

## **Registration and Taxation of NPO**

# About Us

- Rajput Jain & Associates is a Chartered Accountants firm, with its headquarter situated at New Delhi (the capital of India). The firm has been set up by a group of young, enthusiastic, highly skilled and motivated professionals who have taken experience from top consulting firms and are extensively experienced in their chosen fields. It has provided a wide array of Accounting, Auditing, Taxation, Assurance and Business advisory services to various clients and their stakeholders. It focuses on providing tailor-made solutions to challenging problems of our clients, and performs with high quality and timely service.
- Rajput Jain & Associates, a professional firm, offers its clients a full range of services. To serve better and to bring a bucket of services under one roof, the firm has merged with its various Chartered Accountancy firms, a pioneer in diversified fields.
- Our main office is located at Delhi. Incidentally, Delhi is the Capital of India. Our other offices are in Mankapur & Moradabad (U.P.). We have associates all over India in big cities. All our offices are well equipped with latest technological support with updated reference materials. We have a large team of professionals other than our Core Team members to meet the requirements of our prospective clients including the existing ones. However, considering our commitment towards high quality services to our clients, our team keeps on growing with more and more associates having strong professional background with good exposure in the related areas of responsibility. Further to meet the growing demands of the fiercely competitive market, we are constantly looking forward for a team of associates comprising of highly skilled professionals to cater the needs of an ever-increasing clientele.

# TYPES OF NPO

- ◉ Public Charitable Trust
- ◉ Society (Society Registration Act, 1860)
- ◉ Section 8 Company ( Section 8 of New Company Act 2013 )
- ◉ Special Licenses ( State Trading corporation)

# PROCEDURE OF REGISTRATION UNDER INCOME TAX

- New Section 12 AB replace section 12AA in budget 2020 dealing with the procedure for registration of a charitable trust/institutions
- Rule 17 A of the income tax rules prescribe the procedure for registration of a trust.
- New section 12AB to be applicable from 1.10.2020
- The Government intends to create a National Register of all charitable and religious institutions and the Income Tax Department will issue an electronically generated Unique Registration Number (URN) to all charitable and religious institutions

- ◉ For existing NPO having registration u/s  
12AA  
10(23C)  
35

File an application before Commissioner of Income Tax Exemption (U/S 12A (1) (ac) (i) ) from 01.10.2020 to 31.12.2020 for renewal the registration in form no 10 A on line

- The registration will be valid for five years beginning from AY 2021-22. or up to AY 2025-26
- After getting the application Income Tax will issue new registration number within 3 month without any further enquiry
- Issue the electronically generated **Unique Registration Number (URN)**
- File an application for further renewal before expire of 6 month (u/s 12A (1) (ac)(ii) before 30sep 2024



# PROVISIONAL REGISTRATION

Where no charitable activities carried on  
or

A new trust/institutions file a fresh application

- ◉ **Time limit for filing application** One month prior to the commencement of FY from which approval / registration is sought
- ◉ **Time limit for disposal of application** Within 1 month from end of month in which application filed
- ◉ Provisionally registration for 3 years
- ◉ **further application for renewal** Atleast 6 months before expiry or within 6 months of commencement of activities, whichever is earlier

# REQUIRED DOCUMENTS

- Copy of the trust deed/memorandum/ bye laws of the institutions.
- Copy of the Books of accounts such as balance sheet and income & expenditure.
- A brief note on charitable activities of the institutions.
- Copy of the pan no of institutions.
- Copy of the bank statements.
- Name , Address and Pan no of all office bearer.
- Some photograph of the charitable activities
- Affidavit of section 2(15) and section 13(3)
- NOC form the landlord
- Undertaking for investment under section 11(5)

# POINT TO BE KEPT FOR VALID REGISTRATION

- There should be a legally existent entity which can be registered .
- It should have a written instrument of creation or written document evidencing its creation.
- All its objects should be charitable or religious in nature as per the section 2 (15) of the income tax act.
- Its income and assets should be made applicable exclusively towards the objects mentioned in the object clauses, and the rules and by-laws.
- No part of its income should be distributable or distributed, directly or indirectly , to its members directors or founders, related persons or relatives etc claiming through them.
- In case of dissolution, its net assets after meeting all its liabilities, should not be revertible or reverted to its founder, members, directors or donors etc but used for the objects.
- In case of change the objectives a fresh application is required.



# SITUATION

- ◉ Opportunity of being heard.
- ◉ Time limit passing of order-6 month.
- ◉ Onus to proof by Assessee.
- ◉ Religious Trust.
- ◉ Charitable Activities as per section 2(15).
- ◉ Appeal for rejection before ITAT.
- ◉ Cancel for registration during assessment/search.

SECTION	PARTICULAR
SEC-11-	EXEMPTED THE INCOME SUBJECT TO CONDITION
SEC-12 -	DEALT WITH VOLUNTARY CONTRIBUTION
SEC-12A	CONDITION FOR APPLICATION FOR REGISTRATION UNDER INCOME TAX
SEC-13	CIRCUMSTANCES IN WHICH SEC 11 AND 12 DO NO APPLY

# CONDITION OF APPLICABILITY

## U/S 11

- ◉ Registration under income tax u/s 12A
- ◉ Charitable Activities as defined u/s 2(15) of Income Tax Act
- ◉ Law ful purpose of creation
- ◉ The trust should be for charitable or religious purpose
- ◉ Profit cannot be distributed among the Owners
- ◉ Beneficiaries to be Public at large without discrimination among caste, religion, gender etc.
- ◉ Return to be filed with in due date with audit report and form no 10/9A if required

# BASIC EXEMPTION LIMIT

- Income to be recognised without any head of Income.
- After the Application of Fund if any Surplus is available then
- We can avail the benefit of Basic Exemption limit Rs. 250000 /- (Trust and Society).
- Benefit of slab rate
- But in case of company no Basic exemption is available.



# INCOME TAX RETURN FORM

- The ITR - 7 has to be filled online along with audit report in form no 10B/10BB.( in case of registered u/s 12AA).
- ITR - 5 in case of unregistered trust/Society.
  - Due Date if registered u/s 12AA/1023C 30<sup>th</sup> September otherwise 31<sup>st</sup> July.

# ACTIVITIES COVERED U/S 2(15)

- Relief of the poor
- Education
- Medical relief
- Preservation of Environment(Including Watershed, forests and wildlife)
- Preservation of monuments or places
- Preservation of artistic or historic interest
- Any other object of general public utility
- Yoga

## OTHER EXAMPLE OF SECTION 2 (15)

- ◉ Gaushala and helping animals
- ◉ Dharmashala
- ◉ Research Institute
- ◉ Export promotion Associations
- ◉ Maintenance of Samadhis & Memorials
- ◉ Promotion of Khadi
- ◉ Promotion of Art, literature and science
- ◉ Maintenance of Libraries and Reading rooms
- ◉ Promotion of Sports & Games
- ◉ Meditation, Yoga and Spirituals developments

# INCOME IN COMMERCIAL SENSE

- ◉ The income from the properties held under trust have to be arrived at in the normal commercial manner without classification under the various heads set out in section 14 of the income tax Act 1961.
- ◉ The expression income has to be understood in the popular or general sense and not in the sense in which the income is arrived.



# ANY OTHER GENERAL PUBLIC UTILITY

- ◉ Any activity in nature of trade, commerce or business.
- ◉ Any activity of rendering any service in relation to any trade, commerce or business.
  - Charge a fee or cess or any other consideration.
  - The aggregate receipts of such activities during the Previous year does not exceed 20% of Total Receipts.

# ANONYMOUS DONATION SECTION 115BBC

Any Anonymous donation received by the following person to be taxable @ 30%

- Any trust or institution referred to in section 11 (other than religious trust).
- Any university or other educational institution referred to in section 10 23(c)(iiia) and (vi) i.e its annual receipts is less than or more than Rs 1 Crore.
- Any hospital or other institution referred to in section 10 (23C) (iiia) and ( vi) i.e. its annual receipts is less than or more than Rs 1 Crore.
- Any fund or institution referred to in section 10(23C)(iv).
- Any trust or institution referred to in section 10 (23C)(v).

# TAX ON ANONYMOUS DONATION

Aggregate of anonymous donation received in excess of HIGHER of the following shall be taxable @30% :

- 5% of the total donation received by the assessee.
- Or
- Rs 100000/-

## NPO ENGAGED IN BUSINESS ACTIVITIES

- ◉ As per Section 11(4A), if
  - Such business is incidental to attainment of the objectives of the trust.
  - Separate books of accounts are maintained.
  - Surplus to be applied for the objective of the trust.



## CONSIDERED AS BENEFIT TO A PERSON SECTION 13(3)

- ◉ Interest free Loan or Loan without Security.
- ◉ Use of properties without charging adequate rent.
- ◉ Excessive payment for services.
- ◉ Services of trust without adequate remuneration.
- ◉ Inadequate consideration of property sold.
- ◉ Excess payment of purchase of Property.
- ◉ Investment in substantial interest concerns.

# APPLICATION OF FUND

- ◉ As per the section 11(1), at least 85% of income should be applied during the Previous year for the purpose of Trust/ Institutions.
- ◉ If 85% amount is not applied due to following reasons:
  - (a) Income due but not received in the previous year.
  - (b) Any other reason.
  - Filed form no 10 with the income tax return online.

## MEANING OF APPLICATION OF FUND

1. Revenue Expenditure
2. Purchase of Fixed Assets - Any Loan taken against Fixed Assets
3. Repayment of Loan
4. Payment of any Taxes
5. Voluntary donation to other trust from current year income
6. Excess application in previous year set off

## SECTION 11(1)(A)

- ◉ Income from property held under trust  
, *wholly* for charitable or religious purpose,  
shall be exempt
  - to the extent such income is applied in  
India for such purposes
  - Accumulation allowed up to 15% of such  
income
  - Accumulation in excess of 15% allowed  
subject to certain condition being satisfied



## SECTION 11(1)(B)

- ◉ Income from property held under trust which is applied *in part* for charitable or religious purpose, shall be exempt
  - to the extent such income is applied in India for such purposes
  - Accumulation allowed up to 15% of such income
  - Accumulation in excess of 15% allowed subject to certain condition being satisfied
  - The trust should have been created before 01.04.1962

## SECTION 11(1) ( C )

- ◉ Income from property held under trust which is applied for charitable purpose outside India
  - the purpose of the trust is to promote “international welfare” in which India is interested
  - General or special order of CBDT be necessary
  - No accumulation shall be allowed

## SECTION 11(1) ( D)

- ◉ Income in form of voluntary contributions made with a Specific direction , that shall form part of the corpus of the trust shall be fully exempt
- No condition of application or accumulation shall applied

## VOLUNTARY CONTRIBUTIONS

- As per section 12 of IT Act 1961 any voluntary contribution (Except corpus ) received by a trust or institution ,created wholly for the charitable or religious purpose, for the purpose of section 11 be deemed to be income derived from property held under trust.



# ACCUMULATION OF INCOME

- ◉ Under section 11(2) in case where 85% of the income is not applied to charitable or religious purpose
  - May accumulate or set apart either the whole or part of its income for future application for such purposes for five years
  - file form no 10 before of due date of filing of return
  - The amount so set apart or accumulation should be kept in mode u/s 11(5) of the Act

# FORFEITURE OF EXEMPTION OF INCOME

- ◉ If any parts of income applied for private religious purpose not for public (sec 13 (1) (a))
- ◉ Trust is created for the benefit of any particular religious community or caste (sec 13(1)(b))
- ◉ Any part of the income applied direct or indirectly for the benefit of any person specified in sec. 13(3)
- ◉ If fund not invested as per section 11(5)

## SECTION WISE ORGANIZATION UNDER NPO

- ◉ 10(21)- Scientific Research Associations.
- ◉ 10(22B)- News Agencies.
- ◉ 10(23A)- Professional Institute.
- ◉ 10(23B)- Development of Khadi & Village.
- ◉ 10(23)(iiia):- Education institutes turnover not exceed 1 Cr.
- ◉ 10(23)(iiiae):- Hospitals turnover not exceed 1 Cr.
- ◉ 10(23)(iv):- Notified by the government for states Developments.
- ◉ 10(23)(v):- religious Trusts
- ◉ 10(23)(vi):- Education institutes turnover exceeds 1 cr.
- ◉ 10(23)(via):- Hospitals turnover exceeds 1 cr.
- ◉ 11 :- trust or institutions registered under 12 AA.
- ◉ 13A:- Political Parties.
- ◉ 13B:- Electoral Trusts.

# SECTION-WISE AUDIT UNDER NPO.

- ◉ 10(23)(iv):- Notified by the government for states Developments.
- ◉ 10(23)(v):- religious Trusts
- ◉ 10(23)(vi):- Education institutes turnover exceeds 1 cr.
- ◉ 10(23)(via):- Hospitals turnover exceeds 1 cr.
- ◉ 10A:- free Trade zone.
- ◉ 10AA:- Special Economic zone.
- ◉ 12A(1)(b):- trust /institution turnover exceed 2.5 lac before claim sec 11 and 12
- ◉ 44 AB:- tax Audit Report.
- ◉ 44 AD:- presumptive basis of Taxation
- ◉ 50B:- Special provision for computation of capital gain in case of slump sale.
- ◉ 80 IA/IB/IC/ID/JJAA/LA
- ◉ 92E: - Transfer pricing
- ◉ 115JB:- MAT/AMT
- ◉ 115VW:- Tonnage Scheme
- ◉ Others:



# SECTIONS FOR WHICH ITR - 7 IS APPLICABLE

- ◉ 139 (4A)
- ◉ 139 (4B)
- ◉ 139 (4C)
- ◉ 139 (4D)
- ◉ OTHERS

## SECTION 139 ( 4A )

- ◉ Every NPO whose total income exceeds the maximum amount not chargeable to tax , without giving to the any exemption ( u/s 11 & 12 ).
- ◉ Claiming Exemption u/s 11.
- ◉ Registration or approval is required u/s 12AA.
- ◉ Voluntary Contribution in Schedule - VC.
- ◉ Any other Income as per the Main Objective in Schedule - AI.
- ◉ Amount Applied for Charitable purpose of Revenue nature in Schedule - ER.
- ◉ Amount Applied for Charitable purpose of Capital nature in Schedule - EC.

- ◉ Assessee claims exemption as deemed Application u/s 11 clause 2 in Schedule Part B - TI point no. 4.
- ◉ Furnished Form No. 9A within due date and before filing of the Return.
- ◉ Claiming exemption of accumulation in Schedule Part B -TI point no. 4.
- ◉ Furnished Form No. 10 within due date and before filing of the Return.
- ◉ Any Disallowance or ineligible claim to be in Schedule Part B -TI point no. 5.
- ◉ Audit Report in Form No. 10B along with Return within due date.

- ◉ If form No. 9A not filed or filed after due date
- ◉ If form No. 10 not filed or filed after due date
- ◉ If form No. 10 B not filed or filed after due date





## SECTION 139 ( 4B )

- ◉ For political parties and claiming exemption u/s 13A.
- ◉ Contribution and Income in Schedule VC, HP, CG and OS.
- ◉ Required to fill the amount of Exemption u/s 13A in Schedule Part B - TI point no. 12a.
- ◉ Schedule - LA is mandatory to fill the detail.
- ◉ If any Income under Business to be shown in Schedule - BP.

## SECTION 139 ( 4C )

⊙ Applicable for four categories of Institution:

### **CATEGORY - I**

1. Scientific research association :-10(21)
2. News agency :-10(22B)
3. Association or institution referred to in :-10(23A)
4. Institution referred to in :-10(23B)
5. Fund or institution or university or other educational institution or any hospital or other medical institution ;10(23C)
6. Mutual Fund :-10(23B)
7. Venture Capital Fund :-10(23FB)
8. Trade Unions :-10 (24a and 24b)
9. Trust / Board :-10 (46)
10. Infrastructure debt fund :-10(47)

- ⦿ Voluntary Contribution in Schedule VC.
- ⦿ Income in Schedule IE-1.
- ⦿ Amount of Exemption in Schedule Part B - TI in point no. 8 and 9.

# SECTION 139 ( 4C )

## CATEGORY - II

1. Trusts/Institutions approved by State Govt.  
:- Section 10(23)(iv)
2. Trusts/Institutions approved by Central Govt. :- Section 10(23)(v)
3. Educational Institution :- Section 10(23)(vi)
4. Medical Institution :- Section 10(23)(via)

- ◉ Registration or Approval required.
- ◉ Voluntary Contribution in Schedule VC.
- ◉ Income in Schedule AI.
- ◉ Amount Applied for Charitable purpose of Revenue nature in Schedule - ER.
- ◉ Amount Applied for Charitable purpose of Capital nature in Schedule - EC.
- ◉ Audit Report Form 10BB with the Return of Income within due date.
- ◉ Any other Taxable Income as per Schedule HP, BP, CG and OS.
- ◉ Deemed and accumulation in Schedule Part - B - TI point no. 4.



## SECTION 139 ( 4C )

### CATEGORY - III

1. 10(23)(iiiab): Govt. Education Institute
  2. 10(23)(iiiac): Govt. Hospitals
- ⊙ Registration or Approval required.
  - ⊙ Voluntary Contribution or Income in Schedule VC and IE - 3.
  - ⊙ Claiming Exemption of Income in point no. 9A/9B Schedule B-TI.
  - ⊙ Gross Receipts to be filed in Schedule IE-3.
  - ⊙ Govt. Grants received to be filed in Schedule IE-3.

## **CATEGORY - IV**

1. 10(23)(iiiad): Education Institute turnover less than 1cr.
  2. 10(23)(iii ae): Hospitals turnover less than 1cr.
- ⊙ Voluntary Contribution or Income in Schedule VC and IE - 4.
  - ⊙ Claim of exemption in point no. 9C/9D of Schedule Part B - TI.
  - ⊙ Gross Receipt to be in IE - 4.

## SECTION 139 ( 4D )

- ◉ For Research Associations : Section 10(21) read with Section 35(1) clause ii and iii.
- ◉ Approval or Registration required.
- ◉ Contribution or Income in Schedule BC or IE - 1.
- ◉ Claim Exemption of Income in Schedule Part B - TI Point no. 8a.
- ◉ Any other Taxable Income as per Schedule HP, BP, CG and OS.

# OTHERS

- ◉ Where the income is unconditionally exempt under section 10 but optionally files return.  
Example : PF Trust, Gratuity Trust, other labour welfare scheme fund.
- ◉ Return filed in Section (Others)
- ◉ Income and Contribution in Schedule - IE-1 and VC.
- ◉ Amount of exemption in Schedule Part - B - TI point no. 10.
- ◉ Any other Taxable Income as per Schedule HP, BP, CG and OS.

# EDUCATION INSTITUTE

- ◉ Sec 10(23C)(i)(iiiab) wholly or substantially finance by Govt
- ◉ Sec 10(23C)(ii)(iiiad) not finance by Govt and annual receipts do not exceed Rs. 1.00 crore
- ◉ Sec 10(23C)(iii)(vi) not finance by Govt and annual receipts exceed Rs. 1.00 crore
- Solely for educational purpose
- Not for the purpose of profit



# BRAIN TEASERS



1. TAX AUDIT U/S 44AB
2. Not applied for renewal u/s 12AB
3. BUSINESS ACTIVITIES
4. IMPACT OF CANCELLATION/SURRENDER OF 12A REGISTRATION
5. DEPRECIATION
6. CORPUS DONATION
7. IMPACT OF NON-FILING OF RETURN
8. FORM NO. 9A AND FORM NO. 10
9. NOT FILLING OF FORM 10B WITHIN DUE DATE

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