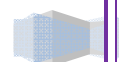
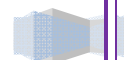

ASSESSMENT OF CHARITABLE TRUSTS AND INSTITUTIONS





CONTENTS

1. Introduction
2. Structure of the Authorities
3. Charitable Purpose
4. Registration of Trusts & Institutions
5. Assessment of a Charitable Trust of Institution
6. Forfeiture of Exemption
7. Approval u/s. 80G(5)
8. Approval u/s. 10 (17A)
9. Notification u/s. 10(23)
10. Notification/Approval u/s. 10(23C)
11. Notification u/s. 35(1)(ii)/(iii)
12. Miscellaneous
13. Forms (Annexe 1 to 8)
14. Schedules (1 to 3)





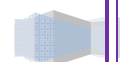
CHAPTER-1

INTRODUCTION

1.1 There is always a need to supplement the Governmental efforts in various areas of welfare measure. Such a need arises not only because of lack of resources at the command of the Government, but also because of wealth of local knowledge available with Non Governmental Organizations (NGOs), which can be fruitfully utilized for the benefit of the society. Thus, N.G.Os exist not only in developing countries, but also developed countries.

1.2 These N.G.Os. may exist as non-profit companies, associations or trusts. In fact, structure or management is not the essence of the N.G.Os. It is the objectives, which distinguish an NGO from a business organization. Tax laws of almost all countries provide tax breaks to religious or charitable N.G.Os in the form of exempting their incomes from tax and also by way of granting tax incentives to the donors, who donate moneys to such exempted institutions. Such tax breaks and incentives are also embedded in various provisions of the Income Tax Act, 1961 (the Act).

The forms, to be used by the assesses in order to avail of the benefit of various provisions, are also compiled as annexes to the book. However, the book is not meant to be an exhaustive exposition of law. Therefore, in case of any doubt, the assesses may refer to the Act, Rules and the case law.





CHAPTER-2

STRUCTURE OF THE AUTHORITIES

2.1. The provisions regarding exempted institutions etc. are administered mainly by Director General of Income Tax (E) and Directorates of Exemption working under him in seven cities, namely, Delhi, Kolkata, Ahmedabad, Mumbai, Chennai, Hyderabad and Bangalore. However, in areas not covered under the jurisdiction of aforesaid seven Directorates, these provisions are administered by the territorial Commissioners of Income Tax. The hierarchical structure for administration of these provisions is described in the succeeding sub-paragraph.

2.2. The structure is as under:-

- (i) The Central Government;
- (ii) The Central Board of Direct Taxes;
- (iii) The Director General of Income Tax;
- (iv) The Director/Commissioner of Income Tax;
- (v) The Additional/Joint Director/Commissioner of Income Tax;
- (vi) The Deputy/Assistant Director/Commissioner of Income Tax;
- (vii) Income Tax Officer; and
- (viii) The Inspector of Income Tax.

2.3. From the aforesaid structure, it is clear that Commissioner of Income Tax (CIT) and other authorities, not working in directorates, also perform respective functions regarding exempted institutions in respect of their jurisdiction outside seven cities. In fact, the Act makes mention only of CIT. In order to fill this lacuna, the Board has authorized Director of Income Tax (Exemptions) [DIT(E)] to discharge all the functions of CIT in the aforesaid cities [Notification S.No. 880(E) dated 14.09.01]



CHAPTER-3

CHARITABLE PURPOSE

[Section 2(15)]

3.1 Section 2(15) defines the expression “charitable purpose” in an inclusive manner to include, - (i) relief of the poor, (ii) education, (iii) medical relief, and (iv) any other object of general public utility. The aforesaid definition is not exhaustive and, therefore, purposes similar to the purposes mentioned in the aforesaid definition will also constitute charitable purposes. Further, the words “any other object of general public utility” are of wide import.

However, the object should not be of utility for only a few persons. Some decided cases, discussed in subsequent sub-paragraph, will help to clarify the meaning of the definition and put it in a proper perspective.

CHARITY

3.2 (1965) 55 ITR 722 (SC)

Andhra Chamber of Commerce

The word ‘charity’ connotes altruism in thought and action. It involves an idea of benefiting others rather than oneself.

3.3 (1976) 103 ITR 777(SC)

Yograj Charity Trust

A commercial concern is not an object of relief of poor on the ground that it provides employment. The object should provide relief directly and not indirectly.

EDUCATION

3.4 (1975) 101 ITR 234 (SC);

Sole Trustee, Lok Shikshana Trust

The word ‘Education’ means training and development of mind, skill and knowledge and it has character of schooling etc. of children. Travelling also enhances knowledge but that would not amount to ‘education’ in the context of section 2(15).



ADVANCEMENT OF ANY OTHER OBJECT OF GENERAL PUBLIC UTILITY

3.5 (1971) 82 ITR 704 (SC);

Ahmedabad Rana Caste Association

The words are quite wide in their ambit. However, the beneficiaries should be well defined and identifiable by some common quality of public or impersonal nature.

3.6 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. We may refer to the following decisions :

(i) (1981) 130 ITR 186(SC);

Federation of Indian Chambers of Commerce & Industry

(ii) (1981) 130 ITR 28 (SC);

Bar Council of Maharashtra

3.7 However, an institution, which merely regulates or enhances business of its members is not a charitable institution. We may refer to the following decision : -

(1978) 111 ITR 241 (Mad);

Madras Hotels Association

In this case, 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 charitable in nature.

3.8 Section 11(4A) enacts that the business income of a charitable institution will also be exempt from tax provided that, - (i) business is incidental to the main object, and (ii) separate accounts are maintained for the business.

We may consider the following cases:

(i) **(1991) 34 ITD 476 (Mad);**

SOS Children's Village of India

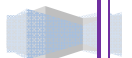
Printing and selling greeting cards for raising funds, in case of a trust whose main object is welfare of poor and destitute children, is a business incidental to attainment of the objects.

(ii) **247 ITR 785 (SC);**



ACIT Vs Thanti Trust

The settlement of a printing business for charitable objects constitutes corpus, which feeds the charitable purpose, and, therefore, the conduct of the business is incidental to attainment of charitable objects.





CHAPTER-4

REGISTRATION OF TRUSTS & INSTITUTIONS

4.1 The legal frame work, granting exemption to a public charitable Trust, a company registered under section 25 of the Companies Act, or a society registered under the Societies Registration Act, 1860, or any other institution 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; and
- (v) Sections 35(1)(ii) and 35(i)(iii).

4.2 Section 12A enacts that provisions of section 11 and section 12, regarding exemption of income, will not be applicable to an institution etc., unless an application for its registration is made to the CIT/DIT(E) within a period of one year from the date of its creation. The CIT/DIT(E) may condone the delay for good and sufficient reason.

4.3 The application for registration has to be made in Form no. 10A (Annexe-1). The application has to be accompanied by the following documents;-

- (i) Copy of the instrument by way of which the trust or institution etc. is created; and
- (ii) If it existed in years prior to the year in which application is made, accounts of the prior years (not exceeding three years) [Rule 17A]

4.4 On receipt of the application, the CIT/DIT (E) has to pass an order either registering the trust etc. or rejecting the application. The registration may be rejected on the ground that the trust or its activities are not genuine. Such an order has to be passed within a period of six months from the end of the month in which the application is made. [Section 12AA (2)]



4.5 The law regarding conditions precedent for registration, so far as merits are concerned, is written briefly and in simple language, namely, that the CIT/DIT(E) should satisfy himself about:-

- (i) objects of the trust etc; and
- (ii) genuineness of its activities.

Obviously, the object(s) of the trust etc. should constitute religious or charitable purpose(s) u/s 2(15) and this aspect will be enquired into. The 'genuineness of activities' can be inferred only if the trust/institution etc. has started to carry out the purpose(s), mentioned in the object clauses of instrument of its creation, at the time when application is made.

4.6 Section 12A(b) also requires that if income of a trust etc. in any previous year exceeds rupees fifty thousand before giving effect to provisions of section 11 and section 12, then its accounts are required to be audited by an accountant and his report in Form no. 10B (Annexe-2) has to be filed along with the return of income.

4.7 The following points should normally 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 its 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 towards objects only, mentioned in the object clauses, and Rules and Regulations;
- (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; and
- (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.



CHAPTER-5

ASSESSMENT OF A CHARITABLE TRUST OR INSTITUTION

INCOME

5.1 The concept of income, for assessment of religious or charitable trusts, etc., is somewhat different from assessment of other entities. This is because of provisions of section 2(24)(ii), under which voluntary contributions are also taken as income. It also becomes clear from reading of this section that a trust or institution may be wholly or partly religious or charitable in nature. Various provisions will, therefore, be applicable to the activities or purposes which are charitable or religious in nature.

5.2 Section 12 makes some changes in the aforesaid “income”. Firstly, it excludes corpus donations from the ambit of income. Thus, voluntary contributions received with a specific direction that they shall form part of the corpus are to be excluded from the definition of the term income. It may be noted here that these contributions have to be used in accordance with the directions of the donor. And secondly, the value of any medical or educational service, by a trust etc. running an educational institution or a hospital, to a person referred to in section 13(3) of the Act will be deemed to be the income of the trust or institution. If the beneficiary has made any payment for such service, then such payment shall be deducted from the value of the service in arriving at the income.

APPLICATION OF INCOME

5.3 Section 11 permits deduction of expenditure from income. The expenditure incurred by a trust or institution by way of application of income in India towards religious or charitable purposes, as per its Memorandum, is deductible from the income. The assessee may also set apart and accumulate 15% of income for such application and such amount will also be taken as expenditure of the year. These provisions are applicable mutatis-mutandis to a partly religious or charitable trust. This section also 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. In conformity with section 12, corpus donations constitute deductible expenditure under section 11(1)(d).

The word 'applied' used in section 11 should be construed widely and not in a narrow sense. We may have regard to some of the decided cases in the matter:-

(i) 133 ITR 779 (Mad.)

Kannika Parameswari Devastham & Charities.

If the expenditure is on capital account on object(s) contained in the object clause, the expenditure will amount to application of income.

(ii) 242 ITR 457 (Kar)

Janmabhumi Press Trust

The assessee constructed a building out of accumulated and borrowed funds. The building was later rented out. A part of the rent was used for repayment of loan. Such repayment of loan was treated as application of income.

CAPITAL GAINS

5.4 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 if the whole of the net consideration (Consideration minus the expenditure incurred in connection with transfer) is applied towards acquiring a new capital asset, then, the capital gains is taken to have been applied for charitable or religious purpose. However, if only a part of the net consideration is applied for acquiring a new capital asset, then, the capital gains to the extent of differences between amount so applied and original cost of the asset is taken to be applied for religious or charitable purpose. The provision applies mutatis-mutandis where the capital asset is held partly for religious or charitable purpose.

ACCUMULATION OF INCOME

5.5 Apart from accumulation of 15% of income permitted u/s 11(1) of the Act, a trust or institution is permitted to accumulate or set apart income for specific purpose(s) (emphasis supplied) u/s 11(2). The accumulation and setting apart of income has to be for specific purpose as distinguished from general purpose(s)



mentioned in the Memorandum. We may refer to the following case in this behalf:-

(1993) 199 ITR 819 (Cal);
SINGHANIA CHARITABLE TRUST

Such an amount shall also be excluded from the income provided that the following conditions are satisfied:-

- (i) A notice is given in Form no. 10 (Annexe.3) to the assessing officer setting out the amount and purpose for which 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 u/s 139(1). However, subject to some conditions, the Board has authorized the CIT/DIT(E) to extend the aforesaid time limit if good and sufficient reason is shown for inability to give the notice in time (Circular No. 273 dated 03.06.1980). 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; and
- E. The accumulation was necessary for carrying out the object of the trust.

The issue of time limit for giving notice was also considered by Hon'ble Supreme Court in the case of CIT Vs Nagpur Hotel Owners' Association, (2001) 247 ITR 201 (SC). 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.



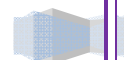
5.6 Income accumulated or set apart u/s 11(2) for attainment of specific purposes has to be used for the specified purposes within the period of accumulation etc. The infringement of the conditions of accumulation can occur on any or all of the following grounds:-

- (i) it is applied to purposes other than charitable or religious purposes,
- (ii) It ceases to remain invested in the manner specified u/s 11(5),
- (iii) It is not applied for the purposes for which it was accumulated, or
- (iv) It is credited or paid to any religious or charitable.

In the occurrence of any of the aforesaid infringement, the amount will be taken as the income of the previous year in which the infringement has taken place. It may happen that any 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 A.O. may allow the change if the substituted purposes are in conformity with the objects of the charitable trust or institution. However, transfer of income to another charitable trust will not be allowed under this provision.

BUSINESS INCOME

5.7 Section 11(4) states that a business as a going concern 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 provisions of the Act. The difference between income so determined and the income shown in accounts shall not be deemed to have been applied towards religious or charitable purpose, but applied to other purposes. The point to be noted is that the income of the business has to be calculated under usual provisions contained in Chapter IV-D and not as per Chapter III of the Act, applicable to income of charitable trusts and institutions.



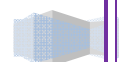


INCIDENTAL BUSINESS

5.8 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 u/s 11 if separate books of account are maintained, otherwise, the income will not be entitled to benefit of exemption under section 11 and section 12. The cases on this issue have already been discussed in paragraph 3.8 (supra).

MODES OF INVESTMENT

5.9 Section 11(5) mentions a number of modes of investment in respect of income accumulated and set apart u/s 11(2) (Schedule-1).





CHAPTER – 6

FORFEITURE OF EXEMPTION

6. Section 13 mentions the contains circumstances in which benefit of provisions of section 11 and section 12 shall not be available in respect of application of income or part thereof. These circumstances are listed as under:-

- (i) the income is for private religious purpose and not for the benefit of public.
- (ii)** The income is for the benefit of any particular religious community or caste. However, income for benefit of persons belonging to Scheduled castes, Scheduled tribes, women and children will not be denied exemption u/s 11 & 12.
- (iii)** The income is for the benefit of any interested person mentioned in section 13(3) or Explanation I to Section 13(6) respectively. (Schedule -2 and Schedule-3)
- (iv)** The income is invested or continues to be invested in forms other than the forms specified in section 11(5).

CHAPTER-7

APPROVAL U/S 80G(5)

7.1 Apart from exemption of income of the trust or institution etc. as provided in section 11 and section 12 of the Act, a donor to such a trust or institution is also entitled to benefit of deduction from his income on account of the donation made by him. The amount of deduction is prescribed in section 80G(2)(iv). Section 80G(5) contains preconditions, which must be satisfied cumulatively, before the donation to the trust or institution becomes tax deductible in the hands of a donor. These conditions are summarized as under :-

- (i) the income of the trust etc. would not be includible in total income by virtue of provisions contained in sections 11 and 12, section 10(23), section 10(23AA) or section 10(23C);
- (ii) the income of the trust etc., as per rules governing the trust etc., is applicable wholly for **charitable purpose** (emphasis supplied). The charitable purpose does not include religious purpose [Explanation 3 below section 80G]. However, section 80G(5B) permits application upto 5% of the income of a year towards religious purposes.
- (iii) The trust etc. is not expressed for the benefit of any particular religious community or caste;



(iv) It maintains regular books of account regarding its receipts and expenditure; and

(v) The trust etc. is approved by the CIT/DIT(E) in this behalf.

Thus, the approval to a charitable trust etc. is granted in pursuance of condition No. (v), mentioned above.

7.2 Rule 11 AA prescribes that an application for approval u/s 80G shall be made in triplicate in Form No. 10G (Annexe 4). It shall be accompanied by copies of following documents : -

- (i) order of registration u/s 12A, notification u/s 10(23) or notification u/s 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 last three years, whichever is less.

The rule also provides that the application in form No. 10G shall be disposed of within six months of the date of its receipt by the CIT/DIT(E). However, the time taken by the assessee in complying with any requirement shall be excluded while calculating the aforesaid limitation period. Thus, limitation is involved in disposal of such an application.

7.3 No formal procedure has been laid down either in the Act or the Rule for disposal of the applications. However, if it is intended to reject an application, the trust etc., has a right to an opportunity of being heard. The time taken by the trust etc. in complying with the directions of the CIT/DIT(E) regarding filing of evidence or information shall be excluded in computation of aforesaid time limit of six months. The CIT/DIT(E) may grant approval for a period upto five years. While doing so, he has to specify the assessment years for which approval is valid. Thus, it is clear that a trust etc. may need repeated approvals. It may be stated here that the Act or the Rules do not distinguish between an initial or subsequent approval.

7.4 Two decisions regarding approval of a trust etc. under this section are summarized below:-



(1967) 65 ITR 611 (SC)

East India Industries (Madras) Pvt. Ltd.

The question whether donation to an institution are deductible u/s 80G has to be decided with reference to all the object of the institution. If some objects are non charitable, the institution is not eligible for approval.

227 ITR 578 (SC)

Upper Ganges Sugar Mills Ltd.

Even if one object is wholly or substantially wholly religious in nature, the institution is not eligible for approval u/s 80G.

No appeal is provided against an order under this section. Thus, an assessee can only challenge the order by way of Writ Petition.

CHAPTER-8

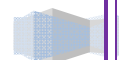
APPROVAL U/S 10(17A)

8.1 This section inter-alia exempts from tax any award made in cash or kind, instituted by the Central Government, the State Government or any institution, and approved by the Central Government to have been instituted in the public interest. Thus, the only condition mentioned in the statute regarding approval is that the award should be approved by the Central Government in public interest. In order to get approval for the exemption of awards from tax in the hands of the recipients, the institutions is required to furnish information on the following points:-

1. Name, address & P.A. No. of the institution
2. Assessment Year for which approval is sought
3. Instrument of creation of the institution containing interalia MOA and rules & regulations
4. Whether the institution is registered u/s 12A, or notified or approved u/s 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; and
 - (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

NOTIFICATION UNDER SECTION 10(23)

9.1 This section exempts from tax any income of an association or institution established in India, which any be notified by the Central Government, having regard to the fact that the association or institution is formed with the object of control, supervision, regulation or encouragement of the game of cricket, hockey, football, tennis in India, or any other game or sports as the Central Government may notify in this behalf. While four games have been specified in this section itself, the Central Government has further notified 32 games and sports indicated below:-

S.No.	Games	Notification No.	Date
1.	Golf	So 2688	6.10.1961
2.	Rifle Shooting	SO 1101	1.03.1967
3.	Table Tennis	SO 1102	08.03.1967
4.	Polo	SO 1562	22.04.1967
5.	Badminton	SO 4091	29.10.1968
6.	Swimming	241	14.12.1972
7.	Athletics	241	14.12.1972
8.	Volley-ball	241	14.12.1972
9.	Badminton	241	14.12.1972
10.	Wrestling	241	14.12.1972
11.	Basket-ball	241	14.12.1972
12.	Kabaddi	241	14.12.1972
13.	Weight-lifting	241	14.12.1972
14.	Gymnastics	241	14.12.1972
15.	Boxing	241	14.12.1972
16.	Squash	241	14.12.1972
17.	Chess	241	14.12.1972
18.	Bridge	241	14.12.1972
19.	Billards	241	14.12.1972
20.	Cycling	241	14.12.1972
21.	Yachting	241	14.12.1972
22.	Flying	241	14.12.1972
23.	Judo	241	14.12.1972
24.	Kho-Kho	241	14.12.1972
25.	Horse-riding	241	14.12.1972
26.	Motor racing including Motor cycle racing	320	28.05.1974
27.	Mountaineering	GSR 99	30.09.1975
28.	Body building		
29.	Soft Ball	GSR 100	04.10.1975



- 30. Carrom
- 31. Rowing SO 1241 21.04.1995
- 32. Archery SO 1720 14.06.1995

9.2 The provisions regarding definition of income contained in section 2(24)(ii) in respect of voluntary contributions is applicable such associations or institutions. Provisions of sections 11(2), 11(3) and 11(5), applicable to charitable and religious trusts or institutions regarding accumulation of income etc. and investment of surplus funds, are also applicable, mutatis –mutandis, to the association or institutions notified by the Central Government under this section. The Board has framed Rule no. 2C under this section, and form no. 55 (Annexe 5) under this rule for making application for the notification.

9.3 The form should be properly filled up, especially keeping the following points in mind:-

- (i) Whether the objects of the association or institution, as reflected in Memorandum, are to control, supervise, regulate or encourage any game or sports;
- (ii) Whether the game or sports are mentioned in section 10(23) or notified by the Central Government under this section;
- (iii) Whether the documents and accounts show that the activities were actually carried on and income utilized by way of expenditure on these activities;

(iv) Whether provisions of sections 11(2) & 11(3) regarding accumulation and application of such income are followed and amount thereof;

(v) Whether surplus funds are invested in accordance with provisions of section 11(5) and details of such investments;

(vi) Whether the affairs of the association or institution are properly managed by constitution of managing committee etc.;

(vii) Whether the transactions with persons mentioned in section 13(3) are at an arm's length and they do not derive any benefit from the association or institution;

(viii) Whether the affairs of the association or institution are administered and supervised in a manner, which ensures application of income to the objects only.



9.4 A notification under this section can be made for three years at any one time. Thus, on expiry of the period of notification, a fresh application will have to be made.

9.5 The section has been omitted by the Finance Act, 2002 w.e.f. 01.04.2003. Thus, the income of the association or institution will not be exempt for A.Y. 2003-04 and onwards under this section.

CHAPTER – 10

NOTIFICATION/APPROVAL UNDER SECTION 10(23C)

10.1 Sub-clauses (i), (ii), (iii) & (iiia) of clause 23C of section 10 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. Sub-clause (iii ab) takes out from preview of taxation the 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.

Similarly, sub-clause (iii ac) of this clause takes away from the ambit of taxation the income of any hospital or other institution dealing with 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 wholly financed by the government. Sub-clauses (iii ad) and (iii ae) also exempt the income of the university or educational institution, hospital or other institution not financed wholly or substantially wholly by the Government provided that it satisfies other conditions mentioned in clause (iii ab) or (iii ac), as the case may be, and its annual receipts do not exceed rupees one crore.

10.2 Sub-clauses (iv), (v), (vi) & (via) of section 10(23C) deal with exemption of income of various kinds of religious or charitable institutions which are either notified by the Central Government or approved by the prescribed authority. Clause (iv) deals with exemption of income of any fund or institution established



for charitable purposes which may be notified by the Central Government taking into account the objects of the fund etc. or its importance throughout India or throughout any State or States. Subclause (v) deals with exemption of income of any trust or institution set up wholly for public religious purposes or public religious or charitable purposes, which may be notified by the Central Government 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. Sub clause (vi) deals with exemption of income of any university or educational institution, which may be approved by the Board, provided that it is existing solely for educational purposes and not for purposes of profit, and if its annual receipts exceed Rs. 1 crore. And finally, sub clause (via) deals with exemption of income of any hospital or institution, which may be approved by the Board, and which engages itself in reception and treatment of persons suffering from illness or mental defectiveness or during convalescence or requiring medical attention or rehabilitation, provided that it exists solely for philanthropic purposes and not for profit and provided further that its annual receipts exceed Rs. 1 crore.

10.3 Provisions of section 11(1), section 11(2) and section 11(3) regarding application of income, accumulation of income and its use, and provisions of section 11(5) regarding investment of surplus funds are applicable to such a trust, institution etc. Application for notification by the Central Government under sub-clause (iv) or (v) of section 10(23C) has to be made in Form no. 56 (Annexe 6), while application for approval by the prescribed authority under sub clause (vi) or (via) has to be made in form No. 56-D (Annexe 7). Central Government is the authority which notifies institutions etc. mentioned in sub clauses (iv) & (v), while Central Board of Direct Taxes is the prescribed authority for granting approvals under sub clauses (vi) & (via) of the aforesaid section.

10.4 Points of consideration for notification or approval under different subclauses are different. However, the form to be filled up for notification under clauses (iv) and (v) is the same, namely, Form no. 56. Similarly, form to be filled up for approval under clauses (vi) and (via) is same, namely, Form no. 56D. Therefore, the prescribed form should be carefully filled up having regard to provision contained in the relevant sub-clause.



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. This sub clause also lays stress on the position that the institution should exist for educational purposes only and not for the purposes of profit. Therefore, the issue as to how the income of the institution is applied assumes greater significance. Sub clause (via) lays emphasis on existence solely for philanthropic purposes and not purposes of profit.

CHAPTER – 11

NOTIFICATION UNDER SECTION 35(1)(ii)/(iii)

11.1 Donors to a scientific research association, a university, college or other institutions are entitled to weighted deduction of one and one fourth times of the donations paid by them, provided that, - (i) the association, university, college or the institution, as the case may be, is notified by the Central Government for the purpose of clause (ii) or (iii) of sub-section (1) of section 35, and (ii) the institution etc. uses the donations for the research purposes. Sub-clause (ii) deals with scientific research, while sub-clause (iii) deals with research in social science or statistical research.

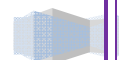
In order to get the aforesaid benefit, the institution etc. has to made an application in Form no. 3CF (Annexe-8) to the Central Government for its notification in official gazette. The income of an institution notified under section 35(1)(ii) is also exempt from tax u/s 10(21) subject to fulfillment of conditions regarding application of its income for scientific research purposes; its accumulation and use u/s 11(2) and 11(3); and its investment as per modes prescribed u/s 11(5). If exemption is sought u/s 10(21) also, then, annexe to Form 3CF has also to be filled up by the assessee.



11.2 The Form no. 3CF may be filled up carefully, having regard to the provisions contained in section 35(1)(ii)/(iii), 11(2), 11(3) and 11(5). 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 and Balance Sheet (Statement of Affairs) 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) Whether research is sole object or only one of the object of the association, institution etc. If research is the only object, then the entity is classified as 'Association' for notification purposes; and if it is one of the objects, then it is classified as 'Institution';
- (ii) Whether Income & Expenditure Account and Statement of Affairs reseparately maintained for research activity and audited by the auditor;
- (iii) Whether income has been applied or accumulated, as the case may be, for research purposes only;
- (iv) Whether surplus funds are invested in the modes prescribed in section 11(5);
- (v) Details of research projects completed and research projects intended to be taken up in the ensuing years; and
- (vi) Any benefit granted to the interested persons or major donors.





CHAPTER – 12

MISCELLANEOUS

12.1 A charitable trust etc. is required to file suo-moto returns under section 139(4A) provided its income, representing aggregate of voluntary contributions, defined u/s 2(24)(iia), exceeds the maximum amount not chargeable to income-tax. Form No. 3A has been prescribed as the return of income. The trust etc. has to get its accounts audited and a report of the auditor in Form 10B has to be filed alongwith the return.

RATES OF TAX

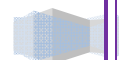
12.2 The charitable trusts etc. are liable to tax at the normal rate applicable to A.O.P.s However, in case of default u/s 11(5) or 13, the income is liable to tax at maximum marginal rate under section 164(3).

WITHDRAWAL OF NOTIFICATION

12.3 The Central Government or the Prescribed authority u/s 10(23C) or u/s 35(1)(ii)/(iii) was not specifically empowered to withdraw the notification or approval. It appears that such a power was inherent under the general law to the effect that an authority which has power to grant exemption has also power to withdraw such exemption. However, Finance Act, 2002, has now bestowed such power specifically in case any or all conditions of notification or approval have been violated. Procedure of assessment has also been modified in such a case and the time taken from the date when the A.O. reports the default to the authority to the time of receipt of authority's order by him is excluded from the limitation period.

PERIOD OF NOTIFICATION

Notifications u/s 12(23), 10(23C) or 35(i)/(ii)/(iii) are made for a period not exceeding three years. Thus, notification under these sections are valid for a period of three years or less. The assessee is entitled to make a fresh and also repeated applications. The procedure for disposal of such applications is same as for the first application.





Annexe-I

FORM NO. 10A

[See rule 17A]

Application for registration of charitable or religious trust or institution under section 12A(a) 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 12 A 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 author(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.
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.



Notes :

1. The application is required to be sent to the CIT/DIT(E) before the expiry of a period of one year from the date of creation of the trust or the establishment of the institution. However, where the assessee is assessed or assessable by any income-tax authority having his headquarters at Mumbai, Kolkata, Chennai, Delhi, Ahmedabad, Hyderabad or Bangalore, the application must be sent to the DIT(E) at these cities – Circular No. 584, dated 13.11.1990.
2. Along with the application in duplicate, the following documents should be furnished:
 - a. Original or a certified copy and an extra copy of the instrument under which the trust or institution was set up;
Or
In case the trust or institution was not set up under an instrument, the original or a certified copy of the document(s) evidencing the setting up of the institution:
 - b. if the trust or institution was in existence for any completed number of years prior to making of the application, two copies of the accounts for one, two or three years, as may be available.
3. Failure to send the application will render the trust or institution ineligible for exemption from tax on its income referred to in sections 11 and 12.
4. Where the application for registration is filed belatedly, the exemption under section 11 can only be claimed from the first day of the financial year in which the application is made. However, if the CIT/DIT(E) is satisfied that sufficient reasons existed for the delay in filing of the application, the registration may be granted from the date of creation of the trust or the establishment of the institution.



Annexe-2

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 _____

Date _____ Signature

Accountant †

Notes:

- 1 *Strike out whichever is not applicable.
2. †This report has to be given by an accountant within the meaning of
explanation below section 288(2) of the I.T. Act.
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.

39

28



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(B) ? 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 there to, 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 purpose 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
40

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 from 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

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 investm

ent

Whether the amount in col. 4 exceeded 5 per cent of the capital of the concern during the previous yearsay,

ent

Whether the amount in col. 4 exceeded 5 per cent of the capital of the concern during the previous yearsay,

ent

ent

ent

ent

ent

ent

ent

ent

ent



Yes/No

1 2 3 4 5 6

41

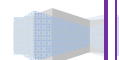
Tot

al

Place _____

Date _____ Signed

Accountant





Annexe-3

FORM NO.10

[See rule 17]

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

To

The Assessing Officer

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 _____ (date)
(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)

_____ 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 subsection
(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

43

Notes:

1. This notice should be signed by a trustee/principal officer.
2. Inappropriate words may be deleted.

Annexe-4

FORM NO. 10G

[See rule 11AA]

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

45

(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 terms or in the rules

governing the institution/fund made at anytime hereafter.

Place

Date Signature

Designation

Address

Notes : The application form (in triplicate) should be sent to the CIT/DIT(E) 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.

Annexe-5

FORM NO. 55

[See rule 2C]

Application for approval of an association or institution for purposes of exemption under section 10(23), or continuance thereof for the year _____

1 Name and address of the association/institution.

2 Legal status, whether registered society/others. Please enclose a copy of certificate of registration.

3 Date of inception or setting up of the association.

4 Activities encouraged in India as reflected in the memorandum (please specify each game/activity).

5 Activities, if any, encouraged outside India (give details).

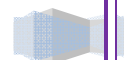
6 Name and address of the office bearers.

7 Total income of the association including voluntary contributions for the

PEEYUSH SHARMA & CO., Chartered Accountants, Dehradun

Office No. 6, 2nd Floor, Uttranchal Complex, Haridwar Road, Dehrduna-248001,

Contact No. +91-9897278300, +91-7417468466, Email: peeyushsharma.ca@gmail.com





previous year relevant to the assessment year for or from which the exemption is sought.

8 Amount of income referred to above that has been or deemed to have been utilised wholly and exclusively for the objects of the association.

Income deemed to have been utilised shall have the same meaning as assigned to it in sub-sections (1) and (1A) of section 11.

9 Amount accumulated for the purpose mentioned in Column (8) above

10. (i) Details of modes in which the funds of the association 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

11. (i) Is the association carrying on any business (give details) ?

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

12. Details of nature, quantity and value of contributions (other than cash) and the manner in which such contribution has been utilised.

13. Details of shares, security or other property purchased by or on behalf of the association from any interested person as specified in sub-section (2)

47

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), or any interested person as specified in sub-section (3) of section 13. If so, details thereof.

15. Amount deemed to be income of the association by virtue of subsection (3) of section 11, as made applicable by the third proviso to section 10(23).

16. (i) State the assessment particulars including permanent account number/GIR number, name of the ward/circle

(ii) Last assessed and returned income.

17. Has the association/institution distributed its income in the last three years among its members?. If so, please indicate reasons/purposes, i.e., whether as a loan, grant, subsidy or income.

18. Enclose audited accounts including balance sheet, annual report, if any, with certified copies of income appropriation towards the object of the association.

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

Place _____

Date _____

Signature

Designation

Full address

Notes :

The application form should be filed with the CIT/ DIT(E) having jurisdiction over the trust or institution. Four copies of the application form along with the enclosures should be sent.

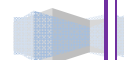
Annexe-6

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 (Regulations) 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 (1 A) 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
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 utilized.

16. Details of shares, security or other property purchased by or on behalf of the trust from any interested person as specified in subsection (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

Date

Signature

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 filed with CIT/ DIT(E) having jurisdiction over the trust or institution. Four copies of the application form along with the enclosures should be sent.

50

3. Copies of the following documents should also be enclosed:-

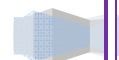
(i) Deed of trust/memorandum and Articles of Association. Instrument of creation/ document evidencing the creation.

(ii) A list of trustees along with details or settlor/members of the Governing Council.

(iii) Copy of the latest certificate under section 80G issued by the CIT/ DIT(E).

(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.





Schedule-1

THE FORMS & MODES OF INVESTMENT ETC. PRESCRIBED U/S 11(5)

1. 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.
2. Deposit in any account with the Post Office Savings Bank.
3. 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 of Undertakings) Act, 1980 (40 of 1980), or any other bank being a bank included in the Second Schedule to the Reserve Bank of India Act, 1934 (2 of 1934)

4. Investment in units of the Unit Trust of India established under the Unit Trust of India Act, 1963 (52 of 1963).
5. Investment in any security for money created and issued by the Central Government or a State Government.
6. 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.

59

7. 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 made under this clause for the period up to the date on which such investment or deposit becomes repayable by such company;

8. 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.

9. 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.

9A 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 urban infrastructure in India.

Explanation – For the purposes of this clause.

“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;

60

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.

10. 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.

11. Deposits with the Industrial Development Bank of India established under the Industrial Development Bank of India Act., 1964 (18 of 1964)

12. Any other form or mode of investment or deposit as may be prescribed.

THE FORMS AND MODES OF INVESTMENT ETC. PRESCRIBED UNDER CLAUSE 12 OF SECTION 11(5)

1. 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.

2. Any transfer of deposits to the public Account of India.

3. 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.

4. 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).

61

Schedule -2

INTERESTED PERSON

1. The author of the trust or the founder of the institution.

2. 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.

3. Where such author, founder or person is a Hindu undivided family, a member of the family.

4. Any trustee of the trust or manager, (by whatever name called) of the institution.

5. Any relative of any such author, founder, person, member, trustee or manager as aforesaid.

6. Any concern in which any of the persons referred to in clauses



1,2,3,4 and 5 (above) has a substantial interest.

62

63

Schedule-3

RELATIVE

1. Spouse of the individual.
2. Brother or sister of the individual.
3. Brother or sister of the spouse of the individual.
4. Any lineal ascendant or descendant of the individual.
5. Any lineal ascendant or descendant of the spouse of the individual.
6. Spouse of a person referred to in 2,3,4 or 5 above.
7. Any lineal descendant of a brother or sister of either the individual or of the spouse of the individual.

