

CHANGES & CHALLENGES IN 12AB REGISTRATION

♦ Legal Series Vol. XVII ♦ Issue 1

For private circulation only

**Analysis of the amended law regarding Provisional and Direct Regular
Registration based on the commencement of activities From 01.10.2023**



Standards & Norms

Resources support on NGO Governance, Accounting and Regulations



Authors* :

Adv. (Dr.) Manoj Fogla, Founder, SAGA LAW LLP

Dr. Sanjay Patra, Managing Director, CPA Services

CA Suresh Kejriwal, Partner, Agarwal Kejriwal & Co.

Sandeep Sharma, Executive Director, FMSF

CHANGES & CHALLENGES IN 12AB REGISTRATION

♦ Legal Series Vol. XVII ♦ Issue 1

For private circulation only

Analysis of the amended law regarding Provisional and Direct Regular Registration based on the commencement of activities From 01.10.2023

CONTENTS

1.	INTRODUCTION	01
2.	REQUIREMENT OF REGISTRATION/APPROVAL	02
3.	PROCESS OF REGISTRATION/APPROVAL UPTO 31 ST MARCH, 2021	02
4.	PROCESS OF OBTAINING REGISTRATION/APPROVAL FROM 01.04.2021 TO 30.09.2023	03
5.	DIFFICULTY FACED IN THE SCHEME OF REGISTRATION/ APPROVAL EFFECTIVE FROM 01.04.2021	04
6.	PROCESS OF OBTAINING REGISTRATION/APPROVAL WITH EFFECT FROM 01.10.2023	04
7.	KEY CHANGES IN NEW REGISTRATION/APPROVAL FORMS WITH EFFECT FROM 01.10.2023	06
8.	OTHER KEYS ISSUES PERTAINING TO AMENDED REGISTRATION PROCESS	06
9.	CAN NON-APPROVED CATEGORY NPOs APPLY FOR 12AB REGISTRATION OR APPROVAL UNDER SECTION 10(23)(C) ?	09
10.	CAN PROVISIONAL REGISTRATION/APPROVAL APPLIED UNDER AMENDED LAW W.E.F. 01.10.2023 TAKE BENEFIT OF CBDT CIRCULAR 7 ?	10
11.	ANNEXURE 1 : CIRCULAR NO. 6 OF 2023 DATED 24.05.2023	11
12.	ANNEXURE 2 : CIRCULAR NO. 7 OF 2024 DATED 25.04.2024	17

INTRODUCTION:

- 1.01** The law pertaining to the registration/approval of NPOs under section 12AB, 10(23)(C) and 80G has undergone radical changes in last few years.
- 1.02** With effect from 01.04.2021 all such registration were converted from permanent to five-year tenure and simultaneously the concept of two step registration was introduced with effect from 01.04.2021 i.e. first *Provisional Registration* and subsequent conversion into five-year *Registration*. The Provisional Registration was valid for maximum period of three-years but for all practical purposes its validity was only for six months as organisations were required to apply for regular registration within six months of commencement of activities or at least 6 months before the expiry of the provisional registration period. The primary problem with the requirement of Provisional Registration was that it applied to both new and existing organisation. As a result many existing organisations could not comply with the six-month application time limit due to lack of clarity in law. In other words, for an existing organisation where the activity had commenced and more than six month had already been expired much prior to filing of application for provisional registration and therefore the six months time limit from date of commencement of activity to submit application in form 10AB to regularize provisional registration to regular registration did not make any sense to such organisation.
- 1.03** This two-step registration scheme was amended with effect from 01.10.2023 and the Provisional Registration under this new scheme applies only to organisations who have not started any activity, while all existing organisations who have commenced its activities are permitted to apply directly for regular registration for five years.

In this issue, we shall discuss the law and the implications of the changes in law as well as the circulars issued by CBDT.

REQUIREMENT OF REGISTRATION/APPROVAL:

- 2.01** Section 12A(1) outlines the conditions to be met by any trust or institution in order to qualify for exemption under sections 11 and 12. The primary requirement is the registration of the trust or institution under section 12AB, as specified in section 12A(1)(ac).
- 2.02** NPOs who want to avail the exemption under section 10(23)(C) and seek approval under section 80G are also subject to similar approval / registration requirements.
- 2.03** In other words, it is mandatory for NPOs to get registration under section 12A/12AA/12AB or to obtain approval under section 10(23)(C) to claim exemptions and approval under Section 80G to provide exemption benefits to donors.
- 2.04** The process of obtaining registration has undergone change and on the basis of period of change, we can segregate the registration process as follows:
- Up to 31.03.2021 the registration/approval was permanent in nature.
 - During the period from 01.04.2021 to 31.09.2023, this was the period of two step registration i.e. first provisional and subsequently regular registration.
 - Amended process w.e.f. 01.10.2023 where in only organisations who have not started any activity may apply for provisional registration and where the activity is commenced then direct application for five-year registration is permissible.

**PROCESS OF OBTAINING REGISTRATION/
APPROVAL UPTO 31ST MARCH, 2021**

- 3.01** Trust were required to apply for registration in Form 10A for registration under section 12A/12AA and Form 10G for approval under section 80G. The registration

or approval was granted after verification and the registration and approval granted were for perpetuity until cancelled/withdrawn.

PROCESS OF OBTAINING REGISTRATION/

APPROVAL FROM 01.04.2021 to 30.09.2023

4.01 The process of registration underwent major changes w.e.f. 01.04.2021 and the key features of the amended scheme of registration are as under:

- (i) Concept of provisional registration introduced for charity institutions which are applying for the first time, irrespective of whether they are new or existing institutions.
- (ii) Concept of perpetuity of registration was withdrawn. Under the new scheme, provisional registration was valid for a maximum period of 3 years. The provisional registration was required to be regularized into five years regular registration within six months of commencement of activities or at least 6 months before the expiry of the provisional registration period.
- (iii) All the existing trusts or institutions which were registered under section 12A/ 12AA or approved under section 10(23C) and section 80G were mandatorily required to obtain registration under new scheme of registration under section 12AB or to obtain approval under section 10(23C) and section 80G. The registration/approval shall remain valid for a period of five years from 1 April, 2021 i.e. from the AY: 2022-23.
- (iv) Registration/approval was subject to renewal every 5 years.

4.02 Hence under the new registration/approval scheme, the trusts or institutions applying for first-time registration under section 12AB were required to make the application in two stages.

- In the first stage, the application was filed in Form 10A for provisional registration. Such provisional registration remained valid for a maximum period of 3 years.
- In the second stage, this provisional registration was required to be converted into regular registration. This application for conversion had to be filed in Form 10AB at least 6 months before the expiry of the provisional registration period or within 6 months of the commencement of its activities, whichever is earlier. The regular registration or approval was granted after verification.

DIFFICULTY FACED IN THE SCHEME OF REGISTRATION/

APPROVAL EFFECTIVE FROM 01.04.2021:

5.01 In the Budget document for 2023-24 it was specifically mentioned that *trusts and institutions under both the regimes are facing the following difficulties:*

- a) *Trusts or institutions formed or incorporated during the previous year are not able to get the exemption for that year in which they are formed or incorporated since they need to apply one month before the previous year for which exemption is sought.*
- b) *Besides trusts or institutions, where activities have already commenced, are required to apply for two registrations (provisional and regular) simultaneously.*

PROCESS OF OBTAINING REGISTRATION/

APPROVAL WITH EFFECT FROM 1.10.2023

6.01 In the light of above difficulties in the registration process, the Finance Act, 2023 amended sections 12A and 12AB w.e.f. 01.10.2023, to provide that trusts or institutions applying for the first time must apply for provisional registration if they

have not commenced the activities. If they have already commenced their activities, they can apply directly for regular registration.

6.02 Provisional registration/approval where activities have not been commenced.

With effect from 01.10.2023, only those trusts and institutions who have not commenced their activities are, required to file an application in Form 10A for provisional registration.

In the second stage, this provisional registration has to be converted into regular registration. This application for conversion has to be filed in Form 10AB at least 6 months before the expiry of the provisional registration period or within 6 months of the commencement of its activities, whichever is earlier. The regular registration or approval shall be granted after verification of books and records.

6.03 Direct Regular registration/approval where activities have commenced.

All existing trusts or institutions (having commenced activities) can apply directly for regular registration in form 10AB without applying for provisional registration.

However, in addition to condition of commencement of activity **another condition** was also added. It was provided that any such organisation applying for direct registration should not have claimed exemption benefit under section 10(23)(C)(iv)/(v)/(vi)/(via), or Section 11 or Section 12, for any previous year ending on or before the date of such application. This condition seems to be very harsh which implies that any organisation whose 12AA/12AB registration has been cancelled or where 12A/12AA registration could not be regularised as 12AB registration under new scheme of registration effective from 1-04-2021 **can never apply for registration again.**

The registration or approval shall be granted after verification and Registration shall be valid for five years.

KEY CHANGES IN NEW REGISTRATION/**APPROVAL FORMS w.e.f. 01.10.2023:**

7.01 There have been a few major changes in the new forms of registration. The changes in Form 10A/10AB and order in form 10AC & 10AD by Income-Tax (Eleventh Amendment) Rules, 2023 dated 23.06.2023 (w.e.f. 01.10.23) as provided include:

- The application for provisional registration/approval (activity not started) shall be in Form 10A and with an undertaking that activity has not yet started.
- Registration/Approval under Income Tax Act for the organisations who have already commenced its activities shall be in Form 10AB and it shall be with an undertaking that activity has already been started and further undertaking that no income or part thereof has been excluded from the total income on account of applicability of sub-clause (iv) or sub-clause (v) or sub-clause (vi) or sub-clause (via) of clause (23C) of section 10 or section 11 or 12 for any previous year ending on or before the date of making this application, at any time after the commencement of such activities.
- In both the cases i.e. in form 10A & 10AB, a further undertaking to communicate forth with any alteration in the terms of the trust/society/non-profit company, or in the rules governing the Institution, made at any time hereafter.
- The order under section 10AC and 10AD to include the nature of activities i.e. religious or charitable or religious cum charitable.

OTHER KEY ISSUES PERTAINING TO**AMENDED REGISTRATION PROCESS**

8.01 Relief through clarificatory Circular 6 of 2023 dt. 24.05.2023 regarding applicability of provisional registration from the assessment year relevant to the previous year in which the application is made:

As per the current timeline for application for provisional registration, the application for provisional registration/approval is required to be made at least one month prior to the commencement of previous year relevant to the AY from which registration/approval is sought/made. Therefore, if an organisation wants to take the benefit of registration for AY 2025-26 it has to submit its application for registration atleast by the end of Feb, 2024.

However, at the same time, as per section 12A(2) and as per the fourth proviso to section 80G(5) such registration/approval shall be having validity from the assessment year immediately following the financial year in which the application is made.

This anomaly in the effective date of provisional registration /approval has been addressed by circular 6 of 2023 and it has been clarified that the provisional registration/approval shall be effective from the assessment year relevant to the previous year in which the application is made, subject to the provision of converting the same to normal registration/approval.

8.02 Date of commencement of activities:

The date of commencement of activities has become very much important :

- a. It is the key event or date on the basis of which one need to assess whether one need, to apply for provisional registration/approval or direct regular registration/approval or
- b. Again, the date of submitting an application for regularising provisional registration/approval to regular registration/approval is within the six months from the date of commencement of activities.

However, in the absence of any clarity from the Income Tax department by way of rules/circular, the date of commencement of activities can be a matter of multiple interpretation. However, in our opinion the date of commencement of activity should be considered from the date of first application of income towards charitable or religious purposes. A CBDT circular on what shall constitute as the

date of commencement of activities would be much helpful in avoiding any future litigations.

8.03 Closure of window for applying for registration under section 12AB/10(23C) or for approval under section 80G (in cases where benefit of exemption has been taken in the past) :

The amended Provision w.e.f. 1.10.2023 has closed the window for organisation to apply for provisional registration/approval if the activity has already been started.

The amended provision has also closed the window for direct registration/approval if such organisation has claimed the exemption benefit under section 10(23)(C)(iv)/(v)/(vi)/(via) or section 11 or section 12, for any previous year ending on or before the date of such application.

Hence, any registered organisation who could not regularise their registration/approval under new scheme of registration/approval or the registration has been cancelled, then such organisations cannot apply for either provisional registration/approval (as the activity has already been started) or they can apply for direct registration/approval (as in such cases benefit of exemption has been taken in the past). This is probably the most severe consequence of the amendments as normally organisations are provided opportunity to apply for fresh registration after a specified period. However, under the current law any organisation whose 12AA/12AB registration has been cancelled or not regularised **can never apply for registration again.**

8.04 Application for 80G approval to be made in the same year in which the application for registration under section 12AB is made:

Up to 30th September, 2023, it was permissible to make application for 80G approval any time in future years after obtaining section 12AB registration. However under the amended law, there seems to be an unintended bar on applying for 80G

registration in future years. In other words, 80G approval has to be made in the same year in which application for registration under section 12AB is given.

As per the amended provision with effect from 1st October, 2023, application for direct approval under section 80G can be made only when:

- (i) the activities has been commenced and also
- (ii) the entity has not claimed any exemption benefit under section 10(23)(C)(iv)/(v)/(vi)/(via), or section 11 or section 12, for any previous year ending on or before the date of such application.

Hence the amended provision with effect from 1.10.2023 has closed the window to apply for 80G approval where organisation have claimed exemption benefit in the past.

Hence it becomes important that application for 80G approval is also made in the same year in which application for registration under section 12AB is made, otherwise, the eligibility to apply for 80G approval will laps after the year of claiming the benefit of exemption under Section 11/10(23C).

CAN NON-APPROVED CATEGORY NPOs APPLY FOR 12AB REGISTRATION OR APPROVAL UNDER SECTION 10(23)(C) ?

- 9.01** Another issue which needs clarity is whether organisations such as educational and medical institutions having income of less than Rs. 5 crores are eligible to apply for registration under section 12AB or for approval under section 10(23C).
- 9.02** In other words, the issue is whether the organisation claiming exemption as a non-approval category under section 10(23) can apply for approval for exemption benefit under section 10(23)(C) (iv)/(v)/(vi)/(via), or registered under section 12AB.

- 9.03** In our opinion, such organisation can directly apply for registration under section 12AB or for approval under section 10(23C) (iv)/(v)/(vi)/(via) as the charitable activities have already been commenced and in the given case, NPO has not taken any benefit of exemption neither under section 10(23C) (iv)/(v)/(vi)/(via) nor under section 12AB as the exemption claimed so far by them is as non-approval category covered under section 10(23)(C)(iiiab)/(iiiac)/(iiiad)/(iiiiae).

CAN PROVISIONAL REGISTRATION/APPROVAL APPLIED UNDER AMENDED LAW W.E.F 01.10.2023 TAKE BENEFIT OF CBDT CIRCULAR 7 ?

- 10.01** The issue is whether the amended timeline up to 30.06.2024 as per Circular 7 dated 25.04.2024 applies to new provisional registration effective from 01.10.2023.
- 10.02** In our opinion, such organisation are also eligible to take advantage of the CBDT circular in case there is a delay or failure in filing of Form 10AB for regular registration. The circular 7 doesn't distinguish between the registration scheme effective up to 30.09.2023 or effective from 01.10.2023 and shall apply in both the cases.
- 10.03** If the provisional registration has been applied for after 1.10.23 let's say on 2nd October, 2023 and obtained let's say on 10.10.2023. The charitable activity has commenced on 15.10.2023, then, such organisations who did not submit application in Form 10AB by 15.04.2024 can also submit Form 10AB taking the benefit of circular 7.

Standards & Norms aims to provide relevant informations and guidance on NGO governance, Financial Management and Legal Regulations. The informations provided are correct and relevant to the best of the knowledge of the author and contributor. It is suggested that the reader should cross check all the facts, law and contents before using them. The author or the publisher will not be responsible for any loss or damage to any one, in any manner.



Published by Dr. Sandeep Sharma on behalf of
FINANCIAL MANAGEMENT SERVICE FOUNDATION
 'ACCOUNTABILITY HOUSE', A-5, Sector 26, Noida-201 301
 Tel. : 91-120-4773200, website : www.fmsfindia.org
 e-mail : fmsf@fmsfindia.org

Annexure 1**CIRCULAR NO. 6 OF 2023 DATED 24.05.2023**

Circular No. 6 of 2023

F. No.370133/06/2023-TPL
 Government of India
 Ministry of Finance
 Department of Revenue
 Central Board of Direct Taxes
 (TPL Division)

Dated: 24th May, 2023

Sub: Clarification regarding provisions relating to charitable and religious trusts - reg.

1. Income of any fund or institution or trust or any university or other educational institution or any hospital or other medical institution referred to in sub-clause (iv) or sub-clause (v) or sub-clause (vi) or sub-clause (via) of clause (23C) of section 10 of the Income-tax Act, 1961 ("the Act") or any trust or institution registered under section 12AA or section 12AB of the Act (hereinafter referred to as "the trust") is exempt subject to the fulfilment of the conditions provided under relevant sections of the Act. Taxation and Other Laws (Relaxation and Amendment of Certain Provisions) Act, 2020 amended the provisions related to application by a trust for registration or approval by amending the first and second proviso to clause (23C) of section 10, clause (ac) of sub-section (1) of section 12A of the Act, inserting section 12AB of the Act and amending the first and second proviso to sub-section (5) of section 80G of the Act. The amended provisions provide for the following:

- (a) All the existing trusts were required to apply for registration/approval on or before 30.06.2021. However, on consideration of difficulties in the electronic filing of Form No. 10A, the Central Board of Direct Taxes (the Board) in exercise of the powers conferred upon it under Section 119 of the Act extended the due date for filing Form No. 10A in such cases to 31.08.2021 vide Circular No.12 of 2021 dated 25.06.2021, to 31.03.2022 vide Circular No. 16 of 2021 dated 29.08.2021 and further till 25.11.22 vide Circular No. 22 of 2022 dated 01.11.2022. Such registration/approval shall be valid for a period of 5 years. Thus, existing trusts are required to apply for fresh registration/approval and once the registration/approval is granted it is valid for five years.
- (b) New trusts are required to apply for provisional registration/approval at least one month prior to the commencement of the previous year relevant to the assessment year from which the said registration/approval is sought. Such provisional registration/approval is valid for a maximum period of three years.
- (c) Provisionally registered/approved trusts will again need to apply for regular registration/approval in Form No. 10AB at least six months prior to the expiry of the period of provisional registration/approval or within six months of the commencement of activities, whichever is earlier. This registration/approval is valid for a period of five years. On consideration of

difficulties in electronic filing of Form No.10AB, the Board in exercise of its powers under section 119 of Act extended the due date for electronic filing of Form No. 10AB to 30.09.2022 vide Circular No 8 of 2022 dated 31.03.2022.

- (d) The trusts once approved/registered for five years are required to apply at least six months prior to the expiry of the period of five years.
- (e) The deduction under section 80G of the Act in respect of a donation made by a donor to a fund or institution referred to in sub-clause (iv) of clause (a) of sub-section (2) of section 80G, shall be allowed to the donor only if a statement of such donations is furnished by the donee in Form 10BD. The certificate of such donation is required to be provided in Form No. 10BE. Further, Form No. 10BD and Form No. 10BE are required to be furnished on or before the 31st May, immediately following the financial year in which the donation is received.

2. Representations received from stakeholders requesting for clarity on provisions related to trusts are dealt with as under:

Clarification regarding application of section 115TD for failure to apply to registration/approval

3. Finance Act, 2023 has, *inter-alia*, amended section 115TD of the Act, so as to provide that the accreted income of the trusts not applying for registration/ approval, within the specified time, shall be made liable to tax in accordance with the provisions of section 115TD of the Act. This amendment has come into effect from 01.04.2023 and therefore applies to assessment year 2023-24 and subsequent assessment years.

4. Representations have been received stating that several trusts have not been able to apply for registration/ approval within the required time due to genuine hardship. This has also led to rejection of applications simply on the ground that these were delayed. As mentioned in para 1(a) above, the last date for filing an application by the existing trusts seeking registration/ approval was extended to 25.11.2022 vide Circular No. 22 of 2022 dated 01.11.2022. Further, as stated in 1(c) above, the due date for furnishing application for registration/approval by the provisionally registered/approved trusts was extended till 30.09.2022. These trusts shall be subject to tax under section 115TD of the Act in accordance with the provisions of the said section, as amended by the Finance Act, 2023 if the application is not made by 25.11.2022 or 30.09.2022, as the case may be.

5. In order to mitigate genuine hardship in such cases, the Board, in the exercise of the power under section 119 of the Act, extends the due date of making an application in,-

- (i) Form No. 10A, in case of an application under clause (i) of the first proviso to clause (23C) of section 10 or under sub-clause (i) of clause (ac) of sub-section (1) of section 12A or under clause (i) of the first proviso to sub-section (5) of section 80G of the Act, till 30.09.2023 where the due date for making such application has expired prior to such date;

(ii) Form No. 10AB, in case of an application under clause (iii) of the first proviso to clause (23C) of section 10 or under sub-clause (iii) of clause (ac) of sub-section (1) of section 12A of the Act, till 30.09.2023 where the due date for making such application has expired prior to such date.

6. In view of the above, trusts may now apply for registration/approval under clause (i) or clause (iii) of the first proviso to clause (23C) of section 10 or sub-clause (i) or sub-clause (iii) of clause (ac) of sub-section (1) of section 12A of the Act by 30.09.2023 and where such application is made by the said date and registration/approval is granted, the provisions of clause (iii) of sub-section (3) of section 115TD of the Act shall not apply on account of delay in making application in accordance with the provisions of clause (i) or (iii) of the first proviso to clause (23C) of section 10 or sub-clause (i) or (iii) of clause (ac) of sub-section (1) of section 12A of the Act.

7. It may be also noted that the extension of due date as mentioned in paragraph 5(ii) shall also apply in case of all pending applications under clause (iii) of the first proviso to clause (23C) of section 10 or sub-clause (iii) of clause (ac) of sub-section (1) of section 12A of the Act, as the case may be. Hence, in cases where the trust has already made an application in Form No. 10AB under the said provisions but such application has been furnished after 30.09.2022 and where the Principal Commissioner or Commissioner has not passed an order before the issuance of this Circular, the pending application in Form No. 10AB may be treated as a valid application. Further, in cases where the trust had already made an application in Form No. 10AB, and where the Principal Commissioner or Commissioner has passed an order rejecting such application, on or before the issuance of this Circular, solely on account of the fact that the application was furnished after the due date, the trust may furnish a fresh application in Form No. 10AB within the extended time provided in paragraph 5(ii) i.e. 30.09.2023.

8. It is also clarified that where trusts have missed the deadline of 25.11.2022, as mentioned in para I(a) above, for making an application for registration/ approval in Form No. 10A, and have subsequently furnished Form No. 10A seeking provisional registration/approval, the relevant functionality on the e-filing portal may be used for surrendering the Form No. 10A seeking provisional registration/approval and such trusts can make a new application in Form No. 10A for registration/ approval within the extended period up to 30.09.2023, as mentioned in paragraph 5(i).

Extension of due date for furnishing of Form No. 10BD.

9. In view of extension provided to funds or institutions seeking approval under sub-section (5) of section 80G of the Act, as discussed in paragraph 5(i), in the exercise of the power under section 119 of the Act, the Board also extends the due date for furnishing of statement of donation in Form No.

10BD and the certificate of donation in Form No. 10BE in respect of the donations received during the financial year 2022-23 to 30.06.2023.

Clarification regarding applicability of provisional registration

10. Eighth proviso to clause (23C) of section 10 of the Act, *inter-alia*, provides that in the case of a trust referred to under sub-clauses (iv), (v), (vi) or (via) of clause (23C) of section 10 of the Act seeking provisional approval, such approval shall be from the assessment year immediately following the financial year in which the application is made. However, the first proviso to clause (23C) of section 10 provides that the application for provisional approval is required to be made at least one month prior to the commencement of the previous year relevant to the assessment year from which approval is sought.

11. Similarly, clause (ac) of sub-section (1) of section 12A of the Act provides that the trusts seeking provisional registration are required to make an application at least one month prior to the commencement of the previous year relevant to the assessment year from which registration is sought. However, sub-section (2) of section 12A, *inter-alia*, provides that the provisional registration shall be applicable from the assessment year immediately following the financial year in which the application for such registration is made. On the same lines, the first proviso to sub-section (5) of section 80G of the Act provides that application for provisional approval by a fund or institution is required to be made at least one month prior to the commencement of the previous year relevant to the assessment year from which approval is sought. However, the fourth proviso to sub-section (5) of section 80G, *inter-alia*, provides that the provisional approval granted under the second proviso shall be applicable from the assessment year immediately following the financial year in which the application for such registration is made.

12. With a view to bring consistency, it is hereby clarified that in case of trusts, funds or institutions seeking provisional approval or provisional registration as referred to in para 10 and 11, the said provisional approval or provisional registration shall be effective from the assessment year relevant to the previous year in which the application is made and shall be valid for a period of three assessment years subject to the provisions of clause (iii) of the first proviso to clause (23C) of section 10 or in sub-clause (iii) clause (ac) of sub-section (1) of section 12A or clause (iii) of the first proviso to sub-section (5) of section 80G of the Act, as the case may be.

Clarification regarding denial of exemption in case where the statement of accumulation is not filed by the due date.

13. Finance Act, 2023 has amended sub-section (2) of section 11 of the Act to provide that statement of accumulation as referred to in clause (a) of said sub-section [Form No. 10] is required to be furnished at least two months prior to the due date of furnishing return of income under sub-

section (1) of section 139. Similarly, the provisions of Explanation 3 to the third proviso to clause (23C) of section 10 of the Act have also been amended. Further, the due date for furnishing the option for deemed application of income in Form No. 9A under clause (2) of the Explanation 1 to sub-section (1) of section 11 of the Act has also been amended to be at least two months prior to the due date of furnishing return of income, under sub-section (1) of section 139.

14. Representations have been received that the trusts may not be able to furnish Form No. 10 and Form No. 9A before the finalisation of their computation of income. Since the computation of income is finalised at the time of furnishing of return of income, therefore, the trusts should be allowed to furnish Form No. 10 and Form No. 9A by the due date of furnishing their income tax return.

15. It is clarified that the statement of accumulation in Form No. 10 and Form No. 9A is required to be furnished at least two months prior to the due date of furnishing return of income so that it may be taken into account while auditing the books of account. However, the accumulation/deemed application shall not be denied to a trust as long as the statement of accumulation/deemed application is furnished on or before the due date of furnishing the return as provided in sub-section (1) of section 139 of the Act.

Clarification regarding audit report to be furnished in Form No. 10B.

16. One of the conditions required to be fulfilled by the trusts to be eligible to claim exemption, under the relevant provisions of the Act, is that where the total income of any trust, as computed under the Act, without giving effect to the provisions of section 11 and section 12 of the Act or the provisions of the sub-clauses (iv), (v), (vi) and (via) of clause (23C) of section 10 of the Act, as the case may be, exceeds the maximum amount which is not chargeable to income-tax in any previous year, it is required to get its accounts audited.

17. In order to rationalise the provisions related to audit report of trusts and in view of the significant amendments made to the taxation of trusts over the past few years, revised audit report in Form No. 10B and Form No. 10BB have been notified vide Notification No. 7 of 2023 dated 21.02.2023 so as to provide that the report of audit of the accounts of a trust, shall be furnished in –

- (a) Form No. 10B where,
 - (i) the total income of trust, exceeds Rs five crores during the previous year; or
 - (ii) such trust has received any foreign contribution during the previous year; or
 - (iii) such trust has applied any part of its income outside India during the previous year;
- (b) Form No. 10BB in other cases.

18. With regard to the above it may be noted that Form No. 10B and Form No. 10BB requires the auditor to bifurcate certain payments or application in electronic modes and non-electronic modes. The

Notes to the said Forms provide that electronic modes shall be the following modes referred in rule 6ABBA of the Income-tax Rules, 1962:

- (a) Credit Card;
- (b) Debit Card;
- (c) Net Banking;
- (d) IMPS (Immediate Payment Service);
- (e) UPI (Unified Payment Interface);
- (f) RTGS (Real Time Gross Settlement);
- (g) NEFT (National Electronic Funds Transfer); and
- (h) BHIM (Bharat Interface for Money) Aadhar Pay.

19. It has been represented that the above description of electronic modes does not include account payee cheque drawn on a bank or an account payee bank draft or use of electronic clearing system through a bank account.

20. It is hereby clarified that for the purposes of Form No. 10B and Form No. 10BB electronic modes referred to in para 18 are in addition to the account payee cheque drawn on a bank or an account payee bank draft or use of electronic clearing system through a bank account.

21. Hindi version to follow.


(Vipul Agarwal)
Director (TPL-I), CBDT

Copy to the:

1. PS/ OSD to FM/ PS/OSD to MoS (F).
2. PS to the Finance Secretary.
3. Chairman and Members, CBDT.
4. Joint Secretaries/ CsIT/ Directors/ Deputy Secretaries/ Under Secretaries, CBDT.
5. C&AG of India (30 copies).
6. JS & Legal Adviser, Ministry of Law & Justice, New Delhi.
7. Institute of Chartered Accountants of India.
8. CIT (M&TP). Official Spokesperson of CBDT.
9. ADG (Systems) -4 for uploading on departmental website.
10. JCIT, Database Cell for uploading on irs.officersonline.gov.in.
11. All PrCCITs.


(Vipul Agarwal)
Director (TPL-I), CBDT

Annexure 2

CIRCULAR NO. 7 OF 2024 DATED 25.04.2023

Circular No. 7 /2024

F. No. 173/25/2024-ITA-I
 Government of India
 Ministry of Finance
 Department of Revenue
 Central Board of Direct Taxes

New Delhi, Dated 25th April, 2024

**Sub: Extension of due date for filing of Form No. 10A/10AB under the Income-tax Act, 1961–
 reg.**

On consideration of difficulties reported by the taxpayers and other stakeholders in the electronic filing of Form No. 10A/10AB, the Central Board of Direct Taxes (*the Board*) in exercise of its powers under section 119 of the Income-tax Act, 1961 (*the Act*) extended the due date for filing Form No. 10A to 31.08.2021 by Circular No. 12/2021 dated 25.06.2021, to 31.03.2022 by Circular No. 16/2021 dated 29.08.2021, to 25.11.2022 by Circular No. 22/2022 dated 01.11.2022 and further to 30.09.2023 by Circular No. 6/2023 dated 24.05.2023, and extended the due date for filing Form No. 10AB to 30.09.2022 by Circular No. 8/2022 dated 31.03.2022 and further to 30.09.2023 by Circular No. 6/2023 dated 24.05.2023.

2. Representations have been received in the Board with a request to condone the delay in filing Form No. 10A/10AB, as the same could not be filed in such cases within the last extended date, i.e., 30.09.2023.

3. On consideration of the matter, with a view to avoid and mitigate genuine hardship in such cases, the Board, in exercise of the powers conferred under section 119 of the Act, hereby extends the due date of making an application/intimation electronically in –

(i) Form No. 10A, in case of an application under clause (i) of the first proviso to clause (23C) of section 10 or under sub-clause (i) of clause (ac) of sub-section (1) of section 12A or under clause (i) of the first proviso to sub-section (5) of section 80G or in case of an intimation under fifth proviso of sub-section (1) of section 35 of the Act, till 30.06.2024;

(ii) Form No. 10AB, in case of an application under clause (iii) of the first proviso to clause (23C) of section 10 or under sub-clause (iii) of clause (ac) of sub-section (1) of section 12A or under clause (iii) of the first proviso to sub-section (5) of section 80G of the Act, till 30.06.2024.

4. It may be also noted that extension of due date as mentioned in paragraph 3(ii) shall also apply in case of all pending applications under clause (iii) of the first proviso to clause (23C) of section 10 or

Page 1 of 2

sub-clause (iii) of clause (ac) of sub-section (1) of section 12A or under clause (iii) of the first proviso to sub-section (5) of section 80G of the Act, as the case may be. Hence, in cases where any trust, institution or fund has already made an application in Form No.10AB under the said provisions on or before the issuance of this Circular, and where the Principal Commissioner or Commissioner has not passed an order before the issuance of this Circular, the pending application in Form No. 10AB may be treated as a valid application.

4.1 Further, in cases where any trust, institution or fund has already made an application in Form No. 10AB, and where the Principal Commissioner or Commissioner has passed an order rejecting such application, on or before the issuance of this Circular, solely on account of the fact that the application was furnished after the due date or that the application has been furnished under the wrong section code, it may furnish a fresh application in Form No. 10AB within the extended time provided in paragraph 3(ii) i.e. 30.06.2024.

5. It is also clarified that if any existing trust, institution or fund who had failed to file Form No. 10A for AY 2022-23 within the due date as extended by the CBDT circular no. 6/2023 dated 24.05.2023 and subsequently, applied for provisional registration as a new trust, institution or fund and has received Form No. 10AC, it can avail the option to surrender the said Form No. 10AC and apply for registration for AY 2022-23 as an existing trust, institution or fund in Form No. 10A within the extended time provided in paragraph 3(i) i.e. 30.06.2024.

6. Hindi version to follow.


(Vikas Singh)
Director (ITA-I)

Copy to:-

1. PS to FM/OSD to FM/PS to MoS (R)/OSD to MoS(R)
2. PS to Revenue Secretary
3. Chairman, CBDT & All Members, CBDT
4. All Principal Chief Commissioners of Income-tax / Principal Director Generals of Income-tax.
5. DGIT(Systems), New Delhi
6. All Joint Secretaries/CsIT, CBDT
7. Web Manager, O/o DGIT(Systems) with request to upload on the departmental website of incometaxindia.gov.in.
8. Pr. Commissioner of Income-tax (Media & TP) and official Spokesperson, CBDT, New Delhi.
9. JCIT, Data-Base Cell for uploading on irsofficeronline.gov.in.
10. Guard File


Director (ITA-I)