

Clarification & Extension of various due dates relating to charitable and religious trust - Circular No. 6 of 2023¹

Background

Finance Act 2023 has amended section 115TD of the Income Tax Act by providing that Non filing of application for registration within the prescribed time would trigger provisions of section 115TD and the Trust would lose its exemption as a charitable entity. Several Trust would have been adversely impacted since they have not filed the application within the prescribed time limit.

The present circular is issued in continuation of earlier circulars to further extend the due dates for filing application for registration. The circular has also relaxed the due dates for furnishing forms to be filed for accumulation of income and deemed application of income as well as form to be filed intimating details of donations received by the trust from various donors who are eligible to 80G benefit.

Extension of Due dates

Sr. No.	Form	Particulars	Existing Due Date	Extended due date
Extension of due date for filing application for registration				
(1)	10A	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	25 th November 2022	30 th September 2023
(2)	10AB	Trust/institution provisionally registered under section 12AB	30 th September 2022	30 th September 2023
Annual Compliance				
(3)	10BD & 10BE	Reporting donations received during FY 2022-23 by trust/institution registered under Section 80G and Certificate of donation shall be issued by the trust to the donor.	31 st May 2023	30 th June 2023
(4)	10	Accumulation made under section 11(2) due to non-application of 85% of the Income	31 st August	31 st August However, accumulation / deemed application will be allowed even if the relevant Forms are filed on or before the due date of return filing.
(5)	9A	Deemed Application (required to be spent in the following year) if the funds are not utilised due to non-receipt of money or for any other reasons		

¹ This circular will also apply to section 10(23C)(iv),10(23C)(v),10(23C)(vi) &10(23C)(via)



Clarifications on Applications pending for registration of the trust & approval under section 80G

- Where the application for registration is filed in Form 10A after the expiry of the due date of 25th November 2022 by a trust which is already registered under the existing provisions and the application is pending for approval, the trust is required to surrender the Form 10A already filed and make a fresh Application in Form 10A.
- Similarly, where the application for registration is filed in Form 10AB by a provisionally registered trust after the expiry of the due date of 30th September 2022 and the application is pending for approval, the same will be treated as valid application filed within the extended due date.
- If the application for registration of a provisionally registered trust has been rejected solely on the ground that the application was not filed within the due date, such trusts can make fresh application for registration before the extended due date.

Clarification on Electronic modes specified in Audit Reports

- In the new Audit report in Form 10B & 10BB, an Auditor is required to bifurcate the application / payments made between electronic & non electronic modes. The notes forming part of the Audit report specifies modes of payment that would be regarded as electronic modes. These did not include, account payee cheque drawn on bank, account payee bank draft or use of Electronic Clearing System through a bank account as electronic modes of payment. It is clarified that payment made through the above modes will also be treated as payment made through electronic modes.

Clarification on effective date of provisional registration in case of trust who has not commenced its activities.

- Presently, those trusts who have not commenced their activities are required to apply for provisional registration at least one month prior to the commencement of the financial year for which registration is sought under section 12A(1)(ac). Therefore, a trust had to anticipate when it would commence its activities and thereby had to ensure that it applies for registration at least 1 month prior to the close of the year preceding the year of seeking registration.
- Section 12A(2) of the act provides that provisional registration shall be applicable from the assessment year immediately following the financial year in which application is made.
- Same conditions were applicable for the trust applying for provisional registration under section 80G.
- Since, there were inconsistency in section 12A(1)(ac) and section 12A(2), to remove the anomaly it is now clarified that registration will be effective from the year in which application is made.

CNK COMMENT

- As per the provisions of section 115BBI of the Act, if Form 10 for accumulation or Form 9A for deemed application were not filed by 31st August, the Trust would have been liable to tax at 30% on the amount accumulated/deemed application. Now, such income will not be taxed under section 115BBI even if the relevant Forms are filed before the due date of filing the tax return which is 31st October. This was much needed clarification as filing the forms two months in advance was a needless burden on the trusts.
- Exit tax under section 115TD was levied in case where trust has not filed application for registration within the prescribed time limit. The present circular has come as a huge relief to all those trusts who have not filed the application before the prescribed dates as they will now have an opportunity to do the filing till 30th September 2023 and thereby avoid triggering provisions of section 115TD. In any case, triggering section 115TD for a procedural lapse in filing an application for registration is an extremely harsh provision and needs to be reconsidered.
- Since accumulation is linked to computation of income, filing form 10 for accumulation and form 9A for deemed application, 2 months prior to return filing date would have caused practical difficulties in arriving at the correct amount to be accumulated or deemed application. This difficulty has now been removed by the present circular.

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