

Return filing by
Charitable Trusts

AY 2019-20

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First Things First

THIS WORKSHOP IS ON RETURN FILING FOR AY 2019-20 FOR A CHARITABLE TRUST THAT HOLDS A VALID 12A REGN

WHO should file?

- Filing **mandatory** if receipts (including donations) exceed Rs. 250,000. Sec **139(4A)**
- Recommended if Trust holds an 80G certificate.
- Recommended if trust is entitled to a refund of TDS.

HOW to file?

- Filing only **electronically**.
- Form to use: ITR **7**.
- To be **signed** by a Trustee – who is authorized to do so.
To be signed either electronically using Digital Signature Certificate OR
verified using an Electronic Verification Code EVC OR signed ITRV sent to CPC.

First Things First

WHEN to file?

- Due Date: 30th September 2019 – as an audit is required.
- If not filed by the due date, benefits u/s 11 will not be available. (Refer Sec 12A(1)(ba)). Hence late filing could be very expensive.

RESOURCE Material

- Income Tax Act 1961 – Sections 11, 12, 12A, 13
- ITR7 – the actual form with instructions on how to file – 52 pages of guidelines – available on <https://www.incometaxindiaefiling.gov.in/home> - under ITR Return preparation Software
- Checklist to avoid mistakes in filing ITR7 – released on 14.08.2019 and available on <https://www.incometaxindiaefiling.gov.in/home> under NEWS and UPDATES

Deep Dive INCOME

- **Interest** – always reconcile with 26AS
- **Dividend** – 11(7) provides for inclusion even if otherwise exempt.
- **Rent** – Include gross income and no deductions u/s 24
- **Capital Gains** – if sale proceeds are invested in another capital asset, then no capital gains to be offered. To the extent not so invested, gain over computed cost to be included.

- There is a bypass of regular computation provisions so long as Section 11 is complied with.

Understanding DONATIONS

- **Corpus** vs Others
- Corpus – only intent of the donor relevant. Not to be spent and hence not includible in Income.
- **Other Donations** – include as income, even if not credited to IE a/c.
- If Donations are received from a Company under their CSR, to be reported separately.
- Donations in the form of Grants – Government or otherwise to be reported separately.

Anonymous Donations

- **115BBC**
- Donations where generally name, address and PAN of donor are not known will be anonymous donations.
- Taxable To the extent that such donations exceed:
 - 5% of total donations received in the year or Rs. 1 lakh, whichever is higher.
- Taxed at **30%** flat rate.
- Not applicable to a Religious Trust.

Application for Charitable Objects

- If a Trust spends at least **85%** of its receipts on Objects of Charitable nature **in India** then the entire income earned is not taxable.
- 85% is of gross receipts **including** donations but **excluding corpus** donations and before any reductions. Excludes items that are separately taxable like anonymous donations.
- Application includes all spending by trust including giving of donations – **BUT** does **not** include any sum that is donated to the corpus of another trust.
- The 85% is of gross income – Supreme Court 248 ITR 1

Application for Charitable Objects

- If any sum requires TDS to be done but the same has not been done and the amount would have been disallowed u/s 40a(i) – that will now not count as application of income
- If any sum is spent in cash exceeding Rs. 10,000 that would be disallowed u/s 40A(3) – will not count as application of income.
- New explanation 3 to section 11(1) w.e.f. AY 2019-20

The **1** year option

- If Receipts are not spent in the same year, can opt to **spend within 1 year**
- Option to be exercised by filing **form 9A** electronically before due date of filing the return.
- Income so accumulated must be spent otherwise than by donating to another trust.
- If not spent in the next year, then added to next years income.
- Form current years application, take out what is spent from last years accumulation.

The 5 year option

- A Trust may choose to accumulate Income and use it for a specific project - provided:
- Income is spent within **5** years of accumulation
- In the interim it is **kept invested as per 11(5)**.
- An option to accumulate is exercised online in **Form 10** with a Trustee resolution specifying purpose.
- Project must be reasonably specific and identifiable.
- Every year the tax return must report how much accumulated year wise, how much invested, how much spent in the year and how much is unspent.
- Do not include this expense in current year application.
- Amount unspent after 5 years is income of that year.

Checking APPLICATION

- **Segregate** and exclude anything is spent on 5 year option.
- **Segregate** what is spent on 1 year accumulation – and this should not include donation to another trust.
- From balance, **segregate** and exclude any corpus donation given to another trust – as this wont count as application.
- **Segregate** amounts which give a direct or indirect benefit to persons specified in **section 13** – Settlor, trustees, major donor, concerns where they have substantial interest.
- Balance represents spent from Current year receipts.

Source of expenditure

- For Source of Revenue Expenditure the following to be given in the return of income:
- From Current Years Income
- From past accumulations under 1year / 5 year scheme
- From 15% accumulations om earlier years
- From Borrowed Funds
- Others

Segregation

- The ITR7 now recognizes difference between:
- Establishment and Admin Expenses
- Expenditure on Objects : - categorizing as donations (corpus and other than corpus) / religious / relief to poor / educational / yoga / medical / environment preservation / monument preservation / general public utility – and all expense must be fitted within one of these.

Capital expenditure

- **Acquisition of capital assets** is also an Application of funds – though not in the IE A/c.
- If this is claimed as application, then **depreciation** cannot be claimed as application as well.
- Source of Capital Expenditure also to be given on same lines as for Revenue Expenditure.

Other Objects of general utility

- If the trust carries on any activity which is of general public utility
- being any trade or commerce or business or rendering services in this connection for a fee
- and such receipts exceed 20% of total receipts of the year, then such expense is not treated as Application for Charitable Objects.

The rest is taxable

- If a trust can't spend 85% of receipts on its objects during the year, does not opt to spend it within one succeeding year and has no 5 year specific project either, then the income so earned and unspent beyond the 85% is **taxable**.
- Taxed at regular **slab rates**.
- If such unspent amount is therefore less than Rs. 250,000 there is no tax.

Deficits

- If a trust has spent more than its income, the deficit is to be excluded – but can be added to the Application of a subsequent year.
- Loans repaid are also an application.
- Exercise of prudence is recommended in such cases.

Some more data capturing

- You will also need:-
- Details of Formal Projects undertaken. You can now select NO for projects / institutions run by the Trust.
- Details of 12A registration.
- 80G certificate details.
- Details of Registration under Public Trust Act
- Details of change in object clause during the year.
- FCRA details – registration and donations received
- Names, address, PAN, Aadhaar of settlor (if alive), trustees, major contributors, their relatives.

Audit Report

- Where the receipts before applying Section 11/12 exceed Rs. 250,000 an Audit report is needed in form **10B**. This is an audit **u/s 12A(1)(b)**
- The 10B effectively certifies the entire application of income and the investment where required u/s 11 and compliance with Sec 13.
- Must be filed **online** electronically.
- Get the CA who will upload this added – then use the utility to fill and submit the form 10B using the DSC of the CA and get the said filing ACCEPTED on behalf of the trust. The date of the form 10B and date of upload required to be mentioned on the tax return. Hence this must be done before the return is uploaded.
- A new form 10B waiting in the wings.

Some more checks

- Recommend the following further checks every year while filing by logging into <https://www.incometaxindiaefiling.gov.in> :
- Check PROFILE – to update name of managing trustee and phone number and email ID – as lot of correspondence now received electronically.
- Login and check for any tax dues that are outstanding.
- Check for any returns processed but refunds that could not be issued due to wrong account number etc. and make refund reissue request.

Filings with the Charity Commissioner

Online

- Filing is required to be done **Online**.
- A Trust which has receipts in excess of Rs. 5,000 must get an audit done under the Bombay Public Trust Act within 6 months of the end of the year and submit the various reports online within 15 days thereof.

Register the trust online

- <http://www//charity.maharashtra.gov.in>
- Provides for filing of Trust Accounts
- Trust to be registered for ONLINE filing first – if not already done for Y E March 2017.
- To do this, Trust registration Number needed – collect Trust registration certificate as a base document.
- Registration to be done in name of a Trustee for a particular trust.
- If a particular Trust is already registered it will show. **Login** based on name of trust or trust Number – not password based.

Uploads

- Select **year** of Filing – can file for past years too (from 2005-06)
- Select between Annual Income of Rs. 5000 + and others
- Trust must link **the CA** who audits the Trust – to be linked every year – Will need his name, Mobile Number and firm registration Number and CA Membership Certificate. If he is registered for any Trust then can Search and Select. Link an Auditor with the trust to enable filing.

Audit report

- All items on **Audit Report** will have to be filled in using drop down menus – also Auditor remarks – and mention “no remarks” if that’s the case.
- Upload here:-
- the Audit Report
- Balance Sheet – Schedule IX format
- Income and Expenditure statement – Schedule VIII format
- Contribution Statement – Schedule IXC
- List of Expenditure on Medical and educational Objects
- Upload as a scanned **PDF** with **size below 1 MB**. File name should be simple! Two dots and special characters not allowed.
- Upload **Auditor CA Membership Certificate!**
- Affidavit if filing done after 30th September
- **SUBMIT** before leaving the page – or redo entire exercise.

Other Schedules

- Similarly key in **Schedule IX / VIII** – every figure to be keyed in – with 'zero' where not applicable.
- For Schedule VIII – if **corpus donations** received, the certificate from Auditor confirming this to be uploaded here as a PDF Scan.
- **SUBMIT** each page as completed.
- Once SUBMIT no alteration possible.

Not yet over!

- Once all this is done **GENERATE** Summary & VERIFICATION FORM.
- **Save** the form for future reference.
- **Print**, get **signature** of 2 trustees at least and signature of Auditor
- **Email** this signed scanned document to the registration office and get filed physically or send by **RPAD**.

What I learnt – practical tips

- Do one filing in **one go** as SAVE option is not there. There are 4 filings to be done. Once you start at least complete the one you are on.
- Uploads in PDF are needed. There are **size restrictions**. Keep all upload ready before you start the filing.
- If you upload something wrong, then you cannot change on your own. You must email them and they will within a few days remove the filing and you can restart it. Email to: comp.mum-mh@gov.in
- Keep 30 mins per trust and be very **PATIENT** – there are issues with CAPTCHA keys – and once SUBMIT clicked no amendment possible.

Prudence

- Need to understand the role of the person filing a tax Return for a Charitable Trust
- Commit to file correctly

Closing Remarks Questions

Thank You