



**STATUTORY COMPLIANCES
BY
CHARITABLE / RELIGIOUS
ORGANISATIONS REGISTERED UNDER
INCOME TAX ACT:**

Mahadevan

Mahadevan & Hari , Chartered Accountants.



INTRODUCTION.

Numerous changes/modifications have been made regarding compliance requirements of charitable/religious organisations in order to claim exemptions from Income Tax. The changes affect the working of such institutions and also the way the auditors audit their accounts. This presentation is to give a general idea about the compliances having impact on accounts and audit for the FY 2022-23.

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1. As per Notification dated 21st February,2023, audit report shall be filed:

▶ **In Form No;10B; where:**

- ❖ Gross income receipts exceeds Rs.5 Crore; or
- ❖ Has received any Foreign Contribution; or
- ❖ Has applied any part of the income outside India:

▶ **In Form No:10BB; in all other cases:**

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2. The Audit Report has also been modified as per the above said notification, which now includes;

- ❖ “Certifying that annexure to Form No: 10B is true and correct:”

3. Due date for Filing:

Audit Report in Form No: 10B/10BB is to be filed, one month prior to the due date of filing the Return of Income.

For AY:2023-24, the audit report has to be filed on or above 30th September,23 unless extended by Notification:

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4. Analysis of Form No:10B.

A. Clause I to II: General Information have to state details on:

I. Registration

II. Legal status;

III. Basic details of the entity

IV. Management Details.

V. Objects.



Analysis of Form No:10 B.(contd)

2. Clause 6 & 14: Books of Account.

Details of books of account maintained & Details of the Place/State which they are maintained.

3. Clause 15 to 18 : Business, if any

Whether any business activity is being carried out? If yes, details.

4. Clause 19: Other receipts

On which tax has been deducted – details

5. Clause:21 to 23: Voluntary Contributions

Details regarding Voluntary Contributions received, Filing of Form No.10BD, etc; cash donations, donations in kind, anonymous donations, etc.

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Analysis of Form No:10 B.(contd)

6. Clause 25 & 26: Foreign Contributions;

Details.

7.Clause:28: Income other than VC:

Eg; Interest, etc.

8. Clause : 29: Funds applied outside India;

Details – PAN/15CA Filed etc.

9. Clause :31: Application of Income:

- ❖ For Objects, - Through electronic mode/other wise.
50 lakhs/more to any person.
- ❖ 85% and above;
- ❖ Revenue/Capital Expenses etc.

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Analysis of Form No:10 B.(contd)

10. Clause :31 & 37: Disallowance from Application of Funds:

- ❖ Payment without TDS;
- ❖ Payment in cash > 10,000/-
- ❖ Donation to another registered Trust towards Corpus;
- ❖ Donation to another Trust whose objects are different;
- ❖ Donation to unregistered trusts;
- ❖ Funds applied outside India;
- ❖ Application towards non-specified objects etc.
- ❖ Others:
 - Accumulated income not applied;
 - Income upto 15% of earlier years;
 - Out of Corpus Funds;
 - Out of borrowed Funds;

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Analysis of Form No:10 B.(contd)

11. Clause : 33: Deemed Income: See: 115BBI:

Taxable@30%

- ❖ Accumulated Income applied for purposes other than its objects;
- ❖ Income not invested as prescribed;
- ❖ Income applied outside India.



Analysis of Form No:10 B.(contd)

12.Clauses 42 & 43 : Specified Persons & Specified violations:

A. Specified persons: Sec: 13

B. Specified Violations:

- i) Income applied for purposes other than objects;
- ii) Profits of business, not incidental to its objects;
- iii) Separate books not maintained for business;
- iv) Income applied for the benefit of any particular religious community/ caste;
- v) Non-compliance/ Violation of any applicable Law.

13. Clause:49: TDS Compliance:

Details of TDS; and any default committed.

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5. Form 10B & 10BB: Comparison:

- 1) 10 BB has relatively lesser Compliance;
- 2) 10B : 49 Clauses; 10BB: 32 Clauses;
- 3) 10BB : No separate details regarding business activities.
- 4) 10BB: Details of transfer of Capital Asset; Expenses on religious purpose, etc. not required.



GENERAL:

6. Details of Voluntary Contributions:

- ▶ Contributions which are eligible for 80G Deduction: requires to furnish Form 10BD specifying the details of donations received.
- ▶ It should issue Certificate in form No: 10BE to each donor.
- ▶ Both Form No: 10BD and Certificate in Form No;10BE is to be furnished on or before 31st May,2023
- ▶ Late Fee: If not furnished, fine of Rs.200/- for each day of delay will be levied, for each form;
- ▶ Penalty: For failure to fill Form No: 10BD and furnish certificate in Form No: 10BE, penalty may be levied in the range of Rs.10,000/--(minimum) to Rs.1,00,000/- (maximum) for each default.

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7. Key Amendments – Finance Act,2023:

- ▶ Donation to another registered trust: Only 85% shall be allowed as application: [W.e.f: FY 2023-24].
- ▶ If Corpus Fund is used for application towards objectives, the same is to be replenished within 5 years to claim application [Earlier, there was no time period given]. W.e.f: FY: 2022-23.
- ▶ Same provision applies where Loan Fund (ie. Borrowings) is used. The same should be repaid within 5 years to claim application.
- ▶ In (2) and (3) it will be allowed as application in the year of depositing back the corpus in the bank or repaying the loan.

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7. Key Amendments – Finance Act,2023: Contd

Accumulation of Funds:

- ▶ In case, the Organisation wishes to accumulate funds (either in the immediate succeeding financial year or within the 5 years from the end of the assessment years) the application in Form No.9/10A has to be filed at least two months prior to the date of filing return of income u/s. 139(1). i.e. on or before 31st August,2023. In respect of Assessment Year 2023-24.
- ▶ Accumulated Income not applied within the next 5 Assessment Years, will be taxed in the 5th Year [Earlier, it was taxed in the 6th Year].
- ▶ If Return of Income is not filed within the specified due dates, the organisation will lose its IT exemption. However, if it has taxable income, exemption can be claimed by filing updated Return [W.e.f: FY22-23]
- ▶ If the Organisation fails to make an application for re-registration within the prescribed time limit, the Exit tax at MMR (Presently 42.77%) on accreted income shall be applicable.

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7. Books of Account & Other Documents:

- I. Books of Account and Other Documents shall be kept at the registered office.
- II. It can be in written form; or in electronic form; or in digitable form; or as print outs of data stored in electronic form.
- III. Such books of account shall be kept and maintained for a period of 10 years from the end of the relevant assessment year:
Eg: FY: 2022-23; AY: 2023-24; Hence, 2022-23 books have to be maintained till 31.03.2034.



4. Books of Account and Other Documents, to include

- ▶ Cash/Day Book;
- ▶ Ledger;
- ▶ Copies of Bills receipts / Vouchers;
- ▶ Detailed record of Income received
- ▶ Record of Application; including investments made;
- ▶ Record of Voluntary Contributions received;
- ▶ Record of Loans and borrowings;
- ▶ Record of properties held : both movable & immovable;
- ▶ Record of specified Persons:
- ▶ Name, address, PAN, Adhar, Mobile No; e-mail id etc.

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▶ **9. Others:**

i) Penalty u/s. 271AAE;

If benefit (unreasonable) is provided by Trust to any of the specified persons:

First time offence: Equal amount;

Subsequent offence: Twice the amount;



GENERAL: Contd

Notes:

To have an understanding on the subject, you should refer the following:

- I. Income-tax Act,1961: Sections: 11 to 13; 80G; 115 TD, 115 BBI,271 AAE, TE& TF.
- II. Income-tax Rules,: Rules:17, 17A,17AA,17B,17C,17CB, 18AB, along with related Form Nos;9A/10/10A/10AC/10B/10BB etc.
- III. ITR:7:



AUDIT MANUAL:

- ▶ Engagement Letter : {Before commencement)
- ▶ Management Representation Letter : (Before Signing)
- ▶ Fixing Materiality Level:
- ▶ Preparation of Audit Program;
- ▶ Preparation of Financial statements in the format as applicable to Non-Corporate Entities along with Notes & Accounting Policies.
- ▶ Notes on activities of the Organisation.
- ▶ Preparation of Audit Report : in Form No : 10B/10BB as may be applicable.
- ▶ Any other: Depending on facts and circumstances of each Organisation.

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THANK YOU

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