



AUDIT OF CHARITABLE TRUSTS

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Section 2(15) IT Act 1961 states that charitable purposes include relief of the poor, education, medical relief, advancement of any other object of general public utility, preservation of environment (including watersheds, forests, and wildlife) and preservation of monuments or places or objects of artistic or historic interest.

Under Section 12AB, renewable registrations is being granted to trusts. Form 10A to be filed for new registrations and Form 10AB for renewal of registration. The period of valid registration is three years for new/fresh registration and 5 years for renewal of registration.

As an auditor, we need to check the following points :

1. Whether Trust is holding valid certificate of registration and for Section 80 G? If not, whether renewal of registration is due in near future?
2. To check the object clause of the trust deed.
3. To check the donor's letters/donation list with the bank statement.
4. To check whether all bank credits are tallied with the donations/other receipts accounted in the books of the trust.
5. Examine the schedule of investments to confirm that all income and the investments are duly accounted.
6. To check that all payments made by the trust are only for the object of the trust.
7. Corpus Donation received is Tax Free – To check if letter of the donor is available. Auditor also needs to check the following points :
 - a. Whether corpus donation is invested in specified mode?
 - b. If any donation towards corpus is given by the Trust, then reduce from corpus fund.
8. Voluntary Contribution and other customary receipts & Capital gains/Interest is Taxable. Auditor needs to check its utilization whether it is exclusively for object of the trust and administrative expense.
9. Capital Gains are tax free if proceeds reinvested in specified mode.
10. Verify various expenses like payment of Salary & allowances, administrative expenses like bank charges, printing & stationery etc.
11. Ensure that nothing is paid to/on behalf/for benefit (including advance) to Trustees.

Exemption under section 11 of IT Act, 1961 :

- Section 11(1): Income is exempt up to 15% of Total Income.
- Section 11(1)(a): Balance 85% or more of income is exempted only if it is applied for the purpose to that extent.

- Section 11(2) (Accumulation for 5 Years):

- If a trust is unable to apply 85% of its income during the year, then accumulation is permitted up to 5 years.
- Such accumulated income will not be included in total income if the trust intimates to the Assessing Officer by filing Form 10 by stating the purpose for which it is being accumulated and for what period it is being accumulated. Purpose should be specific.
- Income so accumulated must be deposited in modes specified u/s 11(5) (Deposit in post office saving bank, investment in government saving certificate etc.).
- Proper disclosure in ITR as regards investment and utilization needs to be given.

- Clause (2) of Explanation to Sec. 11(1) - Accumulation for 1 Year :

- If 85 % of the income has not been spent during the year, the amount can be applied in the following year.
- However, intimation in writing must be sent to Assessing Officer in Form 9A.
- No specific purpose to be provided and no need of corresponding investment in sec. 11(5) modes

Where the trust/institution does not utilize accumulated income within period of 5 years/one year, then such income is chargeable to tax in the 5th year/next year.

Note: Form 9A (Accumulation within next one year) & Form 10 (Accumulation within next five year) to be filed before 31 August 2023. However, vide Clause 15 of Circular 6/2023, the exemption shall be allowed as long as such Forms are filed by the due date of Filing of ITR.

Exemption under section 11 of IT Act, 1961 not available if:

- Income does not endure benefit to general public;
- Funds not invested in specified mode u/s 11(5);
- Income is for the benefit of specified persons such as trustee/relatives. In such cases, penalty u/s 271AAE for passing on unreasonable benefits to trustee or specified persons, is equal to:
 - a) amount of income applied by such trust for the benefit of specified person, where the violation is noticed for the first time during any previous year,
 - b) twice the amount of such income where the violation is noticed again in any subsequent year.

Compliance to section 10BD of IT Act :

- The purpose of Form 10BD is to provide details of the donations received during the financial year before 31st May every year.
- Certificate in Form 10BE will have to be furnished to the donor.
- Failure to file Form 10BD: Penalty of INR 200/day of delay, maximum of INR 1,00,000/-

Applicability of TDS Provisions & Cash Payment Provisions:

As per Expl. 3 to sec. 11(1), all the charitable institutions are at par with the income from business for the disallowances u/s 40(a)(ia) & 40A(3)/(3A), i.e., disallowance of expenditure in respect of which TDS has not been deducted or cash payment is made exceeding INR 10,000/-, then such expenditure (30% in case of default in TDS deduction and 100% in case of cash payment) will be disallowed as application under this provision.

Selection of Form for Audit Report :

Criteria for selection of form for audit	Applicable Form
Total income without giving effect to the provisions of the sub-clauses (iv), (v), (vi) and (via) of Section 10(23C) exceed INR 5 Crores.	Form 10B
Total income without giving effect to the provisions of section 11 & 12 exceeds INR 5 Crores.	Form 10B
Trust has received any Foreign Contribution during the previous year	Form 10B
Trust has applied any part of income outside India during the previous year	Form 10B
In any other cases not covered above	Form 10BB