COMMENT LETTER- DO COMMENT ON IT

Income Tax in the Context of NGO's or Charitable Trusts

2010-2011

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The document is a summary document containing all the relevant taxation implication in the context of Indian NGO's and charitable trust. The data is all updated, still there may be some unintentional errors, communication of which will be highly appreciable.

Non Government organisations: Tax Implications in the Indian Context

- The NGO has to get registration under Sec 12A of the Income Tax Act, 1961 so that it can qualify for exemption of Income Tax on its surplus (Receipts less expenditure). The application need to be made to the Commissioner of Income Tax in the form No 10A. We have to apply for the registration within 1 year of the formation of the charitable trust or NGO. Once the registration is granted, the exemption will be available from the beginning of that financial year. The commissioner has to grant the registration within six months of the end of the month in which the application is made. In case of failure to do so within the six month time, it shall be deemed to be registered.
- The charitable trust is required to be registered in case the total receipt exceeds Rs 1, 50,000.
- To claim benefit of Sec 11, we have to incur the expenses for the welfare of general public and the society and the weak people. It should not annure any direct benefit to any private group, religion (except religious trusts), cast and tribe.
- The charitable trust or the NGO should not make any payment (revenue expenses and any loans & Advances) exceeding Rs 20,000 in cash. If it is done so, it would lead to a contravention of the provisions of section 40A (3) and Section 269SS of the Income Tax Act.
- The charitable Trusts Donations received by a NGO or a charitable trust with a specific direction that it shall form the part of the corpus, is not chargeable to tax.
- At least 85% of the contributions received (except that forming part of the Corpus) should be expended during the year of receipt itself to get tax benefits otherwise the amount not expended is taken to be in tax ambit. i.e. 15% of the contributions received can be retained by a charitable institution and can be transferred to Corpus.

- The funds retained by the charitable institute can be invested only in specified securities or in approved modes.
- The charitable trust or the NGO is required to maintain separate record of the Key Donors (those who donate Rs 50,000 or more during a financial year).
- The NGO's and Charitable trusts are required to file their return of income in ITR-7 annually by the prescribed dates u/s 139(1) (i.e. 31st July in case audit is not required and Sept 30 in case audit is compulsory). E-filing also available for it.
- Audit reports are to be submitted in form 10-B.
- In case, the trust wants to accumulate the surplus in excess of 15% for use in the subsequent years, it has to make an application in Form No 10. The Ngo is required to utilise the funds so accumulated within 10 years from the end of the year in which accumulation was done filing which the same shall be taxed by the ELEVENTH year end.
- The amount so accumulated in the above Para cannot be donated to any other trust or NGO.
- The amount so accumulated has to be invested in the securities as specified in the Act.
- For providing tax benefits to the donors, the NGO or the trust should be registered u/s 35/35AC/35CCA/35(1)(iii)/80G. If we are not registered under any of these provisions, the donor will not get any tax benefit by making any donation to our NGO. So it is better to get our organisation registered under any of these sections. For registration, we have to make an application to the Income Tax department and fill up the respective forms along with the submission of the requisite information and compliance of the required conditions.