

Clarification regarding provisions relating to charitable and religious trusts

CBDT has issued Circular no 6 of 2023 on 24th May 2023, wherein it has provided certain clarification regarding the provisions relating to charitable and religious trusts which are stated as under;

Applicability of section 115TD for failure to apply to registration/approval

Finance Act, 2023 has, inter-alia, amended section 115TD of the Act, so as to provide that the accreted income of the trusts not applying for registration/ approval, with in the specified time, shall be made liable to tax in accordance with the provisions of section 115TD of the Act. This amendment has come into effect from 01.04.2023 and therefore app lies to assessment year 2023-24 and subsequent assessment years.

- As per the amended provisions of Taxation and Other Laws (Relaxation and Amendment of Certain Provisions) Act, 2020
 - All the existing trusts were required to apply for registration/approval in **form 10A** on or **before 25.11.2022 vide circular no 22 dated 01.11.2022.**
 - New trusts are required to apply for provisional registration/approval at least one month prior to the commencement of the previous year relevant to the assessment year from which the said registration/approval is sought.



- Provisionally registered/approved trusts will again need to apply for regular registration/approval in **Form No. 10AB** at least six months prior to the expiry of the period of provisional registration/approval or within six months of the commencement of activities, whichever is earlier. **Vide circular No.8 2022 31.03.2022 the said application to be filed on or before 30.09.2022.**
- The trusts once approved/ registered for five years are required to apply at least six months prior to the expiry of the period of five years.
- The deduction under section 80G of the Act in respect of a donation made by a donor to a fund or institution referred shall be allowed to the donor only if a statement of such donations is furnished by the donee in Form 10BD. The certificate of such donation is required to be provided in Form No. 10BE. Further, **both the forms are required to be furnished on or before the 31st May, immediately following the financial year in which the donation is received.**

However, pertaining to the above provisions many representations have been received by the CBDT stating that several trusts have not been able to apply for registration /approval within the required time due to genuine hardship, this is led to rejection of applications simply on the ground that these are delayed. Hence, **these trusts shall**

be subject to tax under section 115TD of the Act in accordance with the provisions of the said section, as amended by the Finance Act, 2023 if the application is not made by 25.11.2022 or 30.09.2022 as the case may be.

In order to mitigate genuine hardship in such cases, the Board, in the exercise of the power under section 119 of the Act the **above-mentioned due dates have been extended stated** as under:

- For filing the form **10A and 10AB the due dates have been extended upto 30.09.2023.** In the view of the above extension trusts may now apply for registration/ approval till 30.09.2023.
- Further, where such application is made by the said date and registration/ approval have been granted, the **provisions of section 115TD will not be applicable in such cases.**
- All pending application in Form 10AB considered valid application and application rejected earlier solely on account of missing due date to be considered again.



Due date for furnishing of Form No. 10BD extended.

The CBDT also extended the due date for furnishing of statement of donation in Form No.10BD and the certificate of donation in Form No. 10BE in respect of the donations received **during the financial year 2022-23 to 30.06.2023.**

Clarification regarding applicability of provisional registration

With a view to bring consistency, CBDT hereby clarified that in case of trusts, funds or institutions seeking provisional approval or provisional registration as referred to in para 10 and 11, the said provisional approval or provisional registration shall be effective from the assessment year relevant to the previous year in which the application is made and shall be valid for a period of three assessment years.

Clarification regarding denial of exemption in case where the statement of accumulation is not filed by the due date

As per amended finance act 2023 the statement of accumulation i.e. Form No. 10 and deemed application of income i.e. Form 9A is required to be furnished at least two months prior to the due date of furnishing return of income under section 139(1). Pertaining to the above CBDT clarified that, the accumulation/deemed application shall not be denied to a trust as long as the statement of accumulation/deemed application is furnished on or before the due date of furnishing the return under Section 139(1) of the Act.



Clarification regarding audit report to be furnished in Form No. 10B

CBDT in reference to the Notification No. 7 of 2023 dated 21.02.2023 clarified that Form No. 10B and Form No. 10BB requires the auditor to bifurcate certain payments or application in electronic modes and non-electronic modes. The notes to the said Forms provide that electronic modes shall be the following modes referred in rule 6ABBA of the Income-tax Rules, 1962:

- Credit Card;
- Debit Card;
- Net Banking;
- IMPS
- UPI
- RTGS
- NEFT
- BHIM

It should be noted that the above **description of electronic modes does not include account payee cheque drawn on a bank or an account payee bank draft or use of electronic clearing system** through a bank account.

Source: CBDT Circular No.6 of 2023 dated May 24, 2023

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