencing creation of the trust/institution and an extra copy), (b) in case the trust is not a new one, two copies of accounts for preceding three years;
2. CIT to verify the application and call for any documents/information necessary to satisfy himself about the genuineness of the activities of the trust;
3. The CIT to pass order in writing granting or refusing registration (where he refuses registration, he must give an opportunity of being heard to the trust/institution);

4. Such order to be passed within six months from the end of the month in which the application was received.

**Q. 9 When is registration ordinarily refused by the CIT?**

**Ans.** The CIT will ordinarily refuse registration if,

- (i) The trust is not a public charitable/religious trust;
- (ii) The objects of the trust are not charitable;
- (iii) Some objects exist for the benefit of the settler or trustees or their relatives;
- (iv) A provision exists for transfer of any part of the income or the assets of the trust to any private individual or body;
- (v) The trust is created for the benefit of any specific religious community or caste or individual and not for the public at large.

**Q.10 Upon registration, from which Assessment Year does an assessee become eligible for exemption under Sections 11 and 12?**

**Ans.** 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.

**Q.11 Who is competent to Audit the accounts of the trust for the purpose of Section 12A?**

**Ans.** Please see Chapter-4 (Para 4.6). A Chartered Accountant or a person entitled to be appointed as an auditor of companies is authorized to carry out the requisite audit.

**Q.12 What are “anonymous donations”? To what extent are they exempt in the hands of a charitable or religious trust or institution?**

**Ans.** “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. As regards the tax treatment of such donations, the legal position as it stands after the recent amendments may please be seen in Chapter 5 (Para-5.4).

**Q.13 What are “corpus donations”? Are they taxable in the hands of a charitable or religious trust or institution?**

**Ans.** 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.

**Q.14 What is the rate of taxation applicable to the taxable income if any, of a charitable or religious trust or organization?**

**Ans.** 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) except when the same is in the nature of anonymous donations which will be dealt with as mentioned in the answer to FAQ No. 12 above. 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.

**Q.15 What is the extent of tax deduction available to a donor who contributes to charitable or religious trust or institution?**

**Ans.** 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.

**Q.16 What is the procedure to be followed by a trust or institution for obtaining such approval under Section 80G?**

**Ans.** The legal and procedural requirements to be fulfilled before a trust or institution can get approval under Section 80G have been discussed in detail in Chapter 7. The trust or institution which fulfils the conditions mentioned in Para 7.1 can make an application in Form No. 10G along with copies of relevant documents mentioned in Para 7.3.

**Q.17 What is the timeframe available to the Commissioner of income tax to decide on an application made by a trust or institution under Section 80G? For what period is the approval granted by the Commissioner valid?**

**Ans.** The Commissioner of Income Tax to whom the application is made has to dispose of the application within six months (excluding the period taken by the assessee for providing the information called for by the Commissioner in the process of granting approval).

After recent legal amendments, an approval granted to a

trust or institution under Section 80 G is now valid for all future years unless it is withdrawn by the Commissioner where he is satisfied that the activities of the trust or institution are not genuine or are not being carried on in accordance with its objects.

**Q.18 What type of organizations can claim the benefit of exemption under Section 10(23C)?**

**Ans.** 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)]. The detailed procedure for seeking approval and the effect of grant of such approval by the prescribed authority have been discussed in detail in Chapter-10 (Para- 9.4 to 9.12). The prescribed authority is also empowered to withdraw the approval already granted if it is satisfied that the assessee fund or trust or institution has violated the legal requirements regarding application of income, investment of funds, genuineness of activities etc. However, the prescribed authority is required to give a reasonable opportunity to the assessee before withdrawing approval.

**Q.19 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?**

**Ans.** 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.

**Q.20 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)?**

**Ans.** 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.

## ANNEXURES

## LIST OF ANNEXURES

S. No.	PARTICULARS	Annexure No.
1.	Application for registration of a charitable or religious trust or institution under Section 12A <b>[Form No.10A]</b>	
2.	Audit report under section 12A(b) <b>[Form No. 10B]</b>	II
3.	Notice to the Assessing Officer/Prescribed III Authority under Section 11(2) <b>[Form No.10]</b>	
4.	Forms and modes of investing or depositing money in <b>Section 11(5)</b>	IV
5.	List of persons specified in <b>Section 13(3)</b>	V
6.	Application for grant or continuance of approval under Section 80G(5)(vi) of the Income -tax Act, 1961 <b>[FormNo. 10G]</b>	VI
7.	Application for grant or continuance of exemption under Section 10(23C)(iv) and (v) for the year <b>[Form No.56]</b>	VII
8.	Application for grant or continuance of exemption under section 10(23C)(vi) and (via) for the year <b>[FormNo.56D]</b>	VIII
9.	Application for approval under Section 35(1)(ii) or (iii) in the case of a research association <b>[Form No.3CF-I]</b>	IX
10.	Application for approval under Section	X

	35(1)(ii) or (iii) in the case of a University, College or other Institution <b>[Form No.3CF-II]</b>	
11.	Conditions subject to which approval is to be granted to a research association under Section 35(1)(ii) or (iii) <b>[Rule 5D]</b>	XI
12.	Conditions subject to which approval is to be granted to a University, College or other institution under Section 35(1)(ii) or (iii) <b>[Rule 5E]</b>	XII
13.	Prescribed Authority for the purposes of Section 10(23C) <b>[Notification No. 195/2007, dated 30-5-2007]</b>	XIII

**FORM NO. 10A****[See rule 17A]****Application for registration of charitable or religious trust or institution under clause (aa) of sub-section (1) of section 12A of the Income-tax Act, 1961**

To

The Commissioner of Income-tax,

Sir,

I, \_\_\_\_\_ on behalf of \_\_\_\_\_ [name of the trust or institution] hereby apply for the registration of the said trust/institution under section 12A of the Income-tax Act, 1961. The following particulars are furnished herewith:

1. Name of the \* trust/institution in full [in block letters]
2. Address
3. Name(s) and address(es) of author(s)/founder(s)
4. Date of creation of the trust or establishment of the institution
5. Name(s) and address(es) of trustee(s)/manager(s)

I also enclose the following documents:

1. (a) \* Original/Certified copy of the instrument under which the trust/institution was created/established, together with a copy thereof.
- (b) \* Original/Certified copy of document evidencing the creation of the trust or the establishment of the institution, together with a copy thereof. [The originals, if enclosed, will be returned].
2. Two copies of the accounts of the \* trust/institution for the latest \* one/two/three years. I undertake to communicate forthwith any alteration in the terms of the trust, or in the rules governing the institution, made at any time hereafter.

Date \_\_\_\_\_ Signature \_\_\_\_\_  
 Designation \_\_\_\_\_  
 Address \_\_\_\_\_

\*Strike out whichever is not applicable.

**FORM NO. 10B****[See rule 17B]****Audit report under section 12A(b) of the Income-tax Act, 1961, in the case of charitable or religious trusts or institutions**

\* I/We have examined the balance sheet of \_\_\_\_\_ [name of the trust or institution] as at \_\_\_\_\_ and the Profit and loss account for the year ended on that date which are in agreement with the books of account maintained by the said Trust or institution.

\* I/We have obtained all the information and explanations which to the best of \* my/our knowledge and belief were necessary for the purposes of the audit. In \* my/our opinion, proper books of account have been kept by the head office and the branches of the above named \* trust/institution visited by \* me/us so far as appears from \* my/our examination of the books, and proper Returns adequate for the purposes of audit have been received from branches not visited by \* me/us, subject to the comments given below :

In \* my/our opinion and to the best of \* my/our information, and according to information given to \* me/us, the said accounts give a true and fair view -

- (i) in the case of the balance sheet, of the state of affairs of the above named \* trust/institution as at \_\_\_\_\_ and
- (ii) in the case of the profit and loss account, of the profit or loss of its accounting year ending on \_\_\_\_\_

The prescribed particulars are annexed hereto.

Place \_\_\_\_\_

Signed

Date \_\_\_\_\_

Accountant

**Notes**

1. \*Strike out whichever is not applicable.
2. This report has to be given by-
  - (i) a chartered accountant within the meaning of the Chartered Accountants Act, 1949 (38 of 1949); or
  - (ii) any person who, in relation to any State, is, by virtue of the provisions of sub-section (2) of section 226 of the Companies Act, 1956 (1 of 1956), entitled to be appointed to act as an auditor of the companies registered in that State.
3. Where any of the matters stated in this report is answered in the negative, or with a qualification, the report shall state the reasons for the same.

## ANNEXURE

### STATEMENT OF PARTICULARS

#### I. APPLICATION OF INCOME FOR CHARITABLE OR RELIGIOUS PURPOSES

1. Amount of income of the previous year applied to charitable or religious purposes in India during that year
2. Whether the trust/institution \* has exercised the option under clause (2) of the Explanation to section 11(1) ? If so, the details of the amount of income deemed to have been applied to charitable or religious purposes in India during the previous year
3. Amount of income accumulated or set apart\* /finally set apart for application to charitable or religious purposes, to the extent it does not exceed 25 per cent of the income derived from property held under trust wholly \* /in part only for such purposes.
4. Amount of income eligible for exemption under section 11(1)(c) (Give details).
5. Amount of income, in addition to the amount referred to in item 3 above, accumulated or set apart for specified purposes under section 11(2).
6. Whether the amount of income mentioned in item 5 above has been invested or deposited in the manner laid down in section 11(2)(b) ? If so, the details thereof.
7. Whether any part of the income in respect of which an option was exercised under clause (2) of the Explanation to section 11(1) in any earlier year is deemed to be income of the previous year under section 11(1B) ? If so, the details thereof.
8. Whether, during the previous year, any part of income accumulated or set apart for specified purposes under section 11(2) in any earlier year-
  - (a) has been applied for purposes other than charitable or religious purposes or has ceased to be accumulated or set apart for application thereto, or
  - (b) has ceased to remain invested in any security referred to in section 11(2)(b)(i) or deposited in any account referred to in section

11(2)(b)(ii) or section 11(2)(b)(iii), or

- (c) has not been utilised for purposes for which it was accumulated or set apart during the period for which it was to be accumulated or set apart, or in the year immediately following the expiry thereof? If so, the details thereof.

#### II. APPLICATION OR USE OF INCOME OR PROPERTY FOR THE BENEFIT OF PERSONS REFERRED TO IN SECTION 13(3)

1. Whether any part of the income or property of the \* trust/institution was lent, or continues to be lent, in the previous year to any person referred to in section 13(3) (hereinafter referred to in this Annexure as such person)? If so, give details of the amount, rate of interest charged and the nature of security, if any
2. Whether any land, building or other property of the \* trust/institution was made, or continued to be made, available for the use of any such person during the previous year? If so, give details of the property and the amount of rent or compensation charged, if any
3. Whether any payment was made to any such person during the previous year by way of salary, allowance or otherwise? If so, give details
4. Whether the services of the \* trust/institution were made available to any such person during the previous year? If so, give details thereof together with remuneration or compensation received, if any
5. Whether any share, security or other property was purchased by or on behalf of the \* trust/institution during the previous year from any such person? If so, give details thereof together with the consideration paid
6. Whether any share, security or other property was sold by or on behalf of the \* trust/institution during the previous year to any such person? If so, give details thereof together with the consideration received
7. Whether any income or property of the \* trust/institution was diverted during the previous year in favour of any such person? If so, give details thereof together with the amount of income or value of property so diverted
8. Whether the income or property of the \* trust/institution was used or applied during the previous year for the benefit of any such person in any other manner? If so, give details

\*Strike out whichever is not applicable.



**III. INVESTMENTS HELD AT ANY TIME DURING THE PREVIOUS YEAR(S) IN CONCERNS IN WHICH PERSONS REFERRED TO IN SECTION 13(3) HAVE A SUBSTANTIAL INTEREST**

Sl. No.	Name and address of the concern	Where the concern is a company, number and class of shares held	Nominal value of the investment	Income from the investment	Whether the amount in col. 4 exceeded 5 percent of the capital of the concern during the previous year-say, Yes/No
1	2	3	4	5	6
Total					

Place \_\_\_\_\_

Date \_\_\_\_\_

Signed

Accountant

**FORM NO.10**

**[See rule 17]**

**Notice to the Assessing Officer/Prescribed Authority under section 11(2) of the Income-tax Act, 1961**

ToThe Assessing Officer/Prescribed Authority, I, \_\_\_\_\_ on behalf of \_\_\_\_\_ [name of the trust/institution/association] hereby bring to your notice that it has been decided by a resolution passed by the trustees/governing body, by whatever name called, on \_\_\_\_\_ (copy enclosed) that, out of the income of the trust/institution/association for the previous year(s), relevant to the assessment year \_\_\_\_\_ and subsequent previous year(s), an amount of Rs. \_\_\_\_\_ per cent of the income of the trust/institution/association, such sum as is available at the end of the previous year(s) should be accumulated or set apart till the previous year(s) ending \_\_\_\_\_ in order to enable the trustees/governing body by whatever name called, to accumulate sufficient funds for carrying out the following purposes of the trust/association/institution :-

2. Before expiry of six months commencing from the end of each previous year, the amount so accumulated or set apart has been/will be invested or deposited in any one or more of the forms or modes specified in sub-section (5) of section 11.
3. Copies of the annual accounts of the trust/institution/association along with details of investment (including deposits) and utilisation, if any, of the money so accumulated or set apart will be furnished to you before the expiry of six months commencing from the end of each relevant previous year.
4. It is requested that in view of our complying with the conditions laid down in section 11(2) of the income-tax Act, 1961, the benefit of that section may be given in the assessments of the trust exempting the income in respect of the trust/institution/association in respect of the incomes accumulated or set apart as mentioned above.

Date:.....

Signature  
Designation  
Address

**Notes:**

1. This notice should be signed by a trustee/principal officer.
2. Delete the inappropriate words.

#### ANNEXURE-IV

### Forms and modes of investing or depositing money referred to in Section 11(5)

- (i) 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;
- (ii) deposit in any account with the Post Office Savings Bank;
- (iii) 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).

Explanation.-In this clause, “scheduled bank” means the State Bank of India constituted under the State Bank of India Act, 1955 (23 of 1955), a subsidiary bank as defined in the State Bank of India (Subsidiary Banks) Act, 1959 (38 of 1959), a corresponding new bank constituted under section 3 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970 (5 of 1970), or under section 3 of the Banking Companies (Acquisition and Transfer Undertakings) Act, 1980 (40 of 1980), any other bank being a bank included in the Second Schedule to the Reserve Bank of India Act, 1934 (2 of 1934);

- (iv) investment in units of the Unit Trust of India established under the Unit Trust of India Act, 1963 (52 of 1963);
- (v) investment in any security for money created and issued by the Central Government or a State Government;
- (vi) 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;
- (vii) investment or deposit in any public sector company:

**Provided** that where an investment or deposit in any public sector company has been made and such public sector company ceases to be a public sector company,—

- (A) such investment made in the shares of such company shall be deemed to be an investment made under this clause for a period of three years from the date on which such public sector company ceases to be a public sector company;
- (B) such other investment or deposit shall be deemed to be an investment or deposit made under this clause for the period up to the date on which such investment or deposit becomes repayable by such company;
- (viii) 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;
- (ix) 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;
- (ixa) deposits with 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.

Explanation.—For the purposes of this clause,-

- (a) “long-term finance” means any loan or advance where the terms under which moneys are loaned or advanced provide for repayment along with interest thereof during a period of not less than five years;

- (b) “public company” shall have the meaning assigned to it in section 3 of the Companies Act, 1956 (1 of 1956);
- (c) “urban infrastructure” means a project for providing potable water supply, sanitation and sewerage, drainage, solid waste management, roads, bridges and flyovers or urban transport;

- (x) investment in immovable property.

Explanation.-“Immovable property” does not include any machinery or plant (other than machinery or plant installed in a building for the convenient occupation of the building) even though attached to, or permanently fastened to, anything attached to the earth;

- (xi) deposits with the Industrial Development Bank of India established under the Industrial Development Bank of India Act, 1964 (18 of 1964);
- (xii) any other form or mode of investment or deposit as may be prescribed

Rule 17C specifies the following other modes under clause (xii) above:

- (i) investment in the units issued under any scheme of the mutual fund referred to in clause (23D) of section 10 of the Income-tax Act, 1961;
- (ii) any transfer of deposits to the Public Account of India;
- (iii) deposits made with an authority constituted in India by or under any law enacted either for the purpose of dealing with and satisfying the need for housing accommodation or for the purpose of planning, development or Improvement of cities, towns and villages, or for both;
- (iv) Investment by way of acquiring equity shares of a depository as defined in clause (e) of sub-section (1) of section 2 of the Depositories Act, 1996 (22 of 1996);

- (v) investment made by a recognised stock exchange referred to in clause (f) of section 2 of the Securities Contracts (Regulation) Act, 1956 (42 of 1956) (hereafter referred to as Investor) in the equity share capital of a company (hereafter referred to as investee)-

- (A) which is engaged in dealing with securities or mainly associated with the securities market;
- (B) whose main object is to acquire the membership of another recognised stock exchange for the sole purpose of facilitating the members of the investor to trade on the said stock exchange through the investee in accordance with the directions or guidelines issued under the Securities and Exchange Board of India Act, 1992 (15 of 1992) by the Securities and Exchange Board of India established under section 3 of that Act; and
- (C) in which at least fifty-one per cent of equity shares are held by the investor and the balance equity shares are held by members of such investor;
- (vi) investment by way of acquiring equity shares of an incubatee by an incubator.

Explanation.-For the purposes of this clause,-

- (a) “incubatee” shall mean such incubatee as may be notified by the Government of India in the Ministry of Science and Technology;
- (b) “incubator” shall mean such Technology Business Incubator or Science and Technology Entrepreneurship Park as may be notified by the Government of India in the Ministry of Science and Technology;
- (vii) investment by way of acquiring shares of National Skill Development Corporation.

## LIST OF PERSONS SPECIFIED UNDER SECTION 13(3)

(3) The persons referred to in clause (c) of sub-section (1) and sub-section (2) are the following, namely :-

- (a) the author of the trust or the founder of the institution;
- (b) 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;
- (c) 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;
- (d) any relative of any such author, founder, person, member, trustee or manager as aforesaid;
- (e) any concern in which any of the persons referred to in clauses (a), (b), (c), (cc) and (d) has a substantial Interest.

.....

**“relative”**; in relation to an individual, means-

- (i) spouse of the individual;
- (ii) brother or sister of the individual;
- (iii) brother or sister of the spouse of the individual;
- (iv) any lineal ascendant or descendant of the individual;
- (v) any lineal ascendant or descendant of the spouse of the individual;

- (vi) spouse of a person referred to in sub-clause (ii), sub-clause (iii), sub-clause (iv) or sub-clause (v);
- (vii) any lineal descendant of a brother or sister of either the individual or of the spouse of the individual.

.....

A person shall be deemed to have a substantial interest in a concern,-

- (i) in a case where the concern is a company, if its shares (not being shares entitled to a fixed rate of dividend whether with or without a further right to participate in profits) carrying not less than twenty per cent of the voting power are, at any time during the previous year, owned beneficially by such person or partly by such person and partly by one or more of the other persons referred to in sub-section (3);
- (ii) in the case of any other concern, if such person is entitled, or such person and one or more of the other persons referred to in sub-section (3) are entitled in the aggregate, at any time during the previous year, to not less than twenty per cent of the profits of such concern.

## FORM NO. 10G

[See rule 11 AA]

**Application for grant of approval or continuance thereof to institution or fund under section 80G(5)(vi) of the Income-tax Act, 1961**

1. Name of the institution/fund in full (in block letters)
2. Address of the registered office of the institution/fund
3. Legal status [please specify whether the institution/fund is-
  - (i) constituted as public charitable trust;
  - (ii) registered under the Societies Registration Act, 1860 (21 of 1860) or under any law corresponding to that Act in force in any part of India;
  - (iii) registered under section 25 of the Companies Act, 1956 (1 of 1956);
  - (iv) a University established by law;
  - (v) any other educational institution recognised by the Government or by any University established by law or affiliated to any University established by law;
  - (vi) an institution wholly or partly financed by the Government or a local authority;
  - (vii) an institution established with the object of controlling, supervising, regulating or encouraging games or sports and is approved for this purpose under section 10(23); or
  - (viii) a Regimental Fund or Non-Public Fund established by the armed forces of the Union for the welfare of past or present members of such forces or their dependants.

4. Objects of the institution/fund and geographical area over which its activities are undertaken
5. Names and addresses of trustees/office bearers of the institution or fund
6.
  - (i) If registered under section 12A(a) of the Income-tax Act, the registration number and date of registration
  - (ii) If notified under section 10(23) or under section 10(23C) of the Income-tax Act, the details thereof
  - (iii) If responses to (i) & (ii) are negative, whether any application for the same has been filed? If yes, enclose a copy of the same.
7.
  - (a) Period of last approval, if any. Please enclose a copy of the approval
  - (b) If any change in the aims and objects and the rules and regulations have been made since the last approval, the details thereof
8. Assessment particulars-
  - (a) Ward/Circle where assessed and permanent account number/GIR number
  - (b) Is the income exempt under section 10(22), 10(22A), 10(23), 10(23AA), 10(23C) or 11?
  - (c) Whether any arrears of taxes are outstanding? If so, give reasons
9. Amount accumulated for the purposes mentioned in item (4) above
10.
  - (i) Details of modes in which the funds are invested or deposited, showing the nature, value and income from the investment;
  - (ii) Whether any funds have not been invested in the modes

specified in section 11(5)?

11. (i) Is the institution/fund carrying on any business? If yes, give details
- (ii) Is the business incidental to the attainment of its objects?
12. Details of nature, quantity and value of contributions (other than cash) and the manner in which such contributions have been utilised.
13. Details of shares, security or other property purchased by or on behalf of the trust from any interested person as specified in sub-section (3) of section 13.
14. Whether any part of the income or any property of the association was used or applied in a manner which results directly or indirectly in conferring any benefit, amenity or perquisite (whether converted into money or not), on any interested person as specified in sub-section (3) of section 13? If so, details thereof.

I certify that information furnished above is true to the best of my knowledge and belief.

I undertake to communicate forthwith any alteration in the terms or in the rules governing the institution/fund made at any time hereafter.

*Place*

*Signature*

*Date*

*Designation*

*Address*

**Notes:** The application form (in triplicate) should be sent to the Commissioner of Income-tax having jurisdiction over the institution or fund along with the following documents.

- (i) Copy of registration granted under section 12A or copy

of notification issued under section 10(23) or section 10(23C).

- (ii) Notes on activities of institution or fund since its inception or during the last three years, whichever is less.
- (iii) Copies of accounts of the institution or fund since its inception or during the last three years, whichever is less.

## **FORM NO. 56**

**[See rule 2C]**

### **Application for grant of exemption or continuance thereof under section 10(23C)(iv) and (v) for the year**

1. Name and address of registered office of the trust/institution
2. Legal status, whether trust or registered society/others. Please enclose a copy of certificate of registration
3. Objects of the trust
4. Names and addresses of the trustees/office bearers
5. Geographic area over which the activities of the trust are performed. Enclose details of work done in different places with addresses of branch offices and names and addresses of office bearers in these places.
6. Enclose copies of memorandum of association, articles of association, trust deed, rules/regulations of the trust or institution and those of other institutions like schools, hospitals, etc., managed by the trust/institution
7. Enclose copies of audited accounts and balance sheet for the last three years along with a note on the examination of accounts and on the activities as reflected in the accounts and in the annual reports with special reference to the appropriation of income towards objects of the trust.
8. Has the trust received any donations from a foreign country to which the provisions of Foreign Contribution (Regulation) Act, 1976, applies? Give details
9. Give assessment particulars :-
  - (i) Ward/Circle of jurisdiction and the last income returned and assessed with permanent account number/GIR number

- (ii) Is the income exempt under section 11?
- (iii) Is any recovery of tax, etc., outstanding against the trust?
- (iv) Whether any penalties have been initiated/levied?
10. Total income of the trust including (voluntary contributions) for the previous year relevant to the assessment year for or from which the exemption is sought
11. Amount of income referred to above that has been or deemed to have been utilised wholly and exclusively for the objects of the trust income deemed to have been utilised shall have the meaning assigned to it in sub-sections (1) and (1A) of section 11
12. Amount accumulated for the purposes mentioned in column (3) above.
13. (i) Details of modes in which the funds of the trust are invested or deposited showing the nature, value and income from the investment
  - (ii) Details of funds not invested in the modes specified in section 11(5):

Sl. No	Name and address of the concern	In the case of a company, number and class of shares held	Nominal value of the investment	Income from the investment
1	2	3	4	5

14. (i) Is the trust carrying on any business (give details)?
  - (ii) Is the business incidental to the attainment of its objects?

15. Details of nature, quantity and value of contributions (other than cash) and the manner in which such contributions have been utilised
16. Details of shares, security or other property purchased by or on behalf of the trust from any interested person as specified in sub-section (2) of section 13
17. Whether any part of the income or any property of the association was used or applied, in a manner which results directly or indirectly in conferring any benefit, amenity or perquisite (whether converted into money or not), on any interested person as specified in sub-section (3) of section 13? If so, details thereof.
18. Amount deemed to be income of the trust if sub-section (3) of section 11, is made applicable.
19. The income that would have been assessable if the trust had not enjoyed the benefit of section 10(23C)(iv) or (v)

Certified that the above information is true to the best of my knowledge and belief.

Place \_\_\_\_\_

Signature

Date \_\_\_\_\_

Designation

Full Address

#### Notes :

1. In this form, the term “trust” also includes a fund or institution or any other legal obligation.
2. The application form should be sent to the Chief Commissioner or Director General whom the Central Board of Direct Taxes may authorise to act as prescribed authority, for the purposes of sub-clause (iv) or sub-clause (v) of clause (23C) of section 10, through the Commissioner of Income-tax or Director of Income-tax (Exemptions) having jurisdiction over the trust or

institution. Four copies of the application form along with the enclosures should be sent.

3. Copies of the following documents should be annexed:-
  - (i) Deed of trust/memorandum and Articles of Association.
  - (ii) A list of trustees enclosing settlor/members of the Governing Council.
  - (iii) A photocopy of the latest certificate under section 80G issued by the Commissioner of Income-tax.
  - (iv) True copies of the assessment orders passed for the last three years.
  - (v) Photocopy of communication from the Commissioner of Income-tax with reference to the application of the trust/institution for a registration under section 12A.
4. The applicant shall furnish any other documents or information as required by the Chief Commissioner or Director General or any authority authorised by the Chief Commissioner or Director General.



**FORM NO. 56D**

**[See rule 2CA]**

**Application for grant of exemption or continuance thereof under section 10(23C)(vi) and (via) for the year**

1. Name and address of registered office of the University or other educational institution or the hospital or other medical institution referred to in sub-clause (vi) or sub-clause (via) of clause (23C) of section 10.
2. Legal status, whether trust, registered society/others. Please enclose a copy of the certificate of registration/relevant document evidencing legal status.
3. Objects of the university or other educational institution or hospital or other medical institution referred to in serial number 1.
4. Names and addresses of the trustees/office bearers
5. Geographic area over which the activities of the university or other educational institution or hospital or other medical institution referred to in serial number 1 are performed. [Enclose details of work done in different places with addresses of branch offices and names and addresses of office bearers in these places].
6. Enclose copies of memorandum of association, articles of association, trust deed, rules/regulations of the university or other educational institution or hospital or other medical institution referred to in serial number 1.
7. Enclose copies of audited accounts and balance sheets for the last three years along with a note on the examination of accounts and on the activities as reflected in the accounts

and in the annual reports with special reference to the appropriation of income towards objects of the university or other educational institution or hospital or other medical institution referred to in serial number 1.

8. Has the university or other educational institution or hospital or other medical institution referred to in serial number 1 received any donations from a foreign country to which provisions of Foreign Contribution (Regulation) Act, 1976, applies? Give details.
9. Give assessment particulars :-
  - (i) Ward/Circle of jurisdiction and the last income returned and assessed with permanent account number/GIR number.
  - (ii) Is the income exempt under section 11?
  - (iii) Is any recovery of tax, etc., outstanding against the university or other educational institution or hospital or other medical institution referred to in serial number 1?
  - (iv) Whether any penalties have been initiated/levied?
10. Total income including voluntary contributions, if any, of the university or other educational institution or hospital or other medical institution referred to in serial number 1 for the previous year relevant to the assessment year for or from which the exemption is sought.
11. Amount of income referred to above that has been or deemed to have been utilized wholly and exclusively for the objects of the university or other educational institution or hospital or other medical institution referred to in serial number 1 (income deemed to have been utilized shall have the meaning assigned to in sub-sections (1) and (1A) of section 11).
12. Amount accumulated for the objects mentioned in column 3 above.

13. (i) Details of modes in which the funds of the university or other educational institution or hospital or other medical institution referred to in serial number 1 are invested or deposited showing the nature, value and income from the investment.

- (ii) Details of funds not invested in the modes specified in section 11(5):

Sl. No	Name and address of the concern	In the case of a company, number and class of shares held	Nominated value of the investment	Income from the investment
1	2	3	4	5

14. (i) Is the university or other educational institution or hospital or other medical institution referred to in serial number 1 carrying on any business (give details)?

- (ii) Is the business incidental to the attainment of its objects?

15. Details of nature, quantity and value of contributions (other than cash) and the manner in which such contributions have been utilized.

16. Details of shares, securities or other property purchased by or on behalf of the university or other educational institution or hospital or other medical institution referred to in serial number 1 from any interested person as specified in sub-section (2) of section 13.

17. Whether any part of the income or any property of the university or other educational institution or hospital or other medical institution referred to in serial number 1 was used or applied, in a manner which results directly or indirectly in

conferring any benefit, amenity or perquisite (whether converted into money or not), on any interested person as specified in sub-section (3) of section 13? If so, details thereof.

18. Amount deemed to be income of the university or other educational institution or hospital or other medical institution referred to in serial number 1 if sub-section (3) of section 11 is made applicable.

19. The income that would have been assessable if the university or other educational institution or hospital or other medical institution referred to in serial number 1 had not enjoyed the benefit of section 10(23C)(vi) or (via).

Certified that the above information is true to the best of my knowledge and belief.

*Place*

*Signature*

*Date*

*Designation*

*Full Address*

## Notes

- The application form should be sent to the Chief Commissioner or Director General whom the Central Board of Direct Taxes may authorise to act as prescribed authority for the purposes of sub-clause (vi) or sub-clause (via) of clause (23C) of section 10 through the Commissioner of Income-tax or Director of Income-tax (Exemptions) having jurisdiction over the university or other educational institution or hospital or other medical institution referred to in serial number 1 of this Form. Four copies of the application form along with the enclosures should be sent.
- Copies of the following documents should be annexed :-
  - Deed of trust/memorandum and articles of association/ other documents evidencing legal status of the enterprise;

- (ii) a list of major office bearers including settlor/members of the Governing body;
  - (iii) a photocopy of the latest certificate under section 80G issued by the Commissioner of Income-tax, if any;
  - (iv) true copies of the assessment orders passed for the last three years, if any;
  - (v) photocopy of communication from the Commissioner of Income-tax with reference to the application of the trust/institution for a registration under section 12A, if any.
3. The applicant shall furnish any other documents or information as required by the Chief Commissioner or Director General or any authority authorised by the Chief Commissioner or Director General.

## **FORM NO.3CF-I**

**[See rules 5C and 5D]**

### **Application Form for approval under clause (ii) or clause (iii) of sub-section (1) of section 35 of the Income-tax Act, 1961 in the case of a research association**

1. (i) Name and address of the registered office of the Association;
- (ii) Enclose a copy of the Trust Deed/Deed of Registration/Memorandum and Articles of Association, and if the Association was approved earlier, furnish approval number and date of the latest notification [Please enclose a copy];
- (iii) If approval was withdrawn in the past, mention reasons on account of which the approval was withdrawn [Enclose a copy of the Order/Orders withdrawing approval/approvals];
- (iv) Date from which approval is sought for.
2. Legal status of the Association:  
Whether Registered Society or Company or Others. (Enclose a copy of certificate of registration/incorporation)
3. Object of the research association.
4. (i) Address(es) of the research laboratory/ research facility of the Association;
- (ii) Year of establishment;
- (iii) Name and address of the Officer of the Association in-charge of the laboratory/research facility;
- (iv) Total number of employees engaged in scientific, social

or statistical research activity carried on by the Association.

5. List of research facilities or assets owned by the Association:
  - (i) Plant and machinery;
  - (ii) Land and building along with cost of acquisition;
  - (iii) Any other research facility/asset with cost of acquisition.
6. Research subjects and projects undertaken by the Association:
  - (i) Research projects completed by the association during the last three years, if any;
  - (ii) Research projects, which have been taken up during the year and research projects which are underway from the past years;
  - (iii) Research papers published in any eminent national or International Research Journal.
7. Other details of scientific research or research in social science or statistical research :
  - (i) New products, processes, methods, techniques developed;
  - (ii) Improvements in the existing products, processes, methods, techniques;
  - (iii) Products of import substitution;
  - (iv) Patents filed, obtained, if any, and if so, in whose name?
  - (v) Whether products, processes, methods and techniques mentioned at (i) above have been commercialized or implemented and if so, by whom?
  - (vi) New theories/models developed;
  - (vii) New hypothesis which has been widely accepted;

(viii) Any copyright applied for/obtained;

(ix) Earnings from patents or registered trademarks, if any.

8. Enclose details of seminars, conferences, workshops and training courses, etc., conducted by the Association during the last three years and a brief note regarding the relevance of such exchanges to the research area or activity carried on by the Association.
9. Programmes contemplated for research in future and financial projections to meet the likely expenditure on such programmes.
10. (i) Sources of income of the Association (for the last three years);
  - (ii) Indicate assessment particulars:  
(PAN, Ward/Circle, if assessed to tax)
  - (iii) When was the last return of income furnished?
11. Amounts received by the research association and actually applied for research by it during the last three years:

Year	Amounts received			Amounts actually utilized for research out of the amounts at column (2)
(1)	(2)			(3)
	Donation	Grant	Total	

12. Attach a list of donors giving their names, complete postal addresses and the amounts paid by each of them to the association during the last three years. (Mention PAN of donors paying the sums in excess of fifty thousand rupees)
13. Enclose the copy of audited annual accounts of the association

for the last three years..

14. Investments made out of the amounts not utilised for research during the year mentioned at item 10 above:

- (i) Fixed deposits with banks;
- (ii) Fixed deposits with companies;
- (iii) Government securities;
- (iv) Shares, Debentures, etc.;
- (v) Cash in hand;
- (vi) Others, if any, not covered under (i) to (v)

Certified that the above information is true to the best of my knowledge and belief.

Place \_\_\_\_\_

Signature \_\_\_\_\_

Date \_\_\_\_\_

Designation \_\_\_\_\_

Full Address \_\_\_\_\_

## ANNEXURE

**To be furnished by a research association claiming exemption under section 10(21)**

**Financial Year.** \_\_\_\_\_

- 1. Total income of the Association including voluntary contributions received during the year.
- 2. Amount of income referred to at item 1 above that has been or deemed to have been applied wholly and exclusively for the objects of the Association.
- 3. Amount accumulated for the objects of the Association.
- 4. (i) Details of modes in which the funds of the association are invested or deposited showing nature, value and income from such investments or deposits.  
(ii) Details of funds not invested in modes specified in section 11(5):

Sl. No.	Name and address of the concern	In the case of a company- number and class of shares held	Face value of investment	income from the investment
(1)	(2)	(3)	(4)	(5)

- 5. (i) Is the association carrying on any business (give details)?  
(ii) Is the business incidental to the attainment of its object?  
(iii) Are separate books of account maintained in respect of such business?

6. Details regarding the nature, quantity and value of contributions (other than cash and the manner in which such contribution have been utilised).
7. Details of shares, security or other property purchased by or on behalf of the association from:
  - (i) the founder of the association;
  - (ii) any person who has made a contribution exceeding rupees one lakh to the association;
  - (iii) any member of a Hindu undivided family where the Hindu undivided family is a founder;
  - (iv) the manager (by whatever name called) of the association;
  - (v) a relative of the founder, member or the manager;
  - (vi) any concern in which any of the persons referred to in sub-items (i) to (v) have a substantial interest.
8. Whether any part of the income or any property of the association was used or applied, in a manner which results directly or indirectly in conferring any benefit, amenity or perquisite (whether converted into money or not) on any interested person. If so, the details thereof.
9. Amount deemed to be income of the association by virtue of section 11(3), as applicable by the first proviso to section 10(21).

Certified that the above information is true to the best of my knowledge and belief.

Place \_\_\_\_\_  
Date \_\_\_\_\_

Signature \_\_\_\_\_  
Designation \_\_\_\_\_  
Full Address \_\_\_\_\_

## FORM NO. 3 CF-II

[See rules 5C and 5E]

**Application form for approval under clause (ii) or clause (iii) of sub-section (1) of section 35 of the Income-tax Act, 1961 in the case of a University, College or other Institution**

1. (i) Name and address of the registered office of the applicant.
- (ii) Enclose a copy of the Trust Deed/Deed of Registration/Memorandum and Articles of Association, and if the university, college or other institution was approved earlier, furnish notification number and date of the latest notification. [Please enclose a copy]
- (iii) If approval was withdrawn in the past, mention reasons on account of which the approval was withdrawn. [Enclose a copy of the Order/Orders withdrawing approval/approvals]
- (iv) Date from which approval has been sought for.
2. Legal status of the Applicant: Whether Registered Society or Company or others. (Enclose a copy of certificate of registration/incorporation)
3. (i) Address(es) of the research laboratory/research facility of the applicant.
- (ii) Year of establishment.
- (iii) Name and address of the Officer in-charge of the Laboratory/research facility.
- (iv) Total number of employees engaged in scientific, social or statistical research.

4. List of research facilities or assets acquired by the applicant:
  - (i) Plant and machinery.
  - (ii) Land and building along with cost of acquisition.
  - (iii) Any other research facility/asset along with cost of acquisition.
5. Research subjects and projects undertaken by the applicant:
  - (i) Research projects completed by the organization during last three years, if any.
  - (ii) Research projects which have been taken up during the year and research projects which are underway from the past years.
  - (iii) Research papers published in any eminent national or international research journal.
6. Other details of scientific research or research in social science or statistical research :
  - (i) New products, processes, methods, techniques developed.
  - (ii) Improvements in existing products, processes, methods, techniques. (iii) Import substitution.
  - (iv) Patents filed, obtained, if any, and if so, in whose name?
  - (v) Whether products, processes, methods and techniques mentioned at (i) above have been commercialized or implemented and if so, by whom?
  - (vi) New theories/models developed.
  - (vii) New hypothesis which has been widely accepted.
  - (viii) Any copyrights applied for/obtained.
  - (ix) Earnings from patents or registered trade marks, if any.
7. Enclose details of seminars, conferences, workshops and training courses, etc., conducted by the applicant during the

last three years and a brief note regarding the relevance of such exchanges to the research area or activity carried on by the applicant.

8. Programmes contemplated for research in future and financial projections to meet the likely expenditure on such programmes.
9. (i) Sources of income of the applicant (for the last three years)
  - (ii) Indicate assessment particulars:  
(PAN, Ward/Circle if assessed to tax)
  - (iii) When was the last return of income furnished?
10. Amount received by the scientific research association, university, college or other institution and actually applied for research conducted by it or its faculty members or enrolled students during the last three years:

Year	Amounts received			Amounts actually utilized for research out of the amounts at column (2)
(1)	(2)			(3)
	Donation	Grant	Total	

11. Attach a list of donors giving (their names, complete postal addresses and the amounts paid by each of them to the association during the last three years. (Mention PAN of donors giving sums exceeding fifty thousand rupees)
12. Investments made out of amounts mentioned at 10 above:

- (i) Fixed deposits with banks
  - (ii) Fixed deposits with companies
  - (iii) Securities
  - (iv) Shares, Debentures, etc.
  - (v) Cash in hand
  - (vi) Others, if any, not covered under (i) to (v)
13. Enclose copy of audited annual accounts of the university, college or other institution for the last three years.

Certified that the above information is true to the best of my knowledge and belief.

Date : \_\_\_\_\_ Signature \_\_\_\_\_

Place: \_\_\_\_\_ Designation \_\_\_\_\_

Full Address \_\_\_\_\_

#### ***ANNXURE-XI***

**Conditions subject to which approval is to be granted to a research association under clause (ii) or clause (iii) of sub-section (1) of section 35.**

- 5D.** (1) The sole object of the applicant research association shall be to undertake scientific research or research in social science or statistical research as the case may be.
- (2) The applicant research association shall carry on the research activity by itself.
- (3) The research association seeking approval under clause (ii) or clause (iii) of sub-section (1) of section 35 shall maintain books of account and get such books audited by an accountant as defined in the Explanation to sub-section (2) of section 288

and furnish the report of such audit duly signed and verified by such accountant to the Commissioner of Income-tax or the Director of Income-tax having jurisdiction over the case, by the due date of furnishing the return of income under sub-section (1) of section 139.

- (4) The research association shall maintain a separate statement of donations received and amount applied for scientific research or research in social science or statistical research and a copy of such statement duly certified by the auditor shall accompany the report of audit referred to in sub-rule (3).
- (5) The research association shall, by the due date of furnishing the return of income under sub-section (1) of section 139, furnish a statement to the Commissioner of Income-tax or Director of Income-tax containing-
- (i) a detailed note on the research work undertaken by it during the previous year;
  - (ii) a summary of research articles published in national or international journals during the year;
  - (iii) any patent or other similar rights applied for or registered during the year;
  - (iv) programme of research projects to be undertaken during the forthcoming year and the financial allocation for such programme.
- (6) If the Commissioner of Income-tax or the Director of Income-tax is satisfied that the research association,-
- (a) is not maintaining books of account, or
  - (b) has failed to furnish its audit report, or
  - (c) has not furnished its statement of the sums received and the sums applied for scientific research or research in



social science or statistical research or a statement referred to in sub-rule (5), or

- (d) has ceased to carry on its research activities, or its activities are not genuine, or
- (e) is not fulfilling the conditions subject to which approval was granted to it, he may after making appropriate enquiries furnish a report on the circumstances referred to in clauses (a) to (e) above to the Central Government within six months from the date of furnishing the return of income under sub-section (1) of section 139.

## ***ANNEXURE-XII***

### **Conditions subject to which approval is to be granted to a University, College or other Institution under clause (ii) and clause (iii) of sub-section (1) of section 35.**

- 5E. (1) The sum paid to a university, college or other institution shall be used for scientific research and research in social science or statistical research.
- (2) The applicant university, college or other institution shall carry out scientific research, research in social science or statistical research through its faculty members or its enrolled students.
- (3) A university or college or other institution approved under clause (ii) or clause (iii) of sub-section (1) of section 35 shall maintain separate books of account in respect of the sums received by it for scientific research or, as the case may be, for research in social science or statistical research, reflect therein the amount used for carrying out research, get such books of account audited by an accountant, as defined in the Explanation to sub-section (2) of section 288 and furnish the report of such audit duly signed and verified by such accountant to the Commissioner of Income-tax or the Director of Income-tax having jurisdiction over the case, by the due date of furnishing the return of income under sub-section (1) of section 139.
- (4) The university or college or other institution shall maintain a separate statement of donations received and the amount used for research and a copy of such statement duly certified by the auditor shall accompany the report of audit referred to in sub-rule (3).
- (4A) The university, college or other institution shall, by the due date of furnishing the return of income under sub-section (1) of section 139, furnish a statement to the Commissioner of Income-tax or Director of Income-tax

containing-

- (i) a detailed note on the research work undertaken by it during the previous year;
  - (ii) a summary of research articles published in national or international journals during the year;
  - (iii) any patent or other similar rights applied for or registered during the year;
  - (iv) programme of research projects to be undertaken during the forthcoming year and the financial allocation for such programme.
- (5) If the Commissioner of Income-tax or the Director of income-tax is satisfied that the university or college or other institution,-
- (a) is not maintaining separate books of account for research activities, or
  - (b) has failed to furnish its audit report, or
  - (c) has not furnished its statement of the sums received and the sums used for research or a statement referred to in sub-rule (4A), or
  - (d) has ceased to carry on its research activities, or its activities are not genuine, or
  - (e) is not fulfilling the conditions subject to which approval was granted to it, he may after making appropriate enquiries furnish a report on the circumstances referred to in clauses (a) to (e) above to the Central Government within six months from the date of furnishing the return income under section 139(1).

**NOTIFICATION NO. 195/2007, dated 30-5-2007  
as amended by SO 1666(E) dated 14.07.2010**

In pursuance of the provisions contained in sub-clauses (iv) and (v) of clause (23C) of section 10 of the Income-tax Act, 1961 (43 of 1961) read with sub-rule (2) of Rule 2C of the Income-tax Rules, 1962, the Central Board of Direct Taxes hereby authorises the following Chief Commissioners or Directors General to act as 'prescribed authority' for the purposes of sub-clause (iv) and sub-clause (v) of clause (23C) of section 10 with effect from the 1st day of June, 2007 namely,-

- (i) for cases falling in the jurisdiction of Director of Income-tax (Exemption), Ahmedabad, the prescribed authority shall be Chief Commissioner of Income-tax, Ahmedabad-IV, Ahmedabad;
- (ii) for cases falling in the jurisdiction of Director of Income-tax (Exemption), Bangalore, the prescribed authority shall be Chief Commissioner of Income-tax; Bangalore-I, Bangalore;
- (iii) For cases falling in the jurisdiction of Director of Income-tax (Exemption), Chennai, the prescribe authority shall be Chief Commissioner of Income-tax, Chennai-III, Chennai;
- (iv) for cases falling in the jurisdiction of Director of Income-tax (Exemption), Hyderabad, the prescribed authority shall be Chief Commissioner of Income-tax, Hyderabad-I, Hyderabad;
- (v) for cases falling in the jurisdiction of Director of Income-tax (Exemption), Kolkata, the prescribed authority shall be Chief Commissioner of Income-tax, Kolkata-III, Kolkata;

- (vi) for cases falling in the jurisdiction of Director of Income-tax (Exemption), Mumbai, the prescribed authority shall be Chief Commissioner of Income-tax, Mumbai-I, Mumbai;
- (vii) for cases falling in the jurisdiction of Director of Income-tax (Exemption), Delhi, the prescribed authority shall be Director General of Income-tax (Exemption), Delhi;
- (viii) for cases other than those mentioned at (i) to (vii) above, the Chief Commissioner or Director General to whom the Assessing Officer having jurisdiction to assess the fund or trust or institution referred to in sub-clause (iv) and sub-clause (v) of clause (23C) of section 10 of the Act is subordinate.

