



DIRECT TAX ALERT

6th JUNE 2023

CBDT extends time limit for electronic filing of various forms and issues certain clarifications in relation to charitable & religious Trusts

BACKGROUND

- **Taxation and Other Laws (Relaxation and Amendment of Certain Provisions) Act, 2020** amended the provisions related to application for registration or approval u/s 10(23C), 12A and 80G, as per which existing trusts or institutions¹ are required to apply for re-registration/approval. Further, provisionally registered/approved trusts or institutions were also required to apply for regular registration/approval.
- On consideration of difficulties in electronic filing of Forms for registration/approval, CBDT in exercise of its powers u/s 119 of Act has extended the due date for electronic filing of Forms from time to time.
- Even after this, several trusts have not been able to apply for registration/ approval within the required time due to genuine hardships

which has also led to rejection of applications simply on the ground that these were delayed. Further in some cases, these trusts or institutions have not applied for regular registration/re-registration/approval thereby getting an easy route to exit from compliances of provisions of Sec. 11/12/13/10(23C).

- Chapter XII-EB of the Income Tax Act, 1961 ("Act") consisting of Sec. 115TD, 115TE & 115TF as inserted vide Finance Act, 2016 and subsequently amended vide Finance Act, 2022 provides for imposition of an exit tax when a charitable organization is converted into a non-charitable organization or gets merged with a non-charitable organization.
- Finance Act 2023, w.e.f. 01-04-2023, has

¹ Means fund, institution, trust, any university, other educational institution, any hospital or other medical

Institution referred to in clause (iv), (v), (vi) & (via) of Sec. 10(23C) or trust or institution registered u/s 12AA.



inserted clause (iii) in Sec. 115TD(3) so as to make provisions of Sec. 115TD applicable to any trust or institution which fails to make an application for regular registration/re-registration/approval within the time specified in clause (i), (ii) or (iii) of 1st proviso to Sec. 10(23C) or clause (ac) of Sec. 12A(1).

- Upon violation, it shall be deemed to have been converted into any form not eligible for registration/approval in the PY in which specified period for registration/approval expires and will then be subjected to exit tax.

EXTENSION OF TIMELINES FOR REGISTRATION / APPROVAL

- In order to mitigate genuine hardship in such cases, CBDT has issued present circular² wherein it has extended the timelines for e-filing of various forms under the Act and also issued certain clarifications. Comparative analysis of the timelines as per the provisions of the Act, extensions made vide various earlier Circulars and further extension made vide latest circular is presented below:

Sl. No.	Particulars	Original time limit prescribed under the Act	Time limit extended vide earlier Circulars	Time limit extended vide latest Circular
1.	Application for re-registration or approval of existing trust u/s 10(23C), 12A, or 80G of the Act in Form No. 10A	30-06-2021	25-11-2022 ³	30-09-2023
2.	Application for regular registration or approval of provisionally registered trusts u/s 10(23C) or 12A of the Act in Form No. 10AB, for which last date falls on or before 30-09-2022.	At least six months prior to the expiry of the period of provisional registration or approval Or, within six months of the commencement of activities, whichever is earlier	30-09-2022 ⁴	30-09-2023

- Where application is made by the trust/institutions within the aforesaid extended date and registration/approval is granted, then the provisions of Sec. 115TD(3)(iii) of the Act (i.e., Exit Tax) shall not apply on account of delay in making application.
- Existing trusts/institutions which have missed to apply for renewal of registration/approval in Form 10A till 25-11-2022, but have subsequently furnished

Form No. 10A seeking provisional registration/approval, can now surrender their application seeking provisional registration/approval and instead make a new application in Form No. 10A for registration/ approval u/s 12A, 80G, or 10(23C) within the extended period up to 30-09-2023.

- In cases where the provisionally registered Trust has made an application in Form No. 10AB after 30-09-2022 for seeking regular

² Circular No. 6 of 2023, dated 24-05-2023

³ Circular No.12 of 2021 dated 25-06-2021; Circular No. 16 of 2021 dated 29-08-2021 and Circular No. 22 of 2022 dated 01-11-2022

⁴ Circular No 8 of 2022 dated 31-03-2022.



registration and order is not passed before the issuance of this Circular, the pending application in Form No. 10AB may be treated as a valid application. Further, where such trust had already made such application and subsequent order has been passed rejecting such application, on or before the issuance of this Circular, solely on account of the fact that the application was furnished after the due date, the trust may furnish a fresh application in Form No. 10AB within the extended time i.e. 30-09-2023.

EFFECTIVE DATE OF PROVISIONAL REGISTRATION

- There were contradictory provisions regarding the effectiveness of provisional registration u/s 10(23C), 12A or 80G(5) of the Act as explained below:
 - (i) Clause (iv) of 1st proviso to Sec. 10(23C) provided that application for provisional approval has to be made at least one month prior to commencement of P.Y. relevant to A.Y. from which approval is sought. Similar provisions are specified in Sec. 12A(1)(ac)(vi) and clause (iv) of first proviso to Sec. 80G(5). *(Say, for seeking provisional registration/approval from A.Y. 2023-24, application has to be made on or before 28-02-2022)*
 - (ii) However, 8th proviso to Sec. 10(23C) provides that provisional approval shall be effective from the A.Y. immediately following the F.Y. in which application for provisional registration was made. Similar provisions are specified in Sec. 12A(2) and fourth proviso to Sec. 80G(5). *(Say, if application was made on or before 28-02-2022 seeking provisional registration for A.Y. 2023-24, provision registration/approval shall be effective from F.Y. 2022-23).*
- In view of the above contradiction, it is now clarified that provisional registration/approval will be effective from

the A.Y. relevant to the P.Y. in which the application is made (i.e., for seeking provisional registration for A.Y. 2023-24, application has to be made in F.Y. 2022-23 i.e., on or before 31-03-2023)

EXTENSION OF TIMELINES FOR FILING STATEMENT/CERTIFICATE OF DONATIONS

- As per provisions of Sec. 80G(5)(viii), deduction u/s 80G of the IT Act in respect of a donation made by a donor to a fund or institution referred to in Sec. 80G(2)(a)(iv), shall be allowed to the donor only if a statement of such donations is furnished by the donee in Form 10BD. Further as per Sec. 80G(5)(ix), donee is required to furnish the certificate of such donation in Form No. 10BE. As per Rule 18AB, Form No. 10BD and Form No. 10BE are required to be furnished on or before the 31st May, immediately following the financial year in which the donation is received.
- Similar conditions are specified u/s 35(1A) in respect of allowability of deduction of donation made to research association, university, college or other institution referred to in clause (ii) or clause (iii), or the company referred to in clause (iia) of sub-section (1) of Sec. 35.
- In view of extension provided to funds or institutions seeking approval u/s 80G(5), CBDT vide this present circular has 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 FY 2022-23 from 31-05-2023 to 30-06-2023.

RELAXATION IN FILING STATEMENT OF ACCUMULATION & DEEMED APPLICATION

- As per provisions of Sec. 11(2)(c) and Explanation 3 to 3rd proviso to Sec. 10(23C), trusts or institution were required



to file form for accumulation of income (in Form 10) before the due date u/s 139(1).

- Further as per clause (2) of Explanation 1 to 11(1), trusts or institution were required to file Form 9A before the due date u/s 139(1) where they deem certain income to be applied.
- Subsequently, Finance Act 2023 preponed the time limit of Form 10 and Form 9A to at least two months prior to due date u/s 139(1) so that same can be taken into account in audit report in Form 10B/10BB whose due date is at least one month before the due date u/s 139(1).
- In this regard, representations were received to seek extension of time limit for furnishing such statements to the return filing date, since such statements could not be prepared before finalisation of computation of income.
- Hence, it has been clarified that even if the assessee files those statements (Form 9A and Form 10) after the due date as prescribed by Finance Act, 2023 (supra), but before the due date of filing of Return of Income u/s 139(1), accumulation/deemed application shall not be denied to the trust.

MODES OF PAYMENT IN AUDIT REPORT

- In view of the significant amendments made to the taxation of trusts over the past few years, revised audit report in Form No. 10B and Form No. 10BB have been notified vide Notification No. 7 of 2023 dated 21-02-2023. The Audit report requires the auditor to bifurcate certain payments or application in electronic modes and non-electronic modes. Notes to the said forms provides that Electronic modes shall be the various modes referred in Rule 6AABA of the IT Rules which does not include account payee cheque/account payee bank draft or electronic clearing system.
- Hence, it has been further clarified that 'electronic modes' shall include account payee cheque drawn on a bank, account payee bank draft or, use of electronic clearing system through a bank account.

KEY TAKEAWAYS

- The aforesaid clarification was much awaited as it saved various trust/institution from provisions of Sec. 115TD in the absence of registration/approval.
- Further other clarifications will also provide relief to the trust/institution in making due compliances under the Act.





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