

INCOME-TAX ACT, 2025 · CHAPTER XVII, PART B

Taxation of Non-Profit Organisations

Provisions applicable to charitable and religious NPOs from Tax Year 2026-27

Rajput Jain & Associates

Chartered Accountants · New Delhi · Noida · Mumbai · Varanasi · Faridkot

OVERVIEW

What changes from Tax Year 2026-27

One common term

Trusts, societies, section 8 companies, hospitals and educational institutions are now all called a **non-profit organisation (NPO)**.

One chapter

All provisions except penalties sit in Part B of Chapter XVII — **Sections 332 to 355** — read with the Schedules and Rules 181 to 190. Old provisos and explanations become sub-sections.

Registration is the gateway

Exemption needs registration under the 1961 Act or the new Act — except Schedule VII entities: PM, CM and similar funds (Sr. 10–16) and universities, educational institutions and hospitals (Sr. 17–19).

Charitable purpose — an inclusive definition

- (a) Relief of the poor
 - (b) Education
 - (c) Yoga
 - (d) Medical relief
 - (e) Preservation of environment, including watersheds, forests and wildlife
 - (f) Preservation of monuments, places or objects of artistic or historic interest
 - (g) Advancement of any other object of general public utility
- An inclusive list — the crux is selflessness.*

A purpose is charitable only if it benefits the community or a section of it — as distinguished from an individual or a group of individuals.

CIT v. Ahmadabad Rana Caste Association (1983) 140 ITR 1 (SC)

RELIGIOUS PURPOSE

Religious purpose — not defined in either Act

Religious purposes are necessarily associated with religion — a matter of faith resting on a system of beliefs or doctrines.

It includes the advancement, support or propagation of a religion and its tenets.

The term was not defined in the 1961 Act and is not defined in the new Act either.

KEY CONDITION

Public religious trusts only

Exemption is not available to a trust for private religious purposes, or where income is applied for private religious purposes that do not enure for the benefit of the public.

Cross-reference: specified violation, s.351(c).

STRUCTURE

Part B at a glance – Sections 332 to 355

Block	New Act	Old Act equivalent
Registration and switching of regimes	332–333	Ss. 12A, 12AB, 11
Income of a registered NPO	334–343	Ss. 11, 12, 13, 115BBC, 115BBI, 164(2)
Commercial activities	344–346	Ss. 11(4), 11(4A), 2(15)
Compliances	347–350	Ss. 12A(1)(b), 12A(1)(ba), 139(4A), 11(5)
Violations	351–353	Ss. 12AB, 13, 115TD–115TF, 13(10)–(11)
Approval for donor deduction	354	S. 80G(5)
Interpretation	355	S. 13(3) and related definitions
Penalties	445, 464	Ss. 271AAE, 271K

Tax on income of a registered NPO

30%

Specified income

Income listed in Section 337 is taxed at a flat 30%.

Normal

Taxable regular and residual income

Taxed at the rates otherwise applicable under the Act.

Section 334(2): Part B applies notwithstanding anything else in the Act, except Sections 96 to 98 (old Ss. 60–63 — transfer of income without transfer of assets and revocable transfers).

WP(L) No. 7587 — order dated 9 March 2026

01

The absence of an express irrevocability or dissolution clause cannot by itself justify refusal or cancellation of registration under s.12AB.

02

A public charitable trust is regarded as irrevocable unless a power of revocation is expressly reserved.

03

The Commissioner cannot impose conditions that the statutory framework does not contemplate.

Regular income — five components

- (a) Income from the charitable or religious activity for which the NPO is registered
- (b) Income from property, deposits or investments held wholly for charitable or religious purposes
- (c) Income from property held partly for such purposes — only NPOs formed before 1-4-1962
- (d) Voluntary contributions received
- (e) Gains of commercial activity permitted under ss. 344–346, computed as per Rule 182

HOW IT IS TAXED

The taxable portion of regular income is charged at **normal rates**.

Exception: income of a business undertaking determined by the AO under s.344 in excess of the books is specified income, taxed at 30%.

Taxable regular income — the 85% test

IF 85% OR MORE IS APPLIED OR ACCUMULATED

Nil

Taxable regular income is nil where at least 85% of regular income is applied (s.341) or accumulated (s.342).

IF LESS THAN 85%

Shortfall

85% of regular income, less application and accumulation — only the shortfall is taxable.

Illustration: regular income ₹100 lakh, applied ₹70 lakh, nothing accumulated → taxable regular income = ₹85 lakh – ₹70 lakh = ₹15 lakh (before any deemed-application option under s.341(5)).

Specified income — what attracts 30%

#	Specified income	Taxable in
1	Anonymous donations above the higher of ₹1 lakh or 5% of donations	Year of receipt
2	Income applied for the benefit of a related person (Rule 183)	Year of application
3	Income applied outside India in contravention of s.338(a)	Year of application
4	Investment or deposit made in contravention of s.350	Year of investment
5	Deemed corpus donation violating any condition of s.340	Year of violation
6	Accumulated income applied to other than its stated purpose	Year so applied
7	Accumulated income that ceases to be accumulated or set apart	Year it ceases

Anonymous donation (s.355(a)): donor's name, address and prescribed particulars not recorded. Wholly religious NPOs are outside item 1; so are mixed charitable-religious NPOs, except donations earmarked for a university, hospital or medical institution they run.

Specified income — items 8 to 13

#	Specified income	Taxable in
8	Accumulated income not applied within the period set under s.342(1)	Last year of the period
9	Accumulated income credited or paid to another registered NPO	Year so credited or paid
10	Income applied to purposes other than its registered objects*	Year so applied
11	Business income determined by the AO under s.344 above the books	Year to which it relates
12	FMV of assets outside Sch. XVI modes 1–30 beyond the one-year window	Year after the window ends
13	Deemed application under s.341(5) not applied within the s.341(6) period	Year specified in s.341(6)

*Also a specified violation under s.351, which can trigger cancellation of registration. Residual income (s.355(j)) = total income before Part B, less regular and specified income — taxed at normal rates.

Benefits to related persons

Rule 183 — benefits caught

- Lending without adequate security
- Lending without adequate interest
- Use of property without adequate rent
- Excessive salary or allowances
- Goods or services without adequate price
- Buying assets for more than adequate value
- Selling assets for less than adequate value
- Diverting income exceeding ₹1,000
- Diverting property worth over ₹1,000
- Investing in concerns of substantial interest

Related person — s.355(h)

- Author or founder
- Donor of over ₹1 lakh in the year or ₹10 lakh in aggregate
- HUF members, where founder is an HUF
- Trustees and managers
- Relatives of founders, HUF members, trustees
- Concerns where they hold $\geq 20\%$ interest

PENALTY · S.445 (OLD S.271AAE)

100% of the amount applied the first time; 200% if noticed again in a later year.

Kept outside regular income

SECTION 338

Applied outside India

Excluded where the CBDT so directs by general or special order — for NPOs created before 1-4-1952, or later charitable NPOs promoting international welfare in which India is interested.

SECTION 339

Corpus donation

A donation with a specific direction that it forms part of corpus — provided it is invested or deposited in s.350 modes maintained specifically for the corpus.

SECTION 340

Deemed corpus

At the NPO's option, donations to renovate or repair a notified temple, mosque, gurudwara, church or other place — if kept separately, used only for that purpose, invested under s.350 and not donated onward.

Application of income — what qualifies

Allowed

- Sums applied in India for registered purposes and actually paid in the year
- TDS default: 30% disallowed (s.35(b)(i))
- Cash over ₹10,000 (₹35,000 to transporters): fully disallowed (s.36(4)–(7))
- 85% of donations to other registered NPOs

Also included

- Re-investment into corpus within 5 years
- Repayment of loans or borrowings within 5 years
- Only where the original application was after 31-3-2021 with no violation

Not application

- Depreciation on assets whose cost was already applied
- Set-off of earlier years' excess application
- Corpus donations to other NPOs
- Spending out of corpus, loans, accumulated, deemed accumulated or specified income

Deemed application and capital gains

Deemed application

- If less than 85% is applied, the shortfall may — at the NPO's option — be treated as applied
- Apply it in the year of receipt or the next year where income was not received; otherwise in the next year
- Opt in Form 108 (old Form 9A) by the return due date under s.263(1)
- Unapplied amounts become specified income (item 13)

Capital gains — s.341(9)

Asset held wholly for charitable or religious purposes:

- Whole net consideration reinvested → entire gain is application
- Part reinvested → amount reinvested minus cost of the transferred asset

Asset held in part: the appropriate fraction applies.

CBDT Instruction No. 883 (24-9-1975): a bank FD of 6 months or more counts as utilisation.

Accumulation and deemed accumulation

Accumulation — s.342

- Set apart regular income for up to 5 years, stating purpose and period in Form 109 (old Form 10) by the return due date
- Period under a court order or injunction is excluded
- Invest under s.350 or apply for the stated purpose
- Change of purpose: Form 110 to the AO; order in Form 111
- Transfers to other registered NPOs are not application — except on dissolution, with the AO's approval

15%

Deemed accumulation — s.343

Income left after application and accumulation, up to 15% of regular income, is deemed accumulated. If invested, use s.350 modes. It is not accumulation under s.342.

Commercial activities by NPOs

Commercial activity (s.355(e)): any trade, commerce or business, or service to it, for a cess, fee or other consideration — whatever the use of the income.

SECTION 344

Business undertaking

The AO may determine its income.
Any excess over the books is specified income, taxed at 30%.

SECTION 345

First six limbs

Commercial activity only if incidental to the objects and separately accounted. Non-incidental business may trigger cancellation under s.351.

SECTION 346

General public utility

Only in the course of actually carrying out GPU objects, with commercial receipts within 20% of total receipts, and separate books.

SECTIONS 347–350

Compliances for registered NPOs

Triggered when total income, **before Part B benefits**, exceeds the maximum amount not chargeable to tax.

SECTION 347

Books of account

Maintain books and documents as prescribed — Rule 187 (old Rule 17AA).

SECTION 348

Audit

Audit by an accountant; report in Form 112 one month before the return due date — Rule 188 (old 17B).

SECTION 349

Return of income

File under s.263(1)(a)(iii) within the regular or belated time limit.

SECTION 350

Permitted investments

Only Schedule XVI modes — post office, scheduled and co-operative banks, government securities, immovable property, PSU shares and more.

Other violations — losing the benefit

Triggers

- Books not maintained (s.347)
- Accounts not audited (s.348)
- Return not filed (s.349)
- GPU NPO breaches the s.346 limits

Regular income less eligible expenditure is taxed under s.334; specified and residual income are taxed too.

Eligible expenditure — s.353(3)

- Revenue expenditure incurred in India for the objects
- Not out of corpus held at the previous year-end
- Not out of loans or borrowings
- No depreciation on assets already applied
- Not a contribution or donation
- Within cash limits and TDS-compliant

No other set-off or deduction is allowed — s.353(4).

Institutions exempt without registration

Sr.	Eligible person	Key conditions
17	University or educational institution wholly or substantially Government-financed	Exists solely for education, not profit; Government grant above 50% of total receipts (Rule 287)
18	Hospital or medical institution wholly or substantially Government-financed	Solely philanthropic, not for profit; Government grant above 50% of total receipts
19	University, educational institution, hospital or medical institution	Not for profit; aggregate annual receipts up to ₹5 crore; anonymous donations taxed as under s.337

No registration needed, but a return is required if income exceeds the exemption limit. In the author's view, the s.348 audit does not apply.

COMPUTATION FORMAT

Computing an NPO's income — Tax Year 2026-27 on

Particulars	Amount
Regular income (s.335): activity, property and investment income, voluntary contributions, permissible commercial gains	xxx
Less: application (s.341) — spent in India, 85% of donations to NPOs, corpus re-invested, loans repaid	(xxx)
Add: disallowances — 30% for TDS default; cash payments above ₹10,000 / ₹35,000	xxx
Less: deemed application (s.341(5))	(xxx)
Less: accumulation (s.342) and deemed accumulation up to 15% (s.343)	(xxx)
Taxable regular income — normal rates	xxx
Residual income (s.355(j)) — normal rates	xxx
Specified income (s.337) — 30%	xxx

Capital gains and income applied outside India are computed separately.

Thank you

Rajput Jain & Associates · Chartered Accountants

P-6/90 (2F), Connaught Circus, Connaught Place, New Delhi – 110001

Mobile +91 98113 22785 · Landline 011-4352-0194

info@carajput.com · www.carajput.com

Content adapted from a note by CA Suhas Malankar for the WIRC of ICAI seminar, 8 August 2026. For general information only — not professional advice.