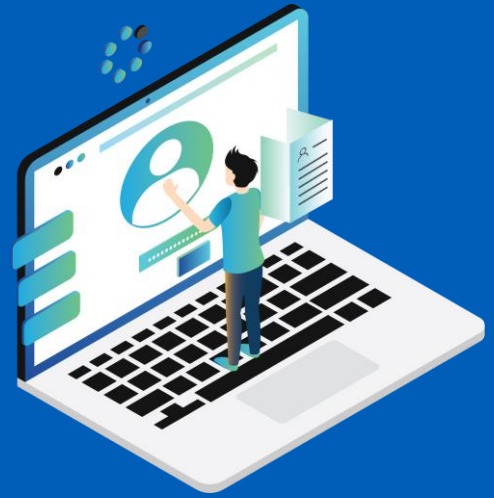




Re-registration of charitable organizations

under the Income-tax Act, 1961



Overview

The Indian Tax Law governing charitable organizations/ Not-for-Profit Organizations (NPOs) was recently amended, making it mandatory for all such organizations to re-register. This amendment impacts all NPOs which may exist in the form of a Trust, Society or a Section 8 / Not-for-Profit Company.

In India, Charitable organizations typically obtain tax exemption registration under section 12A / 12AA of the Income-tax Act, 1961 (the Act) which is granted for perpetuity. Certain entities like Hospitals and Universities often obtain additional exemption registration under section 10(23C). Tax deduction to the donor is available if the recipient organization obtains 80G registration, which again was granted for perpetuity.

The amendment requires all such organizations to re-register and choose any one registration [Section 12AA (now section 12AB) or section 10(23C)] and the other one would become inoperative..

The re-registration process will entail detailed evaluation of the activities carried out by charitable organizations

i.e. whether the organization is genuinely involved in philanthropy, as defined under the law, making it eligible to claim tax exemption.

It is therefore imperative for all charitable organizations to revisit their registration and compliance requirements. Foreign NPOs who work directly with local partners without a formal presence in India need to also ensure their local partners comply with the requirements, to continue enjoying tax exemption.

Rationale behind the amendments

- Periodic check on the activities of charitable organizations
- Establish a formal database of charitable organizations in India
- Promote a non-adversarial tax regime for charitable organizations
- Effective governance of charitable organizations through use of technology.



Procedure for re-registration



All existing organizations as well as new organizations applying for registration or who have already applied for registration but pending approval, are covered under the revised process. The process of re-registration is to be undertaken from 1 April to 30 June 2021.

A summary of the registration process under the amended provisions is provided below:

Particulars	Existing Organizations/Re-registration	New Organizations / Fresh Registration
Sections covered	12A, 80G and 10(23C)	12A, 80G and 10(23C)
Application form	Form 10A	Form 10A
Procedure	<ul style="list-style-type: none"> Apply for re-registration with requisite documents Detailed scrutiny unlikely. However, additional documents / clarifications may be sought by the tax authorities Granting of registration order in Form 10AC 	<ul style="list-style-type: none"> Apply for provisional registration atleast one month prior to commencement of the year in which exemption is sought to be claimed Grant of provisional registration order in Form 10AC Apply for full registration in Form 10AB before expiry of three years or six months within commencement of business
Mode of filing	Electronically using digital signature of person verifying the return of income	
Timelines	Order shall be obtained within three months from end of the month in which application filed	<ul style="list-style-type: none"> Provisional registration shall be obtained within one month from end of the month in which application filed
Validity	Five years	Maximum of three years (subject to commencement of activities)

In case of renewal of registrations granted under Form 10AC, conversion of provisional registrations or changes in any objects of the organization, the following process is to be followed -

Particulars	Existing Organizations / Change in Objects
Sections covered	12A, 80G and 10(23C)
Application form	Form 10AB
Procedure	<ul style="list-style-type: none"> Apply for registration with requisite documents and information in the Form CIT to inquire on the objects and proposed activities, including genuineness of activities to be undertaken as well as compliances with various regulations On satisfaction of the above, granting of registration order in Form 10AD
Mode of Filing	Electronically using digital signature of person verifying the return of income
Timelines	Order shall be obtained within six months from end of the month in which application filed
Validity	Five years

Additional compliance requirements for organizations receiving voluntary donations under Section 80G are listed in the table below:

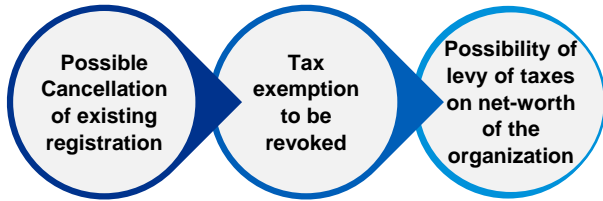
Particulars	Requirements
Compliance requirements	<ul style="list-style-type: none"> Annual statement of donations to be filed in Form 10BD 80G Certificate shall be issued to donors in standardized Form 10BE

Unique registration number shall be given at the time of granting registration. The registration shall be valid for five years.

Consequences of default



Serious consequences exist in case re-registration is not undertaken by entities claiming exemption as charitable organizations.



In a scenario, where the application for re-registration is made by a charitable organization and the registration is denied by the tax authorities for any reason, the above consequences equally apply.

In view of the same, it is imperative to undertake a diagnostic review of the existing operations of the organization before making an application for re-registration.

Our Value Proposition



Diagnostic review

- Evaluate the operations of the organization vis-à-vis incorporation documents
- Analyse the source of funds, application of funds, related party transactions etc.
- Dipstick review of the compliances undertaken by the organization under the laws which materially impact its objects
- Recommendation on documentation, filing status, disclosure requirements etc.
- Recommend the appropriate section for re-registration.

Registration

- Assistance in application for re-registration
- Assistance in representation before the prescribed authorities during the re-registration process.

Information Technology (IT) consultation

Assistance in modifications to be made in the IT system to ensure submission of annual statements / certificates in the prescribed format.

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