MOHIT GUPTA AND CO.
CHARTERED ACCOUNTANTS

FCRA ACT 2010

w.e.f May 1st 2011

- **Synopsis of The Foreign Contribution Regulation Act, 2010**
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THE FCRA ACT – 2010
SYNOPSIS

- Comes into force with effect from May 1st, 2011

- Replaced the erstwhile FCRA Act, 1976

- The Act is applicable to the whole of India and includes:
  - Citizens of India outside India, and
  - Associates, Branches or Subsidiaries outside India, of companies registered or incorporated in India.

- Objective: To regulate the acceptance and utilization of foreign contribution/ hospitality by certain individuals or associations and to prohibit acceptance and utilization of foreign contribution/hospitality for any activities detrimental to the nation interest.

- Any Foreign Contribution, if given to some other person, shall also be deemed to be foreign contribution to such other person.

- Any interest accrued on the foreign contribution deposited in any bank or any other income derived from the foreign contribution shall also be deemed to be considered as foreign contribution.

- If any sponsorship or reimbursement is received from any foreign source, either in cash or in kind, to a person for travel to foreign country/ territory or with free boarding, lodging, transport or medical treatment shall be considered as foreign hospitality.

- Any foreign contribution accepted by any political party, either directly or through any person, is strictly prohibited.

- Any registered person (i.e. organization registered under FCRA, 2010) or has taken the prior permission under this act, receives any foreign contribution, shall not transfer such foreign contribution to any other person unless the other person is registered under this act or obtained the prior permission under this act.

- The foreign contribution received shall not be utilized, more than 50%, to meet administrative expenses.

- The foreign contribution shall be received in a single bank account, which is specified in the application at the time of grant of certificate.

- The foreign contribution received can be utilized by opening more than one bank accounts in same bank or other banks provided that no funds other than foreign contribution shall be received or deposited in such account/ accounts.

Comparison of The FCRA, 2010 and The FCRA, 1976

Particulars	FCRA 2010	FCRA 1976
Objective	To regulate and control the acceptance and utilization of foreign contribution and foreign hospitality and to prohibit the acceptance of foreign funds which are against national interest.	Framework to regulate the acceptance and utilization of foreign contribution
Registration	The registration once granted shall be valid for 5 years and the renewal application is to be filed 6 months before the expiry. The existing registered persons shall be considered as registered for 5 years from the date of commencement of the Act.	The registration one granted shall be considered for lifetime until and unless any prohibition has been done under this Act.
Time period for granting registration	The application shall be accepted/ rejected with in 90 days of receipt of application.	No such time limit is specified in the act for new registration.

Particulars	FCRA 2010	FCRA 1976
Exclusion from Foreign Contribution	Any amount received by any person from any foreign source in India by way of: 1. Fee (including fee charged by Indian Institution from any foreign student); 2. Towards the ordinary course of business/ consultancy, trade or commerce; 3. Commission received by any agent from foreign source.	No such specific provisions are mentioned in this act.
Bank Accounts	Multiple bank accounts can be used for the utilization of foreign contribution received.	Only single bank account is allowable for receipt and utilization of foreign contribution.
Administrative Expenses	Administrative expenses should not exceeds 50% of the foreign contribution received. If in any case exceeds, then the approval from central government is required.	No such provision was specified in the act.

Particulars	FCRA 2010	FCRA 1976
Foreign Contribution from relatives	No limit is specified for any foreign contribution received from any relatives from outside India but the intimation shall be sent to the government in Form FC-1 if contribution exceeds Rs 1,00,000/-.	Rs 8,000 is the upper limit. Prior approval from central government is required of the amount exceeds the limit.
Transfer of Foreign Contribution to unregistered person	There is a prohibition on such transfer of funds but the fund can be transferred with the prior approval from central government in Form FC-10.	The transfer is totally prohibited to unregistered person.
Foreign Companies and Foreign Source	As per Section 2 (g), Indian companies where more than 50% shares are held by foreigners are not considered as foreign source. But section 2(j) overrules this by inserting this in the definition of foreign source.	No such controversy was created and the companies where more than 50% shares are held by foreigners are considered as foreign companies.

Particulars	FCRA 2010	FCRA 1976
Business/ Consultancy Income of NGO	The consultancy/ business income received from any foreign source shall not be considered as foreign contribution but the receipt can be considered as local income which is in contradiction with Section 2(15) of Income Tax Act, 1961.	Any receipt, either commercial or voluntary contribution, received by any Ngo shall be considered as foreign contribution.
Persons specifically debarred from accepting Foreign Contribution	1. Organization of political nature. 2. Association or company engaged in broadcast of audio or visual news. 3. Correspondent, columnist etc. related with the company referred in 2.	These 3 persons are not prohibited under this act.
Power to prohibit sources from where FC can not be accepted	The central government can specify the donors or countries from where FC can not be accepted.	No such power was given in the Act.

Particulars	FCRA 2010	FCRA 1976
Cancelation of Registration	The central Govt. is empowered to cancel the Registration if there are no reasonable activities for a period of 2 years and nil returns are file for 2 or more years.	No such provision was mentioned in the act.
Management of Assets created out of FC funds after cancelation of registration	All FC Funds and assets shall vest with the authority as prescribed by the government of the registration is cancelled till registration is again restored.	No such powers was given in the act.
Intimation on receipt of foreign contribution	Intimation shall be submitted along with the Remittance Advice from the Bank in Form FC-6.	Intimation is to be submitted in Form FC-3 but no provisions for Bank advice.

Particulars	FCRA 2010	FCRA 1976
Foreign Contribution received more than Rs 1 Crore	If the foreign contribution received is more than one crore during the year, then a summary data of receipt and utilization shall be placed on the public domain.	No such rule/ provision exists in the act.

Forms Under The FCRA Act

Form No	FCRA 2010	FCRA 1976
FC-1	Intimation to the Central Government of receipt of foreign contribution by way of gift from Relative	Application for seeking Prior Permission by or on behalf of an organization of political nature not being a political party.
FC-2	Application for seeking prior permission of the Central Government to accept foreign Hospitality	Application for seeking prior permission for accepting foreign Hospitality
FC-3	Registration for acceptance of FC by an association having definite culture, economic or social programme.	Intimation of Receipt and utilization of foreign contribution.
FC-4	Prior permission for acceptance of FC by an association having definite culture, economic or social programme.	Intimation of Receipt and utilization of foreign contribution by a candidate of election.
FC-5	Renewal of Registration	Intimation on receipt of Scholarship, Stipend or any payment of a like nature from a foreign source

Form No	FCRA 2010	FCRA 1976
FC-6	Intimation of Receipt and utilization of foreign contribution.	Intimation of Foreign Contribution received in Kind
FC-7	Intimation of Foreign Contribution received in Kind	Intimation of Foreign Contribution of Securities Account
FC-8	Intimation of Foreign Contribution of Securities Account	Registration for acceptance of FC by an association having definite culture, economic or social programme.
FC-9	Intimation of Receipt and utilization of foreign contribution by a candidate of election.	Omitted.
FC-10	permission for transfer of foreign contribution to other registered/unregistered persons	Declaration.
FC-1 A	No such form is specified in the act.	Prior permission for acceptance of FC by an association having definite culture, economic or social programme.

Merits and Demerits of The FCRA, 2010

S. No.	Merits	Demerits
1	Foreign contribution received can be transferred to non-registered person.	The registration need to be renewed after every 5 years.
2	Multiple bank accounts can be used for the utilization of foreign contribution received.	The scope of the act has been increased an the compliance/ approvals are increased.
3	The fee, business/ consultancy income from normal trade and commerce is excluded from the scope of foreign contribution.	The bank advice is also to be submitted along with the Intimation in Form FC-6.
4	The time limit is specified for the acceptance/ rejection of application submitted for the registration under this act.	The central government is empowered to restrict the receipt of FC from any donor or countries as specified time to time.

S. No.	Merits	Demerits
5	The limit of foreign contribution received from the relatives is increased and further approval is replaced with the intimation to the government.	No reasonable activity will results in cancelation of registration.
6	The details of foreign receipts and utilization of big organizations shall be available for reference at public domain.	Approval from central govt. is required for transfer of funds to CBO's and seed level unregistered person.
7	Does not apply to the commercial and business organizations.	On cancelation of registration, the FC assets and funds shall be taken by the authority as decided by the central govt.
8	-	Questionable power given to department for rejecting the application.

S. No.	Merits	Demerits
9	-	Government has power to specify the procedure in case of dissolution of the registered person.
10	-	No case of deemed prior permission, if the application is neither accepted nor rejected in 90 days.
11	-	Restriction on the administrative expenditure to the extent of 50%.

Thanks

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