

# CNK & Associates LLP

## News Flash

The CBDT notifies rules and forms specifying the process of registration to be undertaken by charitable and religious institutions with effect from 1<sup>st</sup> April 2021. (Notification 19/2021 dated 26<sup>th</sup> March 2021)

Charitable & religious organizations (trust/institutions) once registered under section 12A/12AA and those granted approval under section 80G of the Income-tax Act, 1961 (the Act) were till date not required to apply for re-registration. The given registration was permanent unless cancelled.

With effect from 1<sup>st</sup> April 2021, these trusts/institutions need to apply for renewal of their registration so as to continue to enjoy the exemption granted to them under the Act. These compliances were initially introduced by Finance Act 2020 w.e.f. 1<sup>st</sup> June 2020, however due to COVID-19 pandemic; these were postponed and now are effective from 1<sup>st</sup> April 2021.

The compliances required to be undertaken are summarized herein below:

Sr. No.	Category of Trust/institution	Application to be made	Action to be taken by Principal Commissioner or Commissioner	Time limit for granting or rejecting application	Form to be filed
(1)	i) Trust/institution already registered under the existing provisions – i.e. under section, 12A or 12AA  ii) Trust/institution already having approval under the provisions of section 80G of the Act	On or before 30 June 2021	Order granting approval for a period of 5 years under section 12AB  Order granting approval for a period of 5 years under section 80G  The approval shall be granted without calling for any documents/inquiries i.e automatic approval	Within 3 months from the end of the month in which application was received	Form 10A

(2)	<p>Re- registration on Expiry of the period of 5 years of registration granted under section 12AB as stated above</p> <p>Application for approval under 80G after expiry of 5 years as stated above</p>	<p>At least 6 months before the expiry of registration</p>	<p>i. Calling for documents and conducting inquiries for satisfying genuineness of activities and other compliances,</p> <p>ii. Either grant the registration for period for 5 years or reject the application after giving an opportunity of being heard</p>	<p>Within 6 months from the end of the month in which application was received</p>	<p>Form 10AB</p>	
(3)	<p>Trust/institution provisionally registered under section 12AB/ having provisional approval under section 80G</p>	<p>i. At least 6 months before the expiry of provisional registration, or</p> <p>ii. Within 6 months from commencement of activities of the trust, whichever is earlier</p>				
(4)	<p>Trust/institution modifying the objects</p>	<p>Within 30 days of date of modification</p>	<p>As above</p>	<p>As above</p>		
(5)	<p>In any other case not covered above (such as fresh registration under section 12AB /fresh approval under section 80G)</p>	<p>At least 1 month before the commencement of relevant previous year</p>	<p>Order granting provisional approval for a period of 3 years</p>	<p>Within 1 month from the end of the month in which application was received</p>	<p>Form 10A</p>	

Note: Similar procedure is to be followed for applications for registration under section 10(23C) and section 35 of the Act.

- **The above mentioned Form 10A/ 10AB shall be accompanied by self -certified copies of the following documents:**
  - instrument of establishment e.g trust deed, memorandum, etc.
  - copy of registration with relevant authority e.g. trust registration certificate with Charity commissioner/ certificate of incorporation with ROC, etc.
  - copy of registration under Foreign Contribution (Regulation) Act, 2010(42 of 2010)(if any)
  - copy of existing order granting/rejecting registration under section 12A/ 12AA /12AB /80G
  - copies of annual accounts of the applicant, relating to not more than three years immediately preceding the previous year in which such application is made
  - copies of annual accounts of business undertaking held by the applicant (either under section 11(4) / 11(4A) relating to not more than three years immediately preceding the previous year in which such application is made, along with self-certified copy of the Tax Audit report for such period
  - copy of the documents evidencing adoption or modification of the objects
  - note on the activities of the applicant
  
- **Procedure for filing and grant of registration/ approval**
  - The form shall be filed electronically under a digital signature of the person who is eligible to verify the return of income or by EVC
  - Where application has been made in Form 10A, the Principal Commissioner / Commissioner of Income tax (PCIT/ CIT) shall pass an order granting the registration/approval in Form 10AC and issue a 16 digit unique registration number (URN)
  - Where application has been made in Form 10AB, the PCIT/ CIT shall pass an order granting the registration/approval in Form 10AD and issue a 16 digit URN

**Annual Compliance relating to reporting of donations and issue of certificates to donors under section 80G**

With effect from 1<sup>st</sup> April 2021, every trust/institution registered under section 80G of the Act, shall furnish to the authorities a statement with particulars of donations received by it in the financial year and issue the certificate/receipt of donation to the donor in the prescribed forms. Such compliance shall be an annual compliance for every financial year commencing from 1 April 2021. The compliance to be undertaken is summarized herein below:

Sr No	Form Name	Nature of compliance	Due Date	Penalty for non-compliance
1	Form 10BD	<ul style="list-style-type: none"> <li>- Reporting donations received during the year by trust/institution registered under section 80G, in manner prescribed in Form 10 BD.</li> <li>- To be filed online using digital signature/EVC</li> </ul>	On or before 31 <sup>st</sup> May of the financial year succeeding the year in which donation is received	<ul style="list-style-type: none"> <li>- <u>Non-furnishing-</u> INR 10,000 to INR 1 lakh under section 271K</li> <li>- <u>Delay in furnishing-</u> INR 200 per day under section 234G</li> </ul>

2	Form 10BE	<ul style="list-style-type: none"> <li>- Certificate of donation shall be issued by the trust to the donor in Form 10BE</li> <li>- Such certificate shall be generated on the web portal on the basis of Form 10BD filed by the donee trust/institution</li> </ul>		
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**CNK Comments**

- The renewal of registration of trust/institution which are already registered under section 12A/12AA and those having approval under 80G, shall be automatic for the period of 5 years without any inquiries from the PCIT/CIT
- Once the period of 5 years are over, the trust/institution shall be required to again apply for registration in form 10AB. Here, the trust/ institution will be subjected to necessary inquiries/examination by the PCIT/CIT including the genuineness of activities. On satisfaction of the aforementioned, the trust will be granted renewal for a period of another 5 years
- Since, every existing trust/institution shall be reapplying under section 12AB, the registration under erstwhile section 12A/12AA shall be deemed to be cancelled.
- The application for registration under section 80G and section 12AB has to be made in the same form i.e Form 10AB/ Form 10A(wherever applicable)
- The Form 10A/10AB requires details such as amount of corpus, liabilities, reserves and surplus, etc as on the date of application. Therefore, it becomes imperative to draw the accounts as on the date of application.
- The CIT/PCIT may reject the application/ cancel the registration granted under the new process, after giving opportunity of being heard, if:
  - He is not satisfied about the genuineness of the activities
  - The activities are not in compliance with the objects of the trust
  - Application is not duly filled/ false or incorrect information is provided in the application
  - Non-compliance of any other laws which are material for achieving its objects

## ***DISCLAIMER AND STATUTORY NOTICE***

This e-publication is published by CNK & Associates, LLP, Chartered Accountants, India, solely for the purposes of providing necessary information to employees, clients and other business associates. This publication summarizes the rules and forms specifying the process of registration to be undertaken by charitable and religious institutions with effect from 1st April 2021. Whilst every care has been taken in the preparation of this publication, it may contain inadvertent errors for which we shall not be held responsible.

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