Procedure of S.12A Registration U/Sec.12AB OR 10(23C) (iv) to (via) Approval of U/S. 10(23C)

1.Category of trust/institution seeking registration u/S.12AB /approval U/S.10(23C)					
Registered/approved in old provision- *Note 2*	Renewal after Expiry tenure of 5 Years u/S 12AB /10(23C)	Renewal in case of registration/approval provided on provisional basis U/ clause. (vi)/(iv)	inoperative u/S.11(7)	Modification of objective	(vi)-Other case-(provisional)-e.g. New entities Or old ones not filed application in other clauses on time
2.Clause No 12A (1)(ac) in which Registration required					
Clause (i)-	Clause (ii)	Clause (iii)	Clause(iv)	Clause(v)	Clause (vi)
3.Clause No 10(23C)- 1st proviso in which Approval required					
Clause (i)	Clause (ii)	Clause (iii)	NA-*Note3*	NA	Clause (iv)
4. Time limit for uploading [electronically only] application is in clauses above. [If application is not filed within due date specified such trust comes under "other cases" above. To be signed by the trustee					
3 month from FA 20 is applicable [before 31.12.20]	Within 4.5 years from the date last registration.	Earlier of within- 2.5 years from the date of provisional registration or approval OR 6 months from commencement of business	6month before AY for which registration, is sought	30 days from amendment	1 month prior to starting of PY of AY for which exemption sought *
5. Time limit for passing the order for registration S.12AB (3)/ grant **of approval**-10(23C) 9th Proviso- *Calculated from the end of the month in which the application was uploaded.* [Whether deemed registration apply if not passed?]- CITs to strictly adhere to the time limit of 6 months [CBDT Instruction no. 16 / 2015 dated 6th November 2015]. **Deemed registration:** CIT v. Society for the Promotion of Education, Adventure, Sport & Conservation of Environment, (2016) 67 taxmann.com 264 (SC).Registration would take effect only after 6 months from the date of the application. Contrary view: assessee has to file writ to make the order to be passed					
3 Months	6 Months				1 Months [since no enquiries]
6.Sec.11,12,10(23C) shall apply effectively from- 12A(2) & proviso/ 10(23C) 8th proviso					
From the AY from which approval was earlier granted to it in old section	$$-Same as	From the first of the AY for which it was provisionally registered/approved	$$-Same as	$$-Same	$$- From the AY next to financial year in which application is uploaded -12A (2) *contradiction?
7. Tenure and Order of registration/approval and inquiry--(order to be sent)/ Clauses of 12AB (1)/10(23C) 2nd proviso. Nullify Circular No. 7/2010]					
5 years-No Inquiries & call for documents	5 years-After Inquiries & call for documents-below				3 years provisionally *from the AY from which the registration/approval is sought* -No Inquiries & call for documents.

<table>
<tr><td colspan="2">Procedure of calling for information -Sec.12AB (1) (b) (i) - The Principal Commissioner/ Commissioner on receipt of application U/S. 12A (1) (ac) (ii) to (v) shall call for such documents or information or make such inquiries as he deem fit to satisfy himself about the A. genuineness of the activities of trust B. The important compliance, for the purpose of achieving its objective, of provisions of any other law.
12AB (1) (b) (ii) And only after satisfying regarding above two points, he shall pass an order in writing granting registration for 5 years. Otherwise pass an order in writing rejecting application and also cancel registration of trust only after giving reasonable opportunity of being heard to assessee. must send copy of order to applicant.</td></tr>
<tr><td colspan="2">8. Power of issuing Order of Cancellation of registration / approval by Prin. Commi./ Commissioner regarding-Only U/12AB. (4),(5)/10(23C) 15th proviso.</td></tr>
<tr><td>Yes-Procedure below*</td><td>NA .as it is provisional.
But for 10(23C) it is Yes*</td></tr>
<tr><td colspan="2">12AB. (4)/- Cancel after satisfaction under only two grounds. Activities of the trust are 1. Not genuine
2. Not being carried out in accordance with its objects [w.r.t.12AB] OR activities not as per conditions subject to which it was notified or approved [w.r.t.10 (23C) 15th prov.). This is clarified by Circular No.21 of 2016.</td></tr>
<tr><td colspan="2">12AB. (5)- Cancel subsequently after noticing :

(a) When the activities of the trust or the institution are being carried out in a manner where S.13 (1) is operational- [income does not enure for the benefit of public, Income applied for specified person, Funds are invested in prohibited modes] or this conditions not in 10(23C)]

(b) the trust or institution/fund has not complied with the requirement of any other law as referred in S.12AB(1)(b)(i)(B)* and the order, direction or decree, by whatever name called, holding that such non-compliance has occurred, has either not been disputed by Trust or has attained finality. Registration shall not be cancelled if the trust or institution proves that there was a reasonable cause for the activities to be carried out in the said manner. [Same as 15th proviso S.10 (23C)][*cancellation power is given in that section too]

Condition only in 10(23C)- Trust has not applied (i.e. 85%) or invested/deposited its income/fund as per clauses (a) or (b) 3rd proviso

PCIT/CIT U/S12AB (4)[Shall],(5)[may],10(23C) 15th proviso[may] Pass Order in writing [<u>Speaking order to be passed</u> CBDT Circular No. 762, dt. 18th Feb. 1998] and Trust should be given reasonable opportunity of being heard before order.- i.e. must cancel even if for default on account of reasonable cause.If trust aggrieved by the order of the PCIT / CIT, it may appeal to the Appellate Tribunal [s. 253(1) (c)].</td></tr>
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Note 1**-** Sec.12AB (2)/10(23C) proviso –All application before 30.09.2020 given under old Se.12AA (1)(b) / old first proviso will be deemed to be application under S. 12A(1)(ac)(vi) /under *clause (*iv*) of present 1st proviso of 10(23C)*

Note2.-provisions of first category will become irrelevant after 31.12.2020

Note3-When registered 10(23C) and 12AA at the same time approval under 10(23C) continues and 12AA become inoperative and person has to apply 12AB again if he wants.