

Finance Bill 2019 has introduced a new concept of Social Stock Exchanges in India which are already prevalent in other countries like UK, Singapore, Canada, etc. Will they help in the development and institutionalize the NGO sector?

To enable the profession to take on the challenges and to discharge professional responsibilities in a more informed manner, and to apprise the stakeholders of the provisions of the law and compliances, the Committee has organized this one-day Seminar.

Sr. No.	Topics	Speakers
1	• Presentation on Important Procedural Aspects for Trustees and Professionals • Compliance and Issues under the Maharashtra Public Trusts Act	Mr. Sanjay Mehare(*) Charity Commissioner (MH)
2	• The various Advantages and Disadvantages of Charitable institutions viz-a-viz Private Trust • Interesting Aspects of the Proposed Social Stock Exchange • Issues related to Formation of Minority Status Trust in present times.	CA Gautam Shah
3	• Issues on Taxation (including registration) of Charitable Trusts, including recent amendments • Issues on Dissolution of Charitable Trust and Discussion regarding implication of section 115TD of the Income Tax Act. • Recent controversial decisions in direct tax for trust	CA Gautam Nayak
4	• Issues under Foreign Contribution and Regulation Act (FCRA), 2010 • Registration & Renewal • Compliance • Accounts & Audit • CSR Provisions related to Trusts	CA Anil Sathe
5	Issues under Goods & Services Tax (GST) for the NGO's	CA Sunil Gabhawalla
6	Hardships faced in the Office of Charity Commissioner	Mr. Rakesh Pandey, Advocate
7	Issues of Charitable Institutions from Income Tax Point of View	Mr. Satish Sharma(*) CIT (Exemptions)
8	Panel Discussion on various issues relating to NGO's	Mr. Satish Sharma (*) CIT (Exemptions) CA Gautam Nayak, CA Anil Sathe CA Sunil Gabhawalla Moderator: CA Chetan Shah

(*) Subject to confirmation

+ GOOGLE CALENDAR

+ ICAL EXPORT

Details

Date:

September 14, 2019 (2019-09-14)

Time:

9:00 am - 5:45 pm

CHARITABLE TRUSTS – CRITICAL ASPECTS

Charitable trusts are a vital part of the non-profit sector, often created to fulfil altruistic goals and contribute positively to society. Here are some critical aspects to consider:

1. Charitable Objectives

The trust must have clear charitable objectives, such as promoting education, healthcare, environmental conservation, or other public benefits.

2. Beneficiaries

The trust should have identifiable beneficiaries, ensuring that its activities benefit a specific group or the general public.

3. Perpetuity

Charitable trusts are typically perpetual, meaning they can last indefinitely, continuing their charitable activities over time.

4. Legal Framework

Understanding the legal framework governing charitable trusts is crucial. This includes registration, compliance with tax laws, and adherence to regulations set by authorities³.

5. Tax Implications

Charitable trusts often enjoy tax exemptions and benefits, but they must comply with specific conditions to maintain these exemptions.

6. Fiduciary Duty

Trustees have a fiduciary duty to act in the best interests of the trust and its beneficiaries, ensuring that the trust's assets are used appropriately.

7. Operational Challenges

Running a charitable trust involves navigating various operational challenges, such as fundraising, financial management, and maintaining transparency and accountability.

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8. Recent Developments

Stay updated with recent judicial decisions and changes in regulations that may impact the functioning and taxability of charitable trusts.

Would you like more detailed information on any of these aspects?

Charitable Organizations are essentially formed to benefit the public at large. Government's inability to create just and sustainable societies has prompted NGOs to help address a wide variety of social needs through various means and are working in the areas of providing relief and assistance to people at times of need in any part of the world, especially who are the victims of war, natural disaster, catastrophe, hunger, disease, poverty and orphans by supplying them with food, shelter, medical aid and other fundamental needs. - is this true?

Yes, your description aligns closely with the role and purpose of charitable organizations. These organizations, often referred to as NGOs (non-governmental organizations), indeed strive to fill gaps where government efforts may fall short. They focus on various social issues and aim to provide aid and support to those in need globally. Here are a few key points to expand on this:

1. Public Benefit

Charitable organizations are established to serve the public good, addressing issues such as poverty, education, health, and more. Their mission is to create positive social change.

2. Humanitarian Aid

One of the primary roles of many NGOs is providing humanitarian aid during crises. This includes offering food, shelter, medical care, and other basic necessities to victims of disasters, conflicts, and other emergencies.

3. Advocacy and Awareness

Charitable organizations also play a crucial role in advocating for social justice and raising awareness about critical issues. They work to influence policies and bring attention to underrepresented and underserved communities.

4. Community Development

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Many NGOs focus on long-term community development, working on projects that promote sustainable living, education, and economic development to help lift communities out of poverty.

5. Independence

While NGOs may collaborate with governments and other entities, they typically operate independently to maintain objectivity and avoid conflicts of interest.

6. Funding and Resources

These organizations rely on donations, grants, and volunteer support to fund their operations and carry out their missions effectively.

Charitable organizations are essential in bridging the gap between the resources and efforts of the government and the needs of the people. They play a vital role in creating more just and equitable societies.

Is there a specific aspect of charitable organizations or NGOs that you'd like to dive deeper into?

Charities supplement the Government's efforts to alleviate the problems faced by its citizens. Unfortunately, in India, charitable organisations are highly regulated. Some states (including Maharashtra) also have their own laws governing charitable trusts. Recent amendments in section 11, 12AA, proposed changes in audit report format, section 115TD, etc. have made compliances by NGOs really challenging.- elaborate

You're absolutely right. The regulatory environment for charitable organizations in India has indeed become more stringent over the years, with several amendments and changes affecting their operations¹. Here are some key points regarding recent amendments and their implications:

1. Section 11 and 12AA

The Finance Act, 2023 introduced significant changes to Sections 11 and 12AA of the Income Tax Act, 1961. These sections deal with the income tax exemption available to charitable trusts and institutions¹. The amendments aim to simplify the registration process and introduce a new regime for claiming exemptions.

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However, they also impose stricter compliance requirements and timelines for filing returns and audit reports¹.

2. Audit Report Format

The format for audit reports (Form 10B or Form 10BB) has been revised, and these reports now need to be e-filed one month prior to the due date of the Income Tax Return (ITR). This change ensures better scrutiny and timely submission of financial information².

3. Section 115TD

Section 115TD deals with the taxation of anonymous donations received by charitable trusts. Recent amendments have tightened the rules around such donations, requiring more detailed reporting and compliance to prevent misuse¹.

4. State-Specific Regulations

In addition to central regulations, states like Maharashtra have their own laws governing charitable trusts. These state-specific regulations can sometimes add another layer of complexity, requiring organizations to navigate both central and state-level compliance requirements.

5. Operational Challenges

The increased regulatory burden has made it challenging for NGOs to maintain compliance while focusing on their core mission. They need to invest more resources in ensuring that they meet all legal requirements, which can be particularly difficult for smaller organizations with limited capacity.

6. Impact on Fundraising

The stricter regulations can also impact fundraising efforts, as donors may be more cautious about contributing to organizations that face compliance challenges. This can affect the financial sustainability of charitable trusts and their ability to carry out their activities effectively.

These changes reflect the government's efforts to ensure transparency and accountability in the non-profit sector, but they also pose significant challenges for charitable organizations. It's crucial for NGOs to stay informed about these

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regulations and seek professional advice to navigate the complex compliance landscape.

Would you like to know more about any specific aspect or how to address these challenges?

The Government action of cancelling registration of more than 10000 NGOs for violation of FCRA 2010.

Yes, the Indian government has indeed taken significant action against NGOs under the Foreign Contribution (Regulation) Act (FCRA) 2010. Over the past few years, more than 10,000 NGOs have had their FCRA registrations cancelled due to various violations². The Ministry of Home Affairs (MHA) has cited several reasons for these cancellations, including:

1. Misuse of Funds

NGOs found misusing foreign contributions for purposes other than those stated in their objectives have faced cancellation. This includes diverting funds for personal gain or activities that do not align with the organization's mission¹.

2. Lack of Transparency

Failure to submit annual returns, not maintaining proper accounts, and not providing necessary information to authorities have also led to cancellations.

3. Anti-National Activities

NGOs involved in activities that could harm national interests, such as inciting protests or having links to terrorist or radical organizations, have been targeted.

4. Religious Conversion

Organizations involved in forced or induced religious conversions have faced strict action under the FCRA.

5. Inactivity

NGOs that have not carried out any significant activities for the welfare of society or have become defunct have also had their registrations cancelled.

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The government's stringent measures aim to ensure that foreign contributions are used appropriately and do not compromise national security or social harmony. However, these actions have also raised concerns about the impact on the non-profit sector and its ability to carry out essential work.

Would you like to know more about how NGOs can navigate these regulations or any specific cases of cancellation?

NGOs have been facing many issues right from registration under section 12AA to claiming exemptions, and some of the recent amendments in the Income-tax Act have many far-reaching implications on the very functioning of the charitable trusts.

Absolutely, the evolving regulatory landscape for NGOs, particularly concerning the Income-tax Act, presents several challenges. Here are some specific issues NGOs face and their implications:

****1. Registration under Section 12AA**

- **Documentation and Approval Process:** The registration process under Section 12AA has become more stringent, requiring detailed documentation and justification of charitable activities. The approval process can be prolonged, impacting the organization's ability to commence operations.

****2. Annual Compliance**

- **Filing Requirements:** NGOs must file annual returns and maintain meticulous records of their financial activities. Any discrepancies or delays can lead to penalties or even cancellation of registration.
- **Audit Reports:** The format for audit reports has been revised, requiring more detailed disclosure of financial transactions. This increased scrutiny can strain the administrative capacity of NGOs, particularly smaller ones.

****3. Claiming Exemptions**

- **Stricter Conditions:** To claim tax exemptions, NGOs must comply with various conditions, such as spending a specific percentage of their income on charitable activities. Failure to meet these conditions can lead to the denial of exemptions.

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- **Anonymous Donations:** The rules around accepting anonymous donations have become stricter, with higher penalties for non-compliance, complicating the fundraising efforts of NGOs.

****4. Amendments Impact**

- **Impact on Operations:** The recent amendments have far-reaching implications, affecting everything from the registration process to operational transparency. NGOs need to invest more in compliance, which can divert resources from their primary charitable activities.
- **Financial Burden:** The increased compliance costs can be a financial burden, especially for smaller organizations. This may limit their ability to undertake new projects or expand their reach.

****5. Governance and Accountability**

- **Enhanced Scrutiny:** The government's emphasis on transparency and accountability means that NGOs are subject to regular inspections and audits. While this promotes good governance, it also adds to the administrative workload.
- **Impact on Funding:** Increased regulation can affect donor confidence and willingness to contribute, particularly if they perceive the compliance requirements as too onerous.

The regulatory framework aims to ensure that NGOs operate transparently and effectively, but it also means that NGOs need to be more diligent in their compliance efforts. Seeking professional advice and staying updated on regulatory changes is crucial for navigating these challenges successfully.

Would you like to explore any specific regulation or amendment in more detail?

They have been grappling with some vexatious issues which include:

- Taxability of anonymous or pseudonymous donations
- Application of Accumulated Income
- Filing of Online audit report in Form 10B/10BB and Form 10 for accumulation
- Adventurous interpretation of the Law with a view to tax the NGO's
- Denial for exemption in case of non-filing of tax return within the due date

Indeed, these are significant challenges that NGOs in India face. Let's delve into each of these issues:

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1. Taxability of Anonymous or Pseudonymous Donations

Anonymous donations are subject to a higher tax rate under Section 115BBC of the Income Tax Act, which can be particularly burdensome for NGOs. These donations are taxed at 30%, which can significantly reduce the funds available for charitable activities. NGOs must ensure they maintain proper records and disclosures to minimize the impact of this tax.

2. Application of Accumulated Income

NGOs are allowed to accumulate up to 15% of their income to be used for charitable purposes over a period of five years. However, the regulations around how this income is applied can be complex. NGOs must ensure they comply with the specific conditions set by the tax authorities to avoid penalties.

3. Filing of Online Audit Reports in Form 10B/10BB and Form 10 for Accumulation

The requirement to file audit reports online adds another layer of complexity. Form 10B/10BB and Form 10 must be submitted electronically, which can be challenging for NGOs with limited digital infrastructure or expertise. These forms must be accurately filled and submitted on time to avoid any legal or financial repercussions.

4. Adventurous Interpretation of the Law

There have been instances where tax authorities have adopted an aggressive interpretation of the law to tax NGOs. This includes reclassifying certain incomes or expenses in ways that can lead to higher tax liabilities. NGOs must be vigilant and proactive in defending their position, often requiring legal advice or intervention.

5. Denial of Exemption for Non-Filing of Tax Return within the Due Date

If an NGO fails to file its tax return by the due date, it risks losing its tax-exempt status for that year. This can have severe financial implications, as it may lead to the entire income of the NGO being taxed. Timely filing of returns is crucial, and NGOs must prioritize compliance to retain their exemptions.

Addressing the Challenges

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- **Proper Record-Keeping:** Maintaining detailed and accurate records is essential to comply with tax regulations.
- **Professional Advice:** Engaging with tax professionals who understand the nuances of NGO taxation can help in navigating these challenges.
- **Staying Updated:** Regularly updating knowledge about legal changes and compliance requirements is crucial for avoiding penalties and ensuring smooth operations.

Would you like more information on specific compliance strategies or any other related topic?

With the complexities and increased compliance, a charitable trust has also to consider the provisions of GST, which again has its own set of challenges and difficulties.

You're right. The Goods and Services Tax (GST) adds another layer of complexity for charitable trusts in India. Here are some key points to consider:

1. GST Registration

Charitable trusts may need to register for GST if they engage in activities that fall under the definition of "business" under the GST law. This includes activities like selling goods or services, even if they are for charitable purposes¹.

2. Exemptions

Certain services provided by charitable trusts are exempt from GST if they meet specific criteria. These include public health services, educational programs, and activities promoting environmental conservation¹. However, not all services provided by a charitable trust are automatically exempt.

3. Taxable Supplies

Goods and services sold by a charitable trust for consideration are subject to GST. This means that if a charitable trust sells goods or provides services for a fee, it must charge GST and comply with the relevant regulations¹.

4. Compliance Requirements

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Charitable trusts must maintain proper records and accounts to comply with GST regulations. This includes filing periodic returns and ensuring that all taxable supplies are correctly reported and taxed.

5. Impact on Operations

The introduction of GST can impact the financial operations of charitable trusts, as they need to account for GST in their pricing and financial planning. This can be particularly challenging for smaller organizations with limited resources.

6. Professional Assistance

Given the complexities of GST, it is often advisable for charitable trusts to seek professional assistance to ensure compliance and avoid penalties.

Navigating the GST framework can be challenging, but with careful planning and adherence to regulations, charitable trusts can continue to fulfil their missions effectively.

Would you like more detailed information on any specific aspect of GST for charitable trusts?

Finance Bill 2019 has introduced a new concept of Social Stock Exchanges in India which are already prevalent in other countries like UK, Singapore, Canada, etc. Will they help in the development and institutionalize the NGO sector?

Yes, the introduction of Social Stock Exchanges (SSEs) in India, as proposed in the Finance Bill 2019, aims to provide a structured platform for social enterprises and NGOs to raise funds. Here are some ways in which SSEs can help in the development and institutionalization of the NGO sector:

****1. Access to Capital**

SSEs provide a regulated platform for NGOs and social enterprises to raise funds from a broader investor base. This can help organizations secure the necessary financial resources to scale their operations and expand their impact.

****2. Transparency and Accountability**

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By listing on an SSE, NGOs are required to adhere to robust standards of social impact and financial reporting. This enhances transparency and accountability, building trust among donors and investors.

****3. Institutionalization**

SSEs can help institutionalize the NGO sector by bringing it under the regulatory ambit of the Securities and Exchange Board of India (SEBI). This formal recognition can lead to better governance practices and professional management within NGOs.

****4. Diversified Funding Sources**

NGOs can access various funding instruments through SSEs, such as equity, debt, or units like mutual funds. This diversification of funding sources can provide more stability and flexibility in financial planning.

****5. Public Awareness**

SSEs can raise public awareness about the work of NGOs and social enterprises, encouraging more people to contribute to social causes. This can lead to increased support and engagement from the community.

****6. Learning from Global Models**

India can learn from the experiences of countries like the UK, Singapore, and Canada, where SSEs have been successfully implemented. Adopting best practices from these models can help India create a more effective and efficient SSE.

Overall, Social Stock Exchanges have the potential to significantly contribute to the development and institutionalization of the NGO sector in India by providing a structured and regulated platform for fundraising and promoting transparency and accountability.

Would you like to know more about how SSEs work or any specific examples from other countries?

Important Procedural Aspects for Trustees and Professionals • Compliance and Issues under the Public Trusts Acts in Maharashtra, Karnataka, Tamilnadu

CHARITABLE TRUSTS – CRITICAL ASPECTS

Navigating the Public Trusts Acts in Maharashtra, Karnataka, and Tamil Nadu can indeed be complex. Here are some important procedural aspects and compliance issues for trustees and professionals:

1. Maharashtra Public Trusts Act, 1950

- **Registration:** Public trusts in Maharashtra must be registered under the Maharashtra Public Trusts Act, 1950. This involves submitting necessary documents and obtaining approval from the Charity Commissioner¹.
- **Accounts and Audit:** Trustees are required to maintain proper accounts of all receipts, moveable and immovable property, and encumbrances created on the trust property. Regular audits are mandatory, and audit reports must be submitted to the Charity Commissioner¹.
- **Compliance:** Trustees must ensure compliance with the terms of the trust, usage of the institution, and lawful directions issued by the Charity Commissioner or court. They must exercise the same care as a prudent person dealing with their own affairs³.

2. Karnataka Public Trusts Act, 1962

- **Registration:** Similar to Maharashtra, public trusts in Karnataka must be registered under the Karnataka Public Trusts Act, 1962. The registration process involves submitting the trust deed and other required documents to the Deputy Commissioner or Assistant Commissioner.
- **Accounts and Audit:** Trustees must maintain proper accounts and submit annual audit reports to the relevant authorities. Failure to do so can result in penalties and legal action.
- **Compliance:** Trustees are responsible for ensuring that the trust operates in accordance with its objectives and complies with all legal requirements. They must also respond to any inquiries or inspections by the authorities.

3. Tamil Nadu Public Trusts Act, 1882

- **Registration:** Public trusts in Tamil Nadu must be registered under the Tamil Nadu Public Trusts Act, 1882. The registration process involves submitting the trust deed and other necessary documents to the District Collector or the Registrar of Societies.

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- **Accounts and Audit:** Trustees are required to maintain proper accounts and submit annual audit reports to the relevant authorities. Regular audits are necessary to ensure transparency and accountability.
- **Compliance:** Trustees must ensure that the trust operates in accordance with its objectives and complies with all legal requirements. They must also respond to any inquiries or inspections by the authorities.

Common Challenges

- **Documentation:** Ensuring that all necessary documents are properly prepared and submitted for registration.
- **Accounting:** Maintaining accurate and up-to-date accounts, including receipts, expenditures, and property records.
- **Audits:** Conducting regular audits and submitting audit reports to the relevant authorities.
- **Compliance:** Staying updated with legal requirements and ensuring that the trust complies with all regulations.

Navigating these Acts can be challenging, but with proper planning and professional assistance, trustees can ensure that their public trusts operate smoothly and in compliance with the law.

Would you like more detailed information on any specific aspect or assistance with a particular issue?

Please give a comparative analysis in the form of a table wrt registration, objects, taxation, regulatory compliance, forms, returns and

Sure, here's a comparative analysis of the Public Trusts Acts in Maharashtra, Karnataka, and Tamil Nadu in terms of registration, objects, taxation, regulatory compliance, forms, and returns:

Aspect	Maharashtra Public Trusts Act, 1950	Karnataka Public Trusts Act, 1962	Tamil Nadu Public Trusts Act, 1882
Registration	Must be registered with the Charity Commissioner.	Must be registered with the Deputy Commissioner.	Must be registered with the District Collector or Registrar of Societies.

CHARITABLE TRUSTS – CRITICAL ASPECTS

Aspect	Maharashtra Public Trusts Act, 1950	Karnataka Public Trusts Act, 1962	Public Tamil Nadu Public Trusts Act, 1882
Objects	Public, religious, or charitable purposes.	Public, religious, or charitable purposes.	Public, religious, or charitable purposes.
Taxation	Subject to income tax, must maintain proper accounts and submit audit reports.	Subject to income tax, must maintain proper accounts and submit audit reports.	Subject to income tax, must maintain proper accounts and submit audit reports.
Regulatory Compliance	Must comply with terms of the trust, usage of the institution, and lawful directions.	Must comply with terms of the trust, usage of the institution, and lawful directions.	Must comply with terms of the trust, usage of the institution, and lawful directions.
Forms	Form 10B/10BB for audit reports, Form 10 for accumulation.	Form 10B/10BB for audit reports, Form 10 for accumulation.	Form 10B/10BB for audit reports, Form 10 for accumulation.
Returns	Annual returns and audit reports must be submitted to the Charity Commissioner.	Annual returns and audit reports must be submitted to the relevant authorities.	Annual returns and audit reports must be submitted to the relevant authorities.

Would you like more detailed information on any specific aspect or assistance with a particular issue?

The various Advantages and Disadvantages of Charitable institutions viz-a-viz Private Trust

Here is a comparative analysis of charitable institutions and private trusts, highlighting their advantages and disadvantages:

Charitable Institutions

Advantages:

1. **Tax Exemptions:** Charitable institutions often enjoy tax benefits and exemptions under various sections of the Income Tax Act.

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2. **Public Trust and Support:** They can attract donations and grants from the public, corporations, and government bodies due to their altruistic goals.
3. **Legal Protections:** These institutions often receive certain legal protections and benefits aimed at promoting social welfare.
4. **Perpetuity:** Charitable institutions are typically designed to operate perpetually, allowing them to continue their mission indefinitely.
5. **Transparency and Accountability:** Increased scrutiny and mandatory disclosures enhance trust among donors and beneficiaries.

Disadvantages:

1. **Regulatory Burdens:** Charitable institutions face stringent regulatory requirements, including registration, reporting, and compliance.
2. **Operational Constraints:** The use of funds is often restricted to specified purposes, limiting flexibility.
3. **Public Scrutiny:** Operations and financials are subject to public and governmental scrutiny, which can be demanding.
4. **Resource Intensive:** Compliance with various regulations can be resource-intensive, particularly for smaller organizations.

Private Trusts

Advantages:

1. **Flexibility:** Private trusts offer more flexibility in terms of the use of funds and management of assets.
2. **Confidentiality:** They are generally subject to less public scrutiny and can operate with a higher degree of privacy.
3. **Control:** The settlor and trustees have greater control over the trust's operations and decisions.
4. **Succession Planning:** Private trusts can be an effective tool for estate and succession planning, allowing for smooth transfer of assets.

Disadvantages:

1. **Limited Public Support:** Private trusts typically do not receive the same level of public or governmental support as charitable institutions.
2. **Taxation:** They do not enjoy the same tax benefits and exemptions as charitable institutions, leading to higher tax liabilities.

CHARITABLE TRUSTS – CRITICAL ASPECTS

3. **Regulatory Compliance:** While less stringent than charitable institutions, private trusts must still comply with legal requirements for registration and operations.
4. **Perpetuity Issues:** Private trusts are often not designed for perpetuity and may face challenges in ensuring long-term sustainability.

Comparative Analysis

Aspect	Charitable Institutions	Private Trusts
Tax Benefits	Significant tax exemptions	Limited tax benefits
Public Support	High, due to altruistic goals	Limited, mainly from private sources
Flexibility	Restricted use of funds	High flexibility in use of funds
Transparency	High, with mandatory disclosures	Lower, with greater confidentiality
Regulatory Burden	High, with stringent compliance requirements	Moderate, with fewer regulatory demands
Control	Shared among trustees with fiduciary duty	Greater control for the settlor and trustees
Perpetuity	Designed for long-term operation	May not be designed for perpetuity
Public Scrutiny	Subject to public and government scrutiny	Operate with higher privacy

Both charitable institutions and private trusts serve important roles but cater to different needs and purposes. Charitable institutions are ideal for public-benefit activities, while private trusts are often used for family or individual asset management and succession planning.

Would you like to explore any specific aspect or need further information?

Interesting Aspects of the Proposed Social Stock Exchange

The proposed Social Stock Exchange (SSE) in India is an innovative concept aimed at enhancing the funding and growth of social enterprises and voluntary organizations. Here are some interesting aspects of the SSE:

CHARITABLE TRUSTS – CRITICAL ASPECTS

****1. Regulated Platform**

The SSE will be a regulated platform under the Securities and Exchange Board of India (SEBI), ensuring robust standards of social impact and financial reporting.

****2. Diverse Funding Instruments**

Social enterprises and voluntary organizations can raise funds through various instruments such as equity, debt, or units like mutual funds. This provides flexibility in fundraising options.

****3. Transparency and Accountability**

The SSE aims to enhance transparency and accountability by requiring listed organizations to adhere to stringent reporting standards. This builds trust among donors and investors.

****4. Public Participation**

The SSE allows the general public to invest in social enterprises, democratizing the process of funding social causes. This can lead to increased public engagement and support for social initiatives.

****5. Tax Benefits**

Contributions made through the SSE are eligible for tax exemptions under Section 80G of the Income Tax Act, encouraging more people to invest in social causes.

****6. Global Inspiration**

The concept of SSEs is not new and has been successfully implemented in countries like Brazil, the UK, and Singapore. India's SSE will draw lessons from these models to create an effective and efficient platform².

****7. Support for Social Enterprises**

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The SSE will support both for-profit social enterprises (FPEs) and not-for-profit organizations (NPOs), providing a unified platform for all types of social organizations.

****8. Enhanced Corporate Governance**

By listing on the SSE, social enterprises are expected to adopt higher standards of corporate governance, leading to better management and sustainability.

****9. Innovation in Fundraising**

The SSE introduces innovative fundraising instruments like Zero Coupon Zero Principal (ZCZP) securities, which allow donors to contribute without expecting monetary returns.

****10. Focus on Social Impact**

The primary objective of the SSE is to facilitate funding and growth for organizations working towards social welfare, ensuring that their impact is maximized.

The SSE represents a significant step towards institutionalizing the NGO sector in India and promoting impact investing. It aims to create a more structured and transparent environment for social enterprises to thrive.

Would you like to know more about how to get involved with the SSE or any specific details about its functioning?

Issues related to Formation of Minority Status Trust in present times.

Forming a Minority Status Trust in present times comes with its own set of challenges and complexities. Here are some key issues:

****1. Obtaining Section 12AA Registration**

- **Stringent Requirements:** The process of obtaining Section 12AA registration for Minority Status Trusts has become more stringent. The objects of the trust must predominantly benefit the particular minority group, which can be difficult to justify to the authorities.

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- **Documentation:** Detailed documentation and justification of the trust's objectives are required, which can be time-consuming and complex.

****2. Compliance with National Commission for Minority Educational Institutions Act**

- **Special Act Requirements:** Trusts seeking minority status must comply with the National Commission for Minority Educational Institutions Act, which governs minority educational institutions.
- **Lengthy Procedures:** The procedures for obtaining minority status have become more lengthy and cumbersome, often requiring registration as a non-governmental organization with the NITI Aayog portal Darpan.

****3. Financial Scrutiny**

- **Government Scrutiny:** Registration with the NITI Aayog portal requires trustees and office-bearers to provide personal details such as PAN and Aadhaar, subjecting financial transactions to government scrutiny.
- **Increased Compliance Costs:** The need for compliance with multiple regulations can increase the administrative and financial burden on the trust.

****4. Legal Challenges**

- **Disputes over Minority Status:** There have been legal disputes over the minority status of institutions, such as the case with Aligarh Muslim University (AMU), which highlights the complexities involved in maintaining and proving minority status.
- **Regulatory Changes:** Changes in regulations and legal interpretations can impact the status and operations of Minority Status Trusts, requiring constant vigilance and adaptation.

****5. Operational Constraints**

- **Restricted Use of Funds:** The funds of Minority Status Trusts are often restricted to specific purposes aimed at benefiting the minority group, limiting operational flexibility.

CHARITABLE TRUSTS – CRITICAL ASPECTS

- **Public Scrutiny:** These trusts are subject to public and governmental scrutiny, which can be demanding and require meticulous record-keeping and reporting.

****6. Impact on Fundraising**

- **Donor Confidence:** Increased regulatory requirements and scrutiny can affect donor confidence and willingness to contribute to the trust.
- **Fundraising Challenges:** The stringent conditions for obtaining and maintaining minority status can pose challenges in fundraising efforts.

Despite these challenges, forming a Minority Status Trust can provide significant benefits, such as tax exemptions and legal protections, making it a valuable option for supporting minority communities. However, it requires careful planning, compliance, and professional assistance to navigate the complexities involved.

Would you like to explore any specific aspect in more detail or need assistance with a particular issue?

Issues on Taxation (including registration) of Charitable Trusts, including recent amendments

Taxation of Charitable Trusts in India involves several key aspects and recent amendments that have been introduced to streamline the process and ensure compliance. Here are some important points:

****1. Registration Requirements**

- **Section 12AA/12AB:** Charitable trusts must register under Section 12AA or 12AB to claim tax exemptions. The registration is valid for five years and must be renewed.
- **Provisional Registration:** Trusts can apply for provisional registration within three months of their formation, which is valid for three years.

****2. Income Tax Exemptions**

- **Section 11:** Income derived from property held under trust for charitable or religious purposes is exempt from tax to the extent it is applied or accumulated for such purposes.

CHARITABLE TRUSTS – CRITICAL ASPECTS

- **Section 12:** Provides for the application of income for charitable or religious purposes.

****3. Tax on Anonymous Donations**

- **Anonymous Donations:** Donations exceeding Rs. 1 lakh or 5% of total donations received are subject to a 30% tax.
- **Religious Trusts:** Anonymous donations to religious trusts are taxed similarly to voluntary contributions without specific direction.

****4. Recent Amendments**

- **Finance Act, 2023:** Introduced several amendments, including simplification of the registration process, provisions for corpus donations, and timelines for filing returns and audit reports.
- **Tax on Accreted Income:** Trusts losing their charitable status are subject to tax on accreted income to prevent misuse of tax-exempt benefits.
- **Donations to Other Trusts:** Donations to other trusts are now subject to a deduction percentage, with the remaining amount being taxed.

****5. Compliance and Reporting**

- **Form 10B/10BB:** Trusts with income exceeding the tax-exempt limit must maintain proper books and submit audit reports in Form 10B or 10BB.
- **Form 10:** Trusts unable to utilize 85% of their income within the year must file Form 10.

****6. Impact of Amendments**

- **Dual Exemption:** Trusts can no longer claim dual exemptions under Section 10 and Section 11.
- **Exit Tax:** Provisions for exit tax ensure that trusts losing their charitable status are taxed appropriately.

These amendments aim to enhance transparency, accountability, and compliance among charitable trusts while ensuring that the benefits of tax exemptions are not misused.

Would you like more details on any specific aspect or assistance with a particular issue related to charitable trusts?

CHARITABLE TRUSTS – CRITICAL ASPECTS

Issues on Dissolution of Charitable Trust and Discussion regarding implication of section 115TD of the Income Tax Act.

Dissolving a Charitable Trust involves several legal and procedural steps, and understanding the implications of Section 115TD of the Income Tax Act is crucial. Here's a detailed look at both:

Dissolution of Charitable Trust

1. **Completion of Purpose:** A trust can be dissolved if its purpose is fully achieved or becomes impossible to fulfil.
2. **Legal Procedures:** The dissolution process must comply with the relevant state laws and the trust deed. This often involves seeking permission from the charity commissioner or other competent authority¹.
3. **Transfer of Assets:** Assets and liabilities of the trust can be transferred to another charitable trust with similar objectives.
4. **Documentation:** Proper documentation and resolutions are required to ensure a smooth dissolution process.

Implications of Section 115TD

Section 115TD of the Income Tax Act, introduced by the Finance Act, 2016, addresses the taxation of accreted income of charitable trusts and institutions in specific situations. Here are the key points:

1. **Accreted Income:** This refers to the increase in the fair market value of the trust's assets over the total liabilities.
2. **Taxable Events:** The section applies when a trust:
 - Converts into a non-charitable form.
 - Merges with a non-charitable entity.
 - Fails to transfer its assets to another charitable trust within 12 months of dissolution.
3. **Tax Rate:** The accreted income is taxed at the maximum marginal rate.
4. **Purpose:** The provision ensures that the financial resources and assets of charitable institutions continue to serve the public good, even during structural changes.

Would you like more information on any specific aspect of the dissolution process or Section 115TD?

CHARITABLE TRUSTS – CRITICAL ASPECTS

Recent controversial decisions in direct tax for trust

Recent years have seen several controversial decisions in direct tax for trusts, which have sparked significant debate and scrutiny. Here are a few notable ones:

****1. Ahmedabad Urban Development Authority v. ACIT (2022)**

- **Issue:** The Supreme Court clarified the applicability of Section 2(15) of the Income Tax Act, 1961, regarding charitable trusts engaging in activities that further the object of general public utility.
- **Controversy:** The ruling emphasized that matters decided against the revenue are final, but future applications of the law would depend on the facts of each assessment year.
- **Impact:** This decision has implications for how charitable trusts are assessed and taxed, potentially affecting their operations and financial planning.

****2. New Noble Education Society v. CIT (2023)**

- **Issue:** The High Court of Kerala ruled on the genuineness of the activities of a charitable trust and whether it generated surplus (profit) from its total receipts.
- **Controversy:** The Commissioner declined the registration applied by the trust, stating that it did not prove the genuineness of its activities.
- **Impact:** This decision highlights the stringent scrutiny that charitable trusts face in proving their activities and maintaining their tax-exempt status.

****3. PCIT v. NRA Iron & Steel Pvt. Ltd. (2023)**

- **Issue:** The Supreme Court upheld the addition made by the Assessing Officer under Section 68 of the Income-tax Act, 1961, on account of unexplained share capital and premium received by the assessee from various entities.
- **Controversy:** The case involved significant debate over the legitimacy of share capital and premium received by the trust.
- **Impact:** This ruling underscores the importance of transparency and proper documentation for trusts receiving funds from various sources.

CHARITABLE TRUSTS – CRITICAL ASPECTS

****4. Maharashtra State Power Generation Co. Ltd. v. DCIT (2023)**

- **Issue:** The Supreme Court held that the interest income earned by the assessee from deposits made out of borrowed funds for setting up a power project was eligible for deduction under Section 80-IA of the Income-tax Act, 1961.
- **Controversy:** The Assessing Officer disallowed the deduction on the ground that the interest income was not derived from the business of generation and distribution of power.
- **Impact:** This decision clarifies the eligibility of certain types of income for tax deductions, affecting how trusts manage their financial resources.

These decisions reflect the evolving landscape of trust taxation and the increasing scrutiny that trusts face in maintaining their tax-exempt status. They also highlight the need for trusts to maintain rigorous documentation and transparency in their operations.

Would you like to delve deeper into any specific case or aspect of these decisions?

Issues under Foreign Contribution and Regulation Act (FCRA), 2010

The Foreign Contribution (Regulation) Act (FCRA), 2010, has been a subject of significant debate and controversy due to its stringent regulations and impact on non-governmental organizations (NGOs). Here are some key issues:

****1. Stringent Documentation and Compliance**

- **Extensive Documentation:** The FCRA registration process requires extensive documentation, which can be challenging for smaller NGOs.
- **Compliance Burden:** NGOs must comply with strict reporting requirements, including annual returns and maintaining detailed records of foreign contributions.

****2. Ambiguity and Interpretation**

- **Interpretive Ambiguity:** The FCRA's language can be ambiguous, allowing authorities to interpret it in ways that may restrict NGOs.
- **Targeting NGOs:** There have been instances where the FCRA has been used to target and restrict the activities of NGOs, especially those involved in advocacy and human rights work.

CHARITABLE TRUSTS – CRITICAL ASPECTS

****3. Administrative Delays**

- **Delays in Registration:** The registration process can be slow, leading to delays in receiving foreign funds.
- **Renewal Challenges:** Renewing FCRA registration every five years can be cumbersome and time-consuming.

****4. Restrictions on Activities**

- **Prohibition on Political Activities:** The FCRA prohibits NGOs from engaging in political activities, which can limit their ability to advocate for policy changes.
- **Restrictions on Foreign Hospitality:** NGOs are restricted from accepting foreign hospitality, which can affect their ability to collaborate with international partners.

****5. Impact on Funding**

- **Reduction in Foreign Funding:** The stringent regulations have led to a reduction in foreign funding for many NGOs, affecting their operations and projects.
- **Increased Scrutiny:** NGOs receiving foreign contributions are subject to increased scrutiny, which can deter potential donors.

****6. Recent Amendments**

- **Amendment Act, 2020:** The 2020 amendment introduced further restrictions, including the requirement for NGOs to certify that accepting foreign funds will not adversely affect India's sovereignty and integrity.
- **Amendment Act, 2022:** The 2022 amendment continued to tighten regulations, impacting the ability of NGOs to receive and utilize foreign contributions.

These issues highlight the challenges faced by NGOs under the FCRA and the ongoing debate over the balance between regulation and the need for foreign funding to support social and developmental projects.

Would you like to explore any specific aspect in more detail or need assistance with a particular issue related to FCRA?

CHARITABLE TRUSTS – CRITICAL ASPECTS

Registration & Renewal

FCRA Registration Process

To register under the Foreign Contribution (Regulation) Act (FCRA), 2010, follow these steps:

1. **Visit the FCRA Online Portal:** Go to the Ministry of Home Affairs website at fcraonline.nic.in.
2. **Create a Login ID:** Register for a new account or log in if you already have one.
3. **Complete Form FC-3A:** Fill out the FCRA Registration Form (Form FC-3A).
4. **Upload Necessary Documents:** Attach required documents, such as the registration certificate, audited financial statements, and details of office bearers.
5. **Pay the Registration Fee:** Pay the registration fee of ₹10,000.
6. **Submit the Application:** Print the application and submit it online.

FCRA Renewal Process

To renew your FCRA registration, follow these steps:

1. **Visit the FCRA Online Portal:** Go to the Ministry of Home Affairs website at fcraonline.nic.in.
2. **Log In:** Use your login credentials to access your account.
3. **Complete Form FC-3C:** Fill out the FCRA Renewal Form (Form FC-3C).
4. **Upload Required Documents:** Attach necessary documents, such as updated financial statements and details of office bearers.
5. **Pay the Renewal Fee:** Pay the renewal fee of ₹5,000.
6. **Submit the Application:** Print the application and submit it online.

Important Points

- **Validity:** FCRA registration is valid for five years and must be renewed within six months before expiry.
- **Compliance:** Ensure all documentation is accurate and up-to-date to avoid delays or rejection.

CHARITABLE TRUSTS – CRITICAL ASPECTS

- **Support:** If you encounter any issues, the FCRA Online Portal offers a help desk for assistance.

Would you like more detailed information on any specific part of the registration or renewal process?

Compliance

Compliance under the Foreign Contribution (Regulation) Act (FCRA), 2010, is essential for NGOs and charitable trusts receiving foreign contributions. Here are the key compliance requirements:

****1. **Annual Returns**

- **Form FC-4:** NGOs must file an annual return in Form FC-4, detailing foreign contributions received and their utilization. The return must be submitted within nine months from the end of the financial year.
- **Financial Statements:** Along with Form FC-4, audited financial statements, a balance sheet, and an income and expenditure account must be filed.

****2. **Quarterly Intimations**

- **Form FC-6E:** NGOs must submit quarterly intimation of foreign contributions received within 15 days of the end of the quarter.
- **Details Required:** The intimation should include details of the donor, amount received, and purpose of the contribution.

****3. **Annual Audits**

- **Appointment of Auditors:** NGOs must appoint a Chartered Accountant (CA) to audit their accounts annually.
- **Audit Report:** The CA must provide an audit report certifying that the foreign contributions have been utilized for the stated purposes.

****4. **Utilization of Funds**

- **Designated Bank Account:** All foreign contributions must be received and utilized through a designated FCRA bank account.

CHARITABLE TRUSTS – CRITICAL ASPECTS

- **Permitted Use:** Funds must be used only for the purposes stated in the FCRA application. Misuse or diversion of funds is strictly prohibited.

****5. Record Maintenance**

- **Books of Accounts:** NGOs must maintain accurate and up-to-date books of accounts, including records of foreign contributions, utilization, and assets.
- **Retention Period:** Records must be kept for at least five years from the date of submission of the annual return.

****6. Reporting Changes**

- **Change in Key Personnel:** Any change in the board of trustees, office bearers, or key functionaries must be reported to the FCRA authorities within 30 days.
- **Change in Bank Account:** Any change in the designated FCRA bank account must be reported immediately.

****7. Prohibitions**

- **Political Activities:** NGOs are prohibited from engaging in political activities or using foreign contributions for such activities.
- **Transfers to Unregistered Entities:** NGOs cannot transfer foreign contributions to other organizations not registered under FCRA.

****8. Penalties**

- **Non-Compliance:** Failure to comply with FCRA regulations can result in penalties, including fines, suspension, or cancellation of FCRA registration.
- **Scrutiny and Audits:** NGOs may be subject to scrutiny and audits by the Ministry of Home Affairs to ensure compliance.

Best Practices

- **Regular Updates:** Keep abreast of changes in FCRA regulations and update compliance procedures accordingly.
- **Professional Assistance:** Engage professional auditors and legal advisors to ensure accurate compliance and reporting.

CHARITABLE TRUSTS – CRITICAL ASPECTS

Maintaining compliance with FCRA regulations is crucial for the smooth functioning and credibility of NGOs and charitable trusts receiving foreign contributions.

Would you like to dive deeper into any specific compliance requirement or have any particular queries?

Accounts & Audit

Managing accounts and conducting audits are crucial aspects of compliance for Charitable Trusts, especially those under FCRA regulations. Here's a detailed look at the requirements and best practices:

Accounts Management

1. Designated Bank Account

- **FCRA Account:** All foreign contributions must be received in a designated FCRA bank account. This account should be separate from domestic accounts to ensure clear tracking of foreign funds.

2. Books of Accounts

- **Maintenance:** Maintain detailed and accurate records of all financial transactions, including receipts, payments, and transfers.
- **Segregation:** Clearly segregate foreign contributions from domestic funds to ensure compliance with FCRA regulations.

3. Financial Statements

- **Income and Expenditure Statement:** Prepare an annual income and expenditure statement that reflects all foreign contributions and their utilization.
- **Balance Sheet:** Maintain a balance sheet that captures the financial position of the trust at the end of the financial year.

4. Record Keeping

- **Retention Period:** Retain financial records for at least five years from the date of submission of the annual return.
- **Supporting Documents:** Keep all supporting documents, such as invoices, receipts, and contracts, to validate financial transactions.

Audit Requirements

1. Annual Audit

CHARITABLE TRUSTS – CRITICAL ASPECTS

- **Appointment of Auditor:** Engage a Chartered Accountant (CA) to conduct an annual audit of the trust's accounts.
 - **Audit Report:** The auditor must provide a report certifying that the foreign contributions have been utilized in accordance with FCRA provisions.
- 2. Form FC-4**
- **Filing Deadline:** Submit the annual return in Form FC-4 within nine months from the end of the financial year.
 - **Attachments:** Include the audited financial statements, balance sheet, and income and expenditure account with Form FC-4.
- 3. Internal Controls**
- **Checks and Balances:** Implement robust internal controls to monitor the receipt and utilization of foreign contributions.
 - **Regular Reviews:** Conduct periodic reviews of financial records and processes to ensure ongoing compliance.

Common Challenges and Solutions

- 1. Complex Compliance Requirements**
- **Solution:** Engage professional auditors and legal advisors to navigate the complexities of FCRA compliance.
- 2. Timely Submission**
- **Solution:** Establish a compliance calendar with key deadlines to ensure timely submission of returns and reports.
- 3. Transparency and Accountability**
- **Solution:** Adopt transparent financial practices and regular internal audits to build trust with donors and regulatory authorities.

By adhering to these practices, Charitable Trusts can ensure compliance with FCRA regulations and maintain the trust and confidence of their stakeholders.

Would you like further details on any specific aspect of accounts management or audit processes?

CSR Provisions related to Trusts

Corporate Social Responsibility (CSR) provisions under the Companies Act, 2013, have specific implications for trusts. Here are the key points:

CHARITABLE TRUSTS – CRITICAL ASPECTS

Eligibility to Receive CSR Funds

- **Registration:** Trusts must be registered with the Ministry of Corporate Affairs (MCA) by filing Form CSR-1 to be eligible to receive CSR funds from companies.
- **Types of Trusts:** NGOs, religious trusts, societies, 12AA registered entities, and Section 8 companies are eligible to receive CSR funding.

CSR Expenditure

- **Direct and Indirect Contributions:** Companies can contribute to the corpus of a trust or society, provided the trust is created exclusively for CSR activities or the corpus is for purposes directly relatable to Schedule VII of the Act.
- **Exclusions:** Contributions to political parties, activities benefiting employees, and activities outside India (except for training Indian sports personnel) are not considered CSR expenditure.

CSR Committee

- **Constitution:** Companies with a net worth of ₹500 crore or more, a turnover of ₹1,000 crore or more, or a net profit of ₹5 crore or more must constitute a CSR Committee.
- **Responsibilities:** The CSR Committee formulates and recommends CSR policies, recommends the amount of expenditure, and monitors CSR activities.

Compliance and Reporting

- **Form CSR-1:** Trusts must file Form CSR-1 with the MCA to receive CSR funds.
- **Annual Reporting:** Companies must disclose their CSR activities in their annual report, including details of the CSR Committee and CSR expenditure.

Recent Amendments

- **Amendment Act, 2021:** Introduced changes to streamline the CSR process and ensure better utilization of funds.

CHARITABLE TRUSTS – CRITICAL ASPECTS

- **Amendment Act, 2022:** Further tightened regulations to prevent misuse of CSR funds and ensure transparency.

These provisions ensure that CSR activities are carried out effectively and transparently, benefiting society while maintaining accountability.

Would you like more details on any specific aspect of CSR provisions for trusts?

Issues under Goods & Services Tax (GST) for the NGO's

The Goods and Services Tax (GST) has had a significant impact on NGOs and charitable trusts in India. Here are some key issues and considerations:

****1. GST Registration**

- **Threshold:** NGOs with an annual turnover exceeding ₹20 lakh (₹10 lakh for North-Eastern and hill states) must register for GST.
- **Process:** The registration process involves submitting documents such as the trust deed, PAN, and bank details on the GST portal.

****2. Exemptions**

- **Charitable Activities:** Services provided by NGOs registered under Section 12AA of the Income Tax Act, 1961, for charitable activities are exempt from GST.
- **Religious Activities:** Activities related to the advancement of religion, spirituality, or yoga are also exempt.

****3. Taxable Activities**

- **Sale of Goods:** Goods sold by NGOs are subject to GST.
- **Non-Charitable Services:** Services that do not qualify as charitable activities are taxable.

****4. Compliance Burden**

- **Documentation:** NGOs must maintain detailed records of transactions and ensure compliance with GST regulations.
- **Filing Returns:** Regular filing of GST returns is required to avoid penalties.

CHARITABLE TRUSTS – CRITICAL ASPECTS

****5. Input Tax Credits**

- **Eligibility:** NGOs can claim input tax credits on goods and services used for exempt activities, subject to certain conditions.
- **Documentation:** Proper documentation is essential to claim input tax credits.

****6. Operational Challenges**

- **Increased Costs:** Compliance with GST regulations can increase operational costs for NGOs.
- **Training and Awareness:** NGOs need to invest in training and awareness programs to ensure staff understand GST requirements.

****7. Recent Amendments**

- **Amendment Act, 2021:** Introduced changes to streamline the GST process and improve compliance.
- **Amendment Act, 2022:** Further tightened regulations to prevent misuse of GST benefits.

These issues highlight the need for NGOs to stay informed about GST regulations and ensure compliance to avoid penalties and optimize tax benefits.

Would you like more details on any specific aspect of GST for NGOs?

Hardships faced in the Office of Charity Commissioner

The Office of the Charity Commissioner faces several challenges and hardships, which can impact the efficiency and effectiveness of its operations. Here are some key issues:

****1. Administrative Burden**

- **Documentation:** The process of filing change reports, annual accounts, and other statutory documents is often cumbersome and time-consuming.
- **Bureaucracy:** The need for multiple forms and approvals can lead to delays and inefficiencies in processing applications and requests.

****2. Delays in Certified Copies**

CHARITABLE TRUSTS – CRITICAL ASPECTS

- **Certified Copies:** Obtaining certified copies of documents can take 1-2 months, causing significant delays for trustees and administrators.
- **Multiple Forms:** Different forms are required for obtaining various documents, which can be confusing and inefficient.

****3. Online Filing Challenges**

- **Technical Issues:** The online filing system may have technical issues or be difficult to navigate, making it challenging for trustees to submit required documents.
- **Physical Filing:** Despite online filing options, physical filing is still necessary in some cases, adding to the workload.

****4. Need for Reforms**

- **Amnesty Scheme:** There is a call for an amnesty scheme to address delayed filings of statutory documents.
- **Role of Chartered Accountants:** There is a suggestion to allow Chartered Accountants to appear before tribunals and the Charity Commissioner to streamline the process.

****5. Quasi-Judicial Authority**

- **Legal Proceedings:** The Charity Commissioner acts as a quasi-judicial authority, which can lead to legal complexities and the need for specialized knowledge to handle cases.

****6. Public Trust Administration Fund**

- **Costs for Extensions:** Trustees may need to pay costs to the Public Trust Administration Fund for extensions on reporting changes.

These hardships highlight the need for administrative reforms to improve the efficiency and transparency of the Office of the Charity Commissioner. Addressing these issues can help ensure better governance and support for charitable trusts.

Would you like to discuss any specific hardship in more detail or explore potential solutions?

CHARITABLE TRUSTS – CRITICAL ASPECTS

Issues of Charitable Institutions from Income Tax Point of View

Charitable institutions face several issues from an income tax perspective, which can impact their operations and financial health. Here are some key challenges:

****1. Compliance with Section 12AA/12AB**

- **Registration:** Charitable institutions must register under Section 12AA or 12AB of the Income Tax Act to claim tax exemptions. Failure to register can result in the loss of tax benefits¹.
- **Timelines:** The registration process and renewal timelines can be stringent, requiring timely submission of documents and fees.

****2. Application of Income**

- **Exemption Conditions:** To qualify for tax exemptions, at least 85% of the income must be applied towards charitable or religious purposes. The remaining 15% can be accumulated, but this must be done within specified limits².
- **Documentation:** Proper documentation of income application is essential to avoid scrutiny and potential disqualification of tax benefits.

****3. Corpus and Borrowing**

- **Corpus Funds:** Contributions directed towards the corpus of the trust are exempt from tax, provided they are invested in specified modes.
- **Borrowing:** Funds borrowed for charitable purposes are not treated as application of income, which can affect the tax-exempt status.

****4. Donations to Other Trusts**

- **Tax Implications:** Donations made to other trusts or institutions are considered as application for charitable purposes only to the extent of 85%. The balance 15% may raise questions about taxability³.
- **Clarifications:** Recent clarifications by the CBDT aim to address concerns and provide transparency in the application of income for charitable purposes.

****5. Exit Tax Provisions**

CHARITABLE TRUSTS – CRITICAL ASPECTS

- **Exit Tax:** Charitable institutions that cease to qualify for tax exemptions may be subject to exit tax provisions, which can impact their financial planning.

****6. Specified Violations**

- **Non-Compliance:** Violations of the conditions specified under Section 12AA/12AB can lead to the withdrawal of tax exemptions and imposition of penalties.

****7. Recent Amendments**

- **Finance Act, 2023:** Introduced amendments to simplify the registration process, clarify exemption regimes, and address issues related to corpus and borrowing.
- **Finance Act, 2021:** Made changes to the provisions related to charitable trusts and non-profit institutions, impacting their tax-exempt status.

These issues highlight the importance of maintaining rigorous compliance and documentation to ensure that charitable institutions can continue to benefit from tax exemptions and support their charitable activities effectively.

Would you like to explore any specific issue in more detail or need assistance with a particular aspect of income tax for charitable institutions?

Panel Discussion on various issues relating to NGO's

Organizing a panel discussion on issues relating to NGOs can provide valuable insights and foster dialogue among key stakeholders. Here's a structured approach to cover various topics during the discussion:

****1. **Introduction and Context**

Moderator: Introduce the panellists and provide an overview of the key issues facing NGOs today, such as regulatory challenges, funding, and impact measurement.

****2. **Regulatory Environment**

CHARITABLE TRUSTS – CRITICAL ASPECTS

Panellist 1: Discuss the impact of recent amendments in the Income-tax Act, FCRA, and other regulations on NGOs. Highlight the challenges in registration, compliance, and reporting.

****3. **Funding and Sustainability**

Panellist 2: Address the funding challenges faced by NGOs, including access to CSR funds, donor engagement, and diversification of funding sources. Discuss innovative fundraising strategies and sustainability measures.

****4. **Transparency and Accountability**

Panellist 3: Talk about the importance of transparency and accountability in NGO operations. Highlight best practices in governance, financial management, and reporting to build trust with stakeholders.

****5. **Impact Measurement and Reporting**

Panellist 4: Explore methods and tools for measuring and reporting the impact of NGO activities. Discuss the role of data and technology in enhancing impact assessment and communication with donors and beneficiaries.

****6. Challenges under FCRA**

Panellist 5: Delve into specific issues related to FCRA compliance, including documentation, reporting, and recent amendments. Discuss strategies for navigating the complexities of foreign contributions.

****7. GST Compliance**

Panellist 6: Address the implications of GST on NGOs, including registration, exemptions, and compliance requirements. Highlight common challenges and solutions for managing GST effectively.

****8. Social Stock Exchanges**

Panellist 7: Discuss the concept of Social Stock Exchanges and their potential to enhance funding and institutionalize the NGO sector. Explore the benefits, challenges, and global best practices.

CHARITABLE TRUSTS – CRITICAL ASPECTS

****9. Operational Challenges**

Panellist 8: Talk about operational challenges faced by NGOs, such as administrative burdens, delays in obtaining certified copies, and the need for reforms in the Office of the Charity Commissioner.

****10. Q&A Session**

Moderator: Open the floor for questions from the audience, allowing them to engage with the panellists and gain deeper insights into the discussed topics.

****11. Closing Remarks**

Moderator: Summarize the key takeaways from the discussion and provide closing remarks. Highlight the importance of continued dialogue and collaboration among stakeholders to address the challenges facing NGOs.

Would you like more detailed information on any specific topic or assistance with organizing the panel discussion?

Please list down the various aspects of Charitable Trusts from cradle to grave

Certainly! Here's a comprehensive overview of the various aspects of Charitable Trusts, from their formation to dissolution:

Formation (Cradle)

1. Purpose and Objectives

- Define the charitable purpose and objectives of the trust, such as education, healthcare, poverty alleviation, etc.

2. Trust Deed

- Draft a trust deed, the founding document that outlines the trust's purpose, trustees, beneficiary details, and operational rules.

3. Registration

- Register the trust deed with the relevant state authority (e.g., Charity Commissioner).
- Obtain registration under Section 12AA/12AB of the Income Tax Act for tax exemptions.

Operations and Governance

CHARITABLE TRUSTS – CRITICAL ASPECTS

4. Trustees and Governance

- Appoint trustees responsible for managing the trust's affairs.
- Establish governance policies, roles, and responsibilities for trustees and officers.

5. Compliance and Documentation

- Maintain accurate records of all financial transactions, minutes of meetings, and other relevant documents.
- Ensure compliance with state-specific regulations and the Income Tax Act.

6. Fundraising and Donations

- Develop fundraising strategies to secure donations and grants.
- Obtain registration under Section 80G to allow donors to claim tax deductions.

7. Bank Accounts

- Open a designated bank account for receiving and managing trust funds.
- Ensure separate accounts for domestic and foreign contributions (FCRA compliance).

8. Financial Management

- Prepare annual budgets and financial plans.
- Maintain proper accounting records and ensure timely audits.

Taxation and Compliance

9. Income Tax Exemption

- Apply for and maintain income tax exemptions by complying with conditions under Sections 11 and 12 of the Income Tax Act.

10. Foreign Contributions

- Register under FCRA to receive foreign contributions.
- Comply with FCRA regulations, including filing returns and maintaining records.

11. Goods and Services Tax (GST)

- Register for GST if applicable.
- Ensure compliance with GST regulations for taxable activities.

12. Corporate Social Responsibility (CSR)

- Register with the Ministry of Corporate Affairs to receive CSR funds.

CHARITABLE TRUSTS – CRITICAL ASPECTS

- Ensure compliance with CSR provisions and reporting requirements.

Monitoring and Evaluation

13. Impact Assessment

- Regularly assess and report the impact of the trust's activities on beneficiaries.
- Use data and feedback to improve programs and operations.

Dissolution (Grave)

14. Reasons for Dissolution

- The trust has fulfilled its purpose.
- The trust can no longer sustain its operations.
- Legal or regulatory requirements necessitate dissolution.

15. Legal Procedures

- Follow legal procedures for dissolution as per the trust deed and relevant laws.
- Notify the Charity Commissioner or relevant authority.

16. Asset Distribution

- Transfer remaining assets to another charitable trust with similar objectives.
- Ensure compliance with tax regulations during asset transfer.

17. Final Compliance

- Submit final accounts and audit reports to the relevant authorities.
- Fulfil any remaining legal or financial obligations.

By adhering to these aspects, Charitable Trusts can operate effectively and make a significant impact on their beneficiaries.

Would you like more details on any specific aspect, or have any further questions?

Please focus more on source of funds, spending commitments, compliances and regulatory restrictions

Please focus more on source of funds, spending commitments, compliances and regulatory restrictions

CHARITABLE TRUSTS – CRITICAL ASPECTS

Absolutely, here's a focused overview of Charitable Trusts in terms of source of funds, spending commitments, compliances, and regulatory restrictions:

Source of Funds

1. Donations and Grants

- **Public Donations:** Contributions from individuals, corporations, and other entities.
- **Government Grants:** Funding from central and state governments for specific projects or general purposes.
- **Foreign Contributions:** Donations from international donors and organizations, subject to FCRA regulations.

2. Fundraising Events

- Organizing events like charity auctions, galas, marathons, etc., to raise funds.

3. Corporate Social Responsibility (CSR) Funds

- Contributions from companies as part of their CSR obligations under the Companies Act, 2013.

4. Endowments and Legacies

- Long-term funding through endowments or bequests left by donors in their wills.

Spending Commitments

1. Application of Income

- **Charitable Purposes:** At least 85% of the income must be applied to charitable or religious purposes.
- **Administrative Expenses:** Reasonable administrative and operational expenses required to run the trust effectively.

2. Corpus and Reserves

- Contributions towards the corpus are generally not treated as income and can be used for future sustainability.

3. Project-Based Spending

- Funds are allocated to specific projects and activities aligned with the trust's objectives.

Compliances

1. Registration and Renewal

CHARITABLE TRUSTS – CRITICAL ASPECTS

- **Income Tax Act:** Registration under Section 12AA/12AB for tax exemptions.
- **FCRA:** Registration for receiving foreign contributions.
- 2. **Annual Filings**
 - **Income Tax Returns:** Filing annual returns and audit reports.
 - **FCRA Returns:** Filing annual returns detailing foreign contributions and utilization.
- 3. **Audit Requirements**
 - Annual audit of financial statements by a Chartered Accountant.
 - Submission of audit reports (Form 10B/10BB) and other compliance documents.
- 4. **Record Maintenance**
 - Proper maintenance of financial records, receipts, and expenditure statements.
 - Retention of records for at least five years.

Regulatory Restrictions

1. **Taxation**
 - **Anonymous Donations:** Subject to higher tax rates under Section 115BBC.
 - **Exit Tax:** Tax on accreted income if the trust ceases to be charitable.
2. **Utilization of Funds**
 - **Designated Purposes:** Funds must be used strictly for the purposes stated in the trust deed and approved by the authorities.
 - **Prohibited Activities:** Funds cannot be used for political activities or personal gain.
3. **Foreign Contributions (FCRA)**
 - **Specific Bank Accounts:** Contributions must be received and utilized through designated bank accounts.
 - **Quarterly Intimations:** Reporting of foreign contributions received and utilized.
 - **Prohibitions:** Restrictions on activities that may harm national interest.
4. **CSR Compliance**
 - **CSR Policies:** Adherence to CSR policies and guidelines.
 - **Reporting:** Regular reporting of CSR activities and expenditures.

CHARITABLE TRUSTS – CRITICAL ASPECTS

Charitable Trusts must navigate these various aspects carefully to ensure compliance and maintain their tax-exempt status while effectively carrying out their charitable objectives.

Would you like more details on any specific aspect or need further assistance?

Punishment for violations

Violations by charitable trusts can lead to various penalties and legal consequences. Here are some key punishments for non-compliance:

****1. Income Tax Penalties**

- **Denial of Exemption:** If a charitable trust fails to comply with the conditions under Sections 11 and 12 of the Income Tax Act, it can lose its tax-exempt status.
- **Accreted Tax:** If the trust ceases to qualify for exemption, it may be subject to tax on the accreted income.
- **Penalty for Passing Benefits:** Trusts passing unreasonable benefits to trustees or specified persons can face penalties.

****2. Foreign Contribution Regulation Act (FCRA) Penalties**

- **Criminal Offences:** Violations of FCRA regulations, such as failing to maintain proper records or not filing returns, can lead to criminal charges.
- **Cancellation of Registration:** Non-compliance with FCRA can result in the cancellation of the trust's registration to receive foreign contributions.

****3. Goods and Services Tax (GST) Penalties**

- **Non-Compliance:** Failure to register for GST or comply with GST regulations can result in fines and penalties.
- **Tax Liability:** Trusts engaged in taxable activities without proper GST compliance may face tax liabilities.

****4. Administrative Penalties**

- **Fines:** Trusts may be fined for administrative lapses, such as delays in filing required documents or failing to maintain proper records.

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- **Removal of Trustees:** Trustees who violate their fiduciary duties can be removed from office by a court of competent jurisdiction.

****5. Legal Consequences**

- **Breach of Trust:** Trustees failing to execute their duties effectively can be subject to legal action for breach of trust.
- **Criminal Charges:** Serious violations, such as misuse of trust property or funds, can lead to criminal charges and prosecution.

These penalties highlight the importance of strict compliance with legal and regulatory requirements to ensure the smooth functioning and credibility of charitable trusts.

Would you like more details on any specific violation or penalty?

Please list down the NGOs whose registrations have been cancelled and the reasons for such

Here are some NGOs whose registrations have been cancelled and the reasons for such cancellations:

1. **Centre for Policy Research (CPR):** The registration was cancelled due to allegations of diverting foreign donations to fund protests and legal battles against developmental projects.
2. **World Vision India (WVI):** The FCRA registration was cancelled for alleged violations from 2012-13 to 2020-21, including misuse of foreign funds.
3. **Rajiv Gandhi Foundation:** Cancellation due to misuse of foreign grants.
4. **Rajiv Gandhi Charitable Trust:** Similar reasons as the Rajiv Gandhi Foundation.
5. **Oxfam India:** Cancellation due to allegations of misusing foreign donations.
6. **CNI Synodical Board of Social Service:** Cancellation due to non-compliance with FCRA regulations.
7. **Voluntary Health Association of India:** Cancellation due to non-compliance with FCRA regulations.
8. **Indo-Global Social Service Society:** Cancellation due to non-compliance with FCRA regulations.

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9. **Church Auxiliary for Social Action:** Cancellation due to non-compliance with FCRA regulations.
10. **Evangelical Fellowship of India:** Cancellation due to non-compliance with FCRA regulations.

The reasons for cancellation often include:

- **Diversion of funds for anti-development activities or inciting protests.**
- **Links to radical or terrorist organizations.**
- **Non-compliance with FCRA regulations**, such as not maintaining proper records or failing to file returns.
- **Misuse of funds for personal gain.**
- **Inactivity or failure to carry out reasonable activities for the welfare of society.**

Would you like more details on any specific NGO or reason for cancellation?

Focus more on the latest online news portal that was in focus

One of the latest online news portals that has been in focus is **The Wire**. The Wire has been making headlines due to its investigative journalism and coverage of various critical issues in India¹. Recently, it has been in the spotlight for its reporting on the **Adani Group's alleged involvement in bribery and corruption**. The Wire's coverage has included detailed reports on the indictment of Gautama Adani in the U.S. over alleged bribes to Indian government officials¹.

Would you like more information on this topic or any other specific news?

One more

Another online news portal that has been in focus recently is **Scroll.in**. Scroll.in has gained attention for its in-depth reporting and coverage of various socio-political issues in India. One of the notable stories that brought Scroll.in into the spotlight was its investigative report on the **impact of the Citizenship Amendment Act (CAA) on marginalized communities** in India.

Would you like more information on this topic or any other specific news?

News click

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News Click has been in the spotlight recently due to its coverage of various socio-political issues. One of the latest significant stories involves the **Supreme Court granting relief to News Click by stalling tax recovery**. The court directed the company's banker not to release any more money to the tax department, allowing News Click to use its bank accounts for daily operations². This decision came after News Click's founder, Prabir Purkayastha, was arrested for allegedly receiving money for "pro-China propaganda" and charged under the Unlawful Activities (Prevention) Act (UAPA).

Would you like more details on this case or any other specific news from News Click?

More details on the above case

Certainly! Here are more details on the News Click case:

Background

News Click, an online news portal, faced an income tax demand of approximately ₹14.8 crore. The tax department issued this demand based on an assessment order dated December 30, 2022, which treated receipts of ₹15.53 crore from the US-based Justice and Education Fund (JEF) as "unexplained cash credit" taxable under Section 68 of the Income Tax Act¹.

Legal Proceedings

1. **Initial Tax Demand and Pre-Deposit:** News Click was required to make a pre-deposit of ₹1.22 crore and ₹2.82 crore into its ICICI Bank accounts.
2. **Income Tax Appellate Tribunal (ITAT):** News Click moved the ITAT, which upheld the findings of the assessing officer and refused to stay the income tax demand.
3. **Delhi High Court:** News Click filed a writ petition before the Delhi High Court, which was dismissed. The High Court noted that News Click's plea of financial stringency inspired no confidence and that its accounts were not properly maintained².
4. **Supreme Court:** News Click then filed a Special Leave Petition (SLP) before the Supreme Court, challenging the High Court's order. On August 9, 2024, the Supreme Court stayed further recovery of the outstanding tax demand pending disposal of the appeal before the ITAT¹.

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Recent Developments

1. **ICICI Bank's Non-Compliance:** Despite the Supreme Court's order, ICICI Bank did not de-freeze News Click's accounts, citing a communication from the Deputy Commissioner of Income Tax (Central) dated December 15, 2023.
2. **Supreme Court's Criticism:** On November 18, 2024, the Supreme Court criticized ICICI Bank for not complying with its August 9 order and directed the bank to de-freeze News Click's accounts immediately.
3. **Founder's Arrest:** Prabir Purkayastha, the founder of News Click, was arrested in October 2023 for allegedly receiving money for "pro-China propaganda" and was charged under the Unlawful Activities (Prevention) Act (UAPA).

Current Status

The Supreme Court has directed ICICI Bank to comply with its order and allow News Click to use its bank accounts for daily operations. The court also noted that News Click's business operations were severely affected as salaries of over 100 employees and dues of more than 200 professional consultants could not be paid¹.

Would you like to know more about any specific aspect of this case?

How do the GoI ensure that NGOs do not create anarchy in the country using wrong funds?

The Government of India (GoI) employs several measures to ensure that NGOs do not create anarchy or misuse funds. Here are some key strategies:

****1. Foreign Contribution Regulation Act (FCRA)**

- **Regulation of Foreign Funds:** The FCRA regulates the acceptance and utilization of foreign contributions by NGOs to ensure they are not used for activities detrimental to national interest.
- **Registration and Compliance:** NGOs must register under the FCRA to receive foreign funds. They must maintain detailed records and submit annual returns to the Ministry of Home Affairs (MHA) ².

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- **Restrictions on Usage:** The FCRA prohibits the use of foreign funds for political activities, election campaigns, or activities that may harm public order.

****2. Income Tax Act**

- **Tax Exemptions:** Charitable trusts and NGOs can claim tax exemptions under Sections 11 and 12 of the Income Tax Act, provided they comply with specific conditions.
- **Audit and Reporting:** NGOs must undergo annual audits and submit audit reports to the Income Tax Department to maintain their tax-exempt status.

****3. Monitoring and Inspections**

- **Regular Inspections:** The MHA and other regulatory bodies conduct regular inspections and audits of NGOs to ensure compliance with legal and regulatory requirements.
- **Suspension and Cancellation:** The MHA has the authority to suspend or cancel the registration of NGOs found violating FCRA regulations or engaging in activities against public interest.

****4. Transparency and Accountability**

- **Public Disclosure:** NGOs are required to maintain transparency in their operations and disclose their financial statements and activities to the public and regulatory authorities.
- **Beneficiary Feedback:** NGOs must gather feedback from beneficiaries to ensure that funds are being used effectively and for the intended purposes.

****5. Legal Actions**

- **Criminal Prosecution:** NGOs found guilty of misusing funds or engaging in illegal activities can face criminal prosecution and penalties.
- **Civil Remedies:** The government can also take civil action to recover misused funds and impose fines on non-compliant NGOs.

These measures are designed to ensure that NGOs operate within the legal framework and contribute positively to society without causing anarchy or misusing funds.

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Would you like more details on any specific measure or aspect?

Monitoring mechanism

The monitoring mechanism for NGOs in India involves several layers of oversight to ensure compliance with legal and regulatory requirements. Here are the key components:

****1. Ministry of Home Affairs (MHA)**

- **FCRA Compliance:** The MHA is responsible for implementing the Foreign Contribution (Regulation) Act (FCRA), which regulates the acceptance and utilization of foreign contributions by NGOs. NGOs must register under the FCRA and submit annual returns detailing their foreign contributions and expenditures¹.
- **Inspections and Audits:** The MHA conducts regular inspections and audits of NGOs to ensure compliance with FCRA regulations. Non-compliance can result in suspension or cancellation of registration¹.

****2. Income Tax Department**

- **Tax Exemptions:** NGOs can claim tax exemptions under Sections 11 and 12 of the Income Tax Act, provided they comply with specific conditions. The Income Tax Department reviews the financial statements and audit reports of NGOs to ensure compliance¹.
- **Penalties for Non-Compliance:** NGOs that fail to comply with tax regulations can face penalties, including denial of tax exemptions and imposition of taxes on accreted income.

****3. National Human Rights Commission (NHRC)**

- **Core Group for NGOs:** The NHRC has constituted a Core Group to serve as a monitoring mechanism for its consultations with NGOs engaged in the field of human rights. This group ensures that NGOs adhere to human rights standards and principles².

****4. State Governments**

- **State-Level Monitoring:** State governments also play a role in monitoring NGOs operating within their jurisdictions. They may conduct inspections

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and audits to ensure compliance with state-specific regulations and the FCRA.

****5. Self-Regulation and Transparency**

- **Internal Monitoring:** NGOs are encouraged to implement internal monitoring and evaluation systems to track their activities, finances, and impact. This helps in maintaining transparency and accountability.
- **Public Disclosure:** NGOs are required to maintain transparency in their operations and disclose their financial statements and activities to the public and regulatory authorities.

****6. Donor Requirements**

- **Donor Oversight:** Donors often require NGOs to submit detailed reports and undergo audits to ensure that funds are used for the intended purposes. This adds an additional layer of oversight and accountability.

These mechanisms work together to ensure that NGOs operate within the legal framework and contribute positively to society without causing anarchy or misusing funds.

Would you like more details on any specific aspect of the monitoring mechanism?

Could there be any loopholes in any of the monitoring tools

Yes, there can be potential loopholes in the monitoring mechanisms for NGOs in India. Here are some areas where gaps might exist:

****1. Insufficient Oversight**

- **Limited Resources:** Regulatory bodies like the MHA and Income Tax Department may not have enough resources to conduct thorough inspections and audits of all NGOs, leading to potential oversight.

****2. Complex Regulations**

- **Complexity of FCRA:** The FCRA regulations can be complex and difficult for NGOs to navigate, leading to unintentional non-compliance.

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- **Ambiguity:** Some provisions in the FCRA and Income Tax Act may be ambiguous, allowing NGOs to interpret them in ways that benefit their operations.

****3. Data Reliability**

- **Self-Reporting:** NGOs are often required to self-report their activities and finances, which can lead to inaccuracies or omissions.
- **Lack of Independent Verification:** There is a lack of independent verification mechanisms to cross-check the data provided by NGOs.

****4. Political Influence**

- **Political Pressure:** NGOs working on sensitive issues may face political pressure, which can influence regulatory actions and monitoring.
- **Selective Enforcement:** There may be selective enforcement of regulations, with some NGOs facing stricter scrutiny than others based on their political alignment or the nature of their work.

****5. Technological Gaps**

- **Outdated Systems:** The monitoring systems used by regulatory bodies may be outdated and not equipped to handle the volume and complexity of data from NGOs.
- **Lack of Integration:** There is often a lack of integration between different monitoring systems, leading to fragmented oversight.

****6. Capacity Building**

- **Training Needs:** NGOs and regulatory bodies may lack adequate training in monitoring and evaluation practices, leading to inefficiencies and gaps in oversight.
- **Capacity Constraints:** NGOs, especially smaller ones, may lack the capacity to maintain detailed records and comply with stringent regulations.

Addressing these loopholes requires a combination of increased resources, clearer regulations, independent verification mechanisms, and capacity-building initiatives for both NGOs and regulatory bodies.

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Would you like to explore any specific loophole in more detail or discuss potential solutions?

What is expected of NGOs?

Non-Governmental Organizations (NGOs) play a crucial role in societal development and are expected to adhere to several key principles and responsibilities. Here are some fundamental expectations from NGOs:

****1. **Transparency and Accountability**

- **Financial Transparency:** Maintain accurate financial records, ensure proper accounting, and regularly disclose financial statements.
- **Operational Transparency:** Clearly communicate their activities, objectives, and impact to stakeholders, including donors, beneficiaries, and the public.
- **Accountability:** Be accountable to donors, beneficiaries, and regulatory bodies by adhering to legal and ethical standards.

****2. **Compliance with Legal and Regulatory Requirements**

- **Registration:** Ensure proper registration under relevant national and state laws, such as the FCRA for foreign contributions and Income Tax Act for tax exemptions.
- **Regular Filings:** Submit required annual returns, audit reports, and other compliance documents on time.
- **Adherence to FCRA:** Comply with FCRA regulations for foreign funding, including maintaining a designated bank account and submitting regular returns.

****3. **Effective Utilization of Funds**

- **Purposeful Spending:** Ensure that funds are used for the intended charitable or social purposes and not diverted for personal or unrelated use.
- **Minimize Administrative Costs:** Keep administrative and operational expenses reasonable to maximize the impact of charitable activities.

****4. Ethical Standards**

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- **Integrity:** Operate with integrity, honesty, and fairness in all activities and dealings.
- **Avoiding Conflicts of Interest:** Ensure that trustees and staff avoid conflicts of interest and act in the best interest of the organization and its beneficiaries.
- **Human Rights and Dignity:** Promote and uphold human rights and the dignity of all individuals, avoiding any form of discrimination or exploitation.

****5. Impact and Effectiveness**

- **Measurable Impact:** Regularly measure and evaluate the impact of their programs and activities to ensure they are achieving their objectives.
- **Continuous Improvement:** Use feedback and data to continually improve programs and adapt to changing needs and circumstances.

****6. Collaboration and Partnerships**

- **Networking:** Build and maintain networks and partnerships with other NGOs, government agencies, and stakeholders to enhance impact and reach.
- **Shared Goals:** Collaborate on shared goals and initiatives to leverage resources and expertise.

****7. Beneficiary Engagement**

- **Inclusive Participation:** Involve beneficiaries in the planning, implementation, and evaluation of programs to ensure their needs are met effectively.
- **Feedback Mechanisms:** Establish mechanisms for beneficiaries to provide feedback and suggestions to improve services and programs.

****8. Sustainability**

- **Long-Term Planning:** Develop sustainable programs and projects that can continue to deliver benefits over the long term.
- **Resource Mobilization:** Diversify funding sources and implement effective resource mobilization strategies to ensure financial sustainability.

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By adhering to these principles, NGOs can effectively contribute to societal development, maintain the trust of stakeholders, and ensure their activities have a positive and lasting impact.

Would you like to delve deeper into any specific aspect or have any further questions?

Why is there a cry that vested interests overseas fund activities in India to amount trouble in the country?

The concern about overseas funding creating trouble in India often stems from fears of **foreign influence** and **political interference**. Here are some reasons why this issue is frequently raised:

****1. **Political Influence**

- **Foreign Funding:** There is a belief that foreign funds can be used to influence political outcomes, support specific political parties, or destabilize the political environment.
- **Agenda-Driven Funding:** Donors from abroad may have their own agendas, which could lead to the promotion of activities that are not aligned with national interests.

****2. **Security Concerns**

- **Terrorism Financing:** There are concerns that foreign funds could be channelled to support extremist or terrorist activities, posing a threat to national security.
- **Espionage:** Foreign entities might use funding to gather intelligence or conduct espionage activities within the country.

****3. **Economic Impact**

- **Market Distortion:** Large influxes of foreign funds can sometimes distort local markets, affecting small businesses and local economies.
- **Dependence on Foreign Aid:** Over-reliance on foreign funding can make NGOs and other organizations dependent on external support, potentially compromising their independence.

****4. **Cultural and Social Influence**

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- **Cultural Imperialism:** There is a fear that foreign funding could lead to the imposition of foreign cultural values and practices, undermining local traditions and social norms.
- **Social Engineering:** Funds might be used to promote social changes that are not organically accepted by the local population, leading to social unrest.

****5. **Regulatory Challenges**

- **Lack of Oversight:** Ensuring that foreign funds are used appropriately and transparently can be challenging, leading to potential misuse and corruption.
- **Complex Regulations:** Navigating the legal and regulatory framework for foreign funding can be complex, making it difficult to monitor and control the flow of funds.

These concerns highlight the need for robust regulatory mechanisms and transparency in the use of foreign funds to ensure that they contribute positively to societal development without causing harm or instability.

Would you like to discuss any specific aspect of this issue further?

Operational, monthly yearly compliances required of a Charitable Trust

Charitable trusts in India are required to comply with several operational, monthly, and yearly regulations to ensure transparency and accountability. Here's a breakdown of the key compliances:

Operational Compliances

- **Maintaining Proper Books of Accounts:** Trusts must keep detailed records of all financial transactions, including income, expenses, assets, and liabilities.
- **Regular Meetings:** Trustees should hold regular meetings to review the trust's activities, financial status, and compliance with legal requirements.
- **Beneficiary Engagement:** Engage with beneficiaries to gather feedback and ensure that the trust's activities are meeting their needs.

Monthly Compliances

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- **Financial Monitoring:** Regularly monitor and update financial records to ensure accuracy and completeness.
- **Expense Tracking:** Keep track of all expenses to ensure they are within budget and aligned with the trust's objectives.
- **Internal Audits:** Conduct internal audits to identify any discrepancies or areas for improvement.

Yearly Compliances

- **Income Tax Returns (ITR):** File income tax returns annually, depending on the nature of the trust. Common forms include ITR-5 and ITR-71.
- **Form 10B:** Trusts registered under Section 12A or 12AA of the Income Tax Act must file Form 10B, detailing the trust's activities and compliance with the Act.
- **Audit Report:** Obtain an audit report from a certified chartered accountant if the trust's annual receipts exceed a certain threshold.
- **Trust Deed Amendments:** Review and amend the trust deed if necessary to ensure it aligns with current goals and legal requirements.
- **Annual General Meeting (AGM):** Conduct an AGM to discuss the trust's activities, financial status, and future plans with trustees and stakeholders.

Additional Compliances

- **Reporting Changes:** Inform the relevant authorities of any changes in trustees, properties, or other significant aspects of the trust.
- **Compliance with FCRA:** If the trust receives foreign contributions, ensure compliance with the Foreign Contribution (Regulation) Act (FCRA).
- **Public Disclosure:** Maintain transparency by publicly disclosing financial statements and activities.

These compliances help ensure that charitable trusts operate effectively, transparently, and in accordance with legal requirements. Would you like more details on any specific compliance or aspect?

Please explain in detail what an auditor should look into while auditing a Charitable Trusts

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When auditing a charitable trust, an auditor should focus on several key areas to ensure compliance with legal and regulatory requirements, as well as the proper use of funds. Here are the main aspects an auditor should examine:

****1. **Financial Statements**

- **Balance Sheet:** Verify the accuracy and completeness of the balance sheet, ensuring that all assets, liabilities, and equity are correctly recorded.
- **Profit and Loss Account:** Check the income and expenditure account to ensure it provides a true and fair view of the trust's financial performance.

****2. **Compliance with Legal Requirements**

- **Trust Deed:** Review the trust deed to ensure that the trust is operating within the scope of its objectives and legal framework.
- **Income Tax Act:** Ensure compliance with Sections 11 and 12 of the Income Tax Act, which provide tax exemptions for charitable trusts.
- **FCRA Compliance:** If the trust receives foreign contributions, verify compliance with the Foreign Contribution (Regulation) Act (FCRA).

****3. **Internal Controls**

- **Internal Control Systems:** Evaluate the effectiveness of internal control systems to prevent fraud and ensure accurate financial reporting.
- **Segregation of Duties:** Ensure that duties are properly segregated to prevent any single individual from having control over all aspects of financial transactions.

****4. **Financial Transactions**

- **Receipts and Payments:** Verify the authenticity and accuracy of receipts and payments, ensuring that all transactions are properly recorded and supported by documentation.
- **Bank Reconciliations:** Check bank reconciliations to ensure that the trust's records match the bank statements.

****5. **Use of Funds**

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- **Application of Funds:** Ensure that funds are used for the intended charitable purposes and not diverted for personal gain or unrelated activities.
- **Budget Compliance:** Verify that expenditures are within the approved budget and align with the trust's objectives.

****6. **Documentation and Records**

- **Maintenance of Records:** Ensure that the trust maintains proper books of accounts, records, and returns as required by law.
- **Minutes of Meetings:** Review minutes of trustee meetings to ensure that decisions are properly documented and approved.

****7. **Beneficiary Impact**

- **Beneficiary Feedback:** Gather feedback from beneficiaries to assess the impact of the trust's activities and ensure that they are meeting their needs.
- **Program Evaluation:** Evaluate the effectiveness of programs and projects to ensure they are achieving their intended outcomes.

****8. **Independent Verification**

- **External Audits:** Conduct or review external audits to provide an independent assessment of the trust's financial statements and compliance with legal requirements.
- **Certifications:** Verify that the trust has obtained necessary certifications and approvals from regulatory authorities.

By focusing on these areas, an auditor can help ensure that a charitable trust operates transparently, ethically, and in compliance with all relevant laws and regulations. Would you like more details on any specific aspect of the audit process?

Please elaborate the modus operandi by unscrupulous funding persona who use NGOs to foment trouble in the country

Please elaborate the modus operandi by unscrupulous funding persona who use NGOs to foment trouble in the country

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Unscrupulous individuals and entities can exploit NGOs to foment trouble in a country through various deceptive methods. Here's a detailed look at their modus operandi:

****1. **Foreign Funding with Hidden Agendas**

- **Disguised Donations:** Foreign entities may provide funds under the guise of charitable donations, but with hidden agendas to influence political or social unrest.
- **Shell Organizations:** They may use shell organizations to funnel money into the country, making it difficult to trace the true source of funds.

****2. **Misuse of Funds**

- **Diversion of Funds:** Funds meant for charitable activities are diverted to support protests, strikes, or other disruptive activities.
- **Personal Gain:** Some funds are siphoned off for personal gain by the NGO's leadership, reducing the amount available for legitimate activities.

****3. **Creating Front Organizations**

- **Multiple NGOs:** Establishing multiple NGOs to receive and distribute funds, making it harder for authorities to track the flow of money.
- **Dummy Projects:** Setting up dummy projects that exist only on paper to justify the receipt and expenditure of funds.

****4. **Political and Social Manipulation**

- **Funding Protests:** Providing financial support to organize protests, rallies, and other forms of civil disobedience to create instability.
- **Influencing Public Opinion:** Using funds to influence media and public opinion, often through paid articles, social media campaigns, and other propaganda tools.

****5. **Exploiting Legal Loopholes**

- **Ambiguous Regulations:** Taking advantage of ambiguous or weak regulations to operate without proper oversight.
- **Non-Compliance:** Deliberately failing to comply with reporting and auditing requirements to avoid detection.

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****6. **Collaboration with Local Entities**

- **Local Partnerships:** Collaborating with local entities that have a vested interest in creating unrest, providing them with financial and logistical support.
- **Training and Resources:** Offering training and resources to local activists and groups to enhance their ability to organize and sustain disruptive activities.

****7. **Use of Technology**

- **Digital Transactions:** Utilizing digital payment methods and cryptocurrencies to transfer funds, making it harder to trace transactions.
- **Online Campaigns:** Running online campaigns to mobilize support and spread misinformation, often funded by foreign contributions.

****8. Case Studies and Examples**

- **Church Planting:** Some reports have highlighted how foreign funds are used for church planting activities, which can sometimes lead to social tensions.
- **Protest Funding:** Instances where funds were used to support large-scale protests and create islands of dissent within the country.

These methods highlight the need for robust regulatory frameworks and vigilant monitoring to prevent the misuse of NGO platforms for disruptive activities.

Would you like more details on any specific aspect or have any further questions?

Social service, tax benefits, funding - keeping these in mind summarize what a Charitable Trust should do and strive to do

Charitable Trusts: Goals and Best Practices

****1. Social Service Goals**

- **Focus on Impact:** Develop and implement programs that address pressing social issues such as education, healthcare, poverty alleviation, and environmental conservation.

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- **Community Engagement:** Involve the community in identifying needs and designing solutions to ensure that programs are relevant and effective.
- **Beneficiary Welfare:** Ensure that all activities and programs directly benefit the intended recipients and improve their quality of life.

****2. Maximizing Tax Benefits**

- **Proper Registration:** Register under Section 12AA/12AB of the Income Tax Act to avail tax exemptions on income.
- **Utilization of Funds:** Apply at least 85% of the income towards charitable purposes to maintain tax-exempt status.
- **Accurate Record Keeping:** Maintain detailed financial records and submit annual returns to comply with tax regulations and benefit from exemptions.
- **Section 80G Certification:** Obtain certification under Section 80G to offer donors the benefit of tax deductions on their contributions.

****3. Effective Fundraising**

- **Diversified Funding Sources:** Secure funding from multiple sources, including individual donations, corporate contributions (CSR funds), grants, and fundraising events.
- **Transparency and Accountability:** Maintain transparency in the use of funds and provide regular updates to donors on how their contributions are being utilized.
- **Grant Applications:** Identify and apply for relevant grants from government bodies and international organizations to support projects.
- **Online Campaigns:** Leverage digital platforms for crowdfunding and online donation campaigns to reach a broader audience.

****4. Compliance and Governance**

- **Regular Audits:** Conduct annual audits by a certified chartered accountant to ensure financial integrity and compliance with legal requirements.
- **Board of Trustees:** Establish a diverse and active board of trustees to oversee the trust's activities and ensure good governance.
- **Regulatory Adherence:** Comply with all relevant regulations, including FCRA for foreign contributions, and regularly file required reports and returns.

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****5. Best Practices**

- **Impact Assessment:** Regularly assess the impact of programs and activities to ensure they are achieving the desired outcomes.
- **Ethical Standards:** Uphold high ethical standards in all operations, ensuring integrity, transparency, and accountability.
- **Capacity Building:** Invest in the capacity building of staff and volunteers to enhance their skills and effectiveness.
- **Sustainability:** Develop sustainable programs and financial models to ensure long-term impact and viability.

By adhering to these principles and practices, Charitable Trusts can effectively fulfil their mission of serving society, maximizing tax benefits, securing funding, and ensuring compliance with regulatory requirements.

Would you like to explore any specific area in more detail or have any further questions?

Dos and Don'ts

Certainly! Here are some **dos** and **don'ts** for Charitable Trusts:

Dos

1. Maintain Transparency

- **Do:** Keep accurate and up-to-date financial records.
- **Do:** Regularly disclose financial statements and activities to stakeholders.
- **Do:** Conduct annual audits and submit audit reports to relevant authorities.

2. Comply with Legal Requirements

- **Do:** Register under Section 12AA/12AB of the Income Tax Act to avail tax exemptions.
- **Do:** File annual returns and audit reports on time.
- **Do:** Comply with FCRA regulations if receiving foreign contributions.

3. Engage with the Community

- **Do:** Involve beneficiaries in planning and implementing programs.
- **Do:** Gather feedback to improve services and programs.

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- **Do:** Build partnerships with other NGOs, government agencies, and stakeholders.
- 4. **Use Funds Responsibly**
 - **Do:** Ensure that at least 85% of income is applied towards charitable purposes.
 - **Do:** Keep administrative expenses reasonable and within budget.
 - **Do:** Monitor and evaluate the impact of programs and activities.
- 5. **Uphold Ethical Standards**
 - **Do:** Operate with integrity, honesty, and fairness.
 - **Do:** Avoid conflicts of interest and ensure trustees act in the best interest of the trust.
 - **Do:** Promote and uphold human rights and dignity.

Don'ts

1. **Misuse Funds**
 - **Don't:** Divert funds for personal gain or unrelated activities.
 - **Don't:** Use foreign contributions for political activities or personal projects.
2. **Neglect Compliance**
 - **Don't:** Ignore legal and regulatory requirements.
 - **Don't:** Delay filing of required returns, reports, or audit documents.
3. **Lack Transparency**
 - **Don't:** Conceal financial information or activities from stakeholders.
 - **Don't:** Fail to maintain proper records and documentation.
4. **Engage in Unethical Practices**
 - **Don't:** Engage in activities that violate ethical standards or human rights.
 - **Don't:** Allow conflicts of interest to influence decisions or actions.
5. **Ignore Community Needs**
 - **Don't:** Implement programs without considering the needs and feedback of beneficiaries.
 - **Don't:** Operate in isolation without collaborating with other organizations and stakeholders.

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By adhering to these dos and don'ts, Charitable Trusts can effectively fulfil their mission, maintain the trust of stakeholders, and ensure compliance with legal and regulatory requirements.

Would you like more details on any specific aspect?

In Summary

Summary: Best Practices for Charitable Trusts

****1. Social Service Goals**

- **Develop impactful programs** that address pressing social issues like education, healthcare, poverty alleviation, and environmental conservation.
- **Engage with communities** to ensure that the trust's activities are relevant and beneficial to the intended recipients.
- **Gather feedback** from beneficiaries to improve services and ensure their needs are being met effectively.

****2. Maximizing Tax Benefits**

- **Register under Section 12AA/12AB** of the Income Tax Act to avail tax exemptions on income.
- **File annual returns and audit reports** on time to maintain tax-exempt status.
- **Obtain Section 80G certification** to offer donors the benefit of tax deductions on their contributions.
- **Utilize funds responsibly**, ensuring at least 85% of the income is applied towards charitable purposes.

****3. Effective Fundraising**

- **Diversify funding sources** by securing contributions from individuals, corporate CSR funds, grants, and fundraising events.
- **Maintain transparency and accountability** in the use of funds and regularly update donors on how their contributions are utilized.
- **Leverage digital platforms** for online donation campaigns and reach a broader audience.

CHARITABLE TRUSTS – CRITICAL ASPECTS

****4. Compliance and Governance**

- **Conduct regular audits** to ensure financial integrity and compliance with legal requirements.
- **Establish a diverse and active board of trustees** to oversee the trust's activities and ensure good governance.
- **Comply with all relevant regulations**, including FCRA for foreign contributions, and regularly file required reports and returns.

****5. Ethical Standards**

- **Uphold high ethical standards** in all operations, ensuring integrity, honesty, and fairness.
- **Avoid conflicts of interest** and ensure trustees act in the best interest of the trust.
- **Promote and uphold human rights** and the dignity of all individuals.

****6. Best Practices**

- **Regularly assess the impact** of programs to ensure they are achieving the desired outcomes.
- **Invest in capacity building** of staff and volunteers to enhance their skills and effectiveness.
- **Develop sustainable programs** and financial models to ensure long-term impact and viability.

By following these practices, Charitable Trusts can effectively serve society, maximize tax benefits, secure funding, and ensure compliance with regulatory requirements.

Would you like to delve deeper into any specific area or have any further questions?