Guidance Note on Reports of Audit under Section 12A/10(23C) of the Income-tax Act, 1961

Direct Taxes Committee

The Institute of Chartered Accountants of India

(Set up by an Act of Parliament)

New Delhi

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Basic draft of this publication was prepared by CA. Piyush S Chhajed

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Foreword

The scheme of taxation of Charitable Trusts has undergone significant changes over the last three years. These modifications aim primarily to ensure that only genuine trusts and institutions are eligible for the beneficial provisions under section 10(23C) and sections 11 to 13 of the Income-tax Act, 1961. Further, the CBDT has, vide Notification dated 21 February 2023, issued new forms of Audit Report, namely, Form No. 10B and Form No. 10BB, which has come into effect from 1.4.2023. These forms have been made applicable for A.Y. 2023-24 and onwards.

I am happy to note that the Direct Taxes Committee of the Institute of Chartered Accountants of India has undertaken the project of developing guidance on the reporting requirements in Form No.10B and Form No.10BB and brought out a publication '**Guidance Note on Reports of Audit under section 12A/10(23C) of the Income-tax Act, 1961'**. This publication is divided into 2 parts, Part I provides guidance on the common clauses in Form No.10B and Form No.10BB and Part II provides guidance on the additional clauses specific to Form No.10B. The Guidance Note will be relevant for reporting requirements from A.Y.2024-25 onwards.

I appreciate the efforts of CA. Piyush S. Chhajed, Chairman, and CA. Cotha S. Srinivas, Vice-Chairman and other members of the Direct Tax Committee for their dedication and hard work in bringing out this Guidance Note.

I am confident that our members and other stakeholders will find this Guidance Note very useful for effectively discharging their professional responsibility.

3rd July, 2024
New Delhi

CA. Ranjeet Kumar Agarwal
President, ICAI

Preface

The Direct Taxes Committee plays a pivotal role in disseminating knowledge of direct taxes and international taxation to the members of ICAI through a variety of publications, including Guidance Notes, Technical Guides, and Handbooks on topics related to direct taxes.

The ever-evolving landscape of direct taxes and its dynamism underscores the necessity to remain updated continually. In the light of significant amendments in the scheme of taxation of Charitable Trusts and Institutions over the past few years and the notification of new forms of Audit Report, namely, Form No. 10B and Form No. 10BB vide Notification dated 21.02.2023, the Direct Taxes Committee of ICAI had published the 'Technical Guide on Reports of Audit under Section 12A/10(23C) of the Income-tax Act, 1961' last year in October 2023.

Considering the importance of providing comprehensive guidance on compliances associated with Charitable trusts and institutions to members, the Direct Taxes Committee decided to come out with a Guidance Note on this topic. Accordingly, an Exposure Draft of the Guidance Note was issued taking the Technical Guide as the base document and comments of stakeholders were invited. The inputs received from the stakeholders as also the inputs received from regional offices and certain branches of the Institute were considered in the meeting of the Study Group constituted for this purpose. The Draft Guidance Note has then been considered by the Direct Taxes Committee and the recommendations of the Committee have been considered by the Council. The "Guidance Note on Reports of Audit under Section 12A/10(23C) of the Income-tax Act, 1961" approved by the Council has, thus, been meticulously crafted to offer Chartered Accountants a profound and insightful understanding of the taxation aspects related to Charitable Trusts and Institutions.

We are extremely thankful to CA. Ranjeet Kumar Agarwal, President, ICAI and CA. Charanjot Singh Nanda, Vice President, ICAI whose leadership and vision have been instrumental in the release of this invaluable Guidance Note. We extend our heartfelt appreciation to all the members who have shared their insights and expertise, significantly contributing to the creation of this Guidance Note. Their unwavering dedication to promoting knowledge and enhancing tax compliance is truly commendable.

Through this Guidance Note, members will benefit from the extensive guidance on various aspects of the taxation of Charitable Trusts and Institutions which will equip them with the necessary knowledge on the reporting requirements in Form No.10B and Form No.10BB.

CA. Piyush S Chhajed
Chairman
Direct Taxes Committee

CA. Cotha S Srinivas
Vice-Chairman
Direct Taxes Committee

Place: New Delhi

Date: July 3, 2024

Acknowledgement

The Direct Taxes Committee (DTC) of ICAI acknowledges the contribution made by the Committee Members, Co-opted Members, Special Invitees and other experts, in the capacity of study group member or otherwise in coming out with the "Guidance Note on Reports of Audit under Section 12A/10(23C) of the Income-tax Act, 1961". DTC of ICAI places on record its gratitude for their contribution to the enrichment of the knowledge of the members.

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Terms, abbreviations used

The following terms and abbreviations occur often in the text. A brief explanation of such terms and abbreviations is given below. Further, reference to a section or rule without reference to the relevant Act means that the section has reference to the Income-tax Act, 1961 or Income-tax Rules, 1962.

(a)	**Act**	The Income-tax Act, 1961.
(b)	**Accountant**	Accountant means a chartered accountant within the meaning of the Chartered Accountants Act, 1949, as referred to in section 288 of the Act.
(c)	**AS**	Accounting Standards notified vide the Companies (Accounting Standards) Rules, 2021 for company assesses not following Ind AS and Accounting Standards as prescribed by the Institute of Chartered Accountants of India for non-company assesses.
(d)	**Assessee**	As defined in section 2(7) of the Act.
(e)	**AY**	Assessment Year as defined under section 2(9) of the Act.
(f)	**Audit report**	Audit report furnished in Form No. 10BB/10B as required u/s 12A(1)(b)(ii) or 10(23C)(iv)/(v)/(vi)/(via).
(g)	**Auditor**	A Practicing Chartered Accountant within the meaning of the Chartered Accountant Act, 1949 or any person appointed as Auditor by the charitable or religious institutions being charitable trust, society, etc.
(h)	**Board/CBDT**	The Central Board of Direct Taxes constituted under the Central Boards of Revenue Act, 1963.
(i)	**Circular**	A circular or instructions issued by the Board under section 119(1) of the Act.
(j)	**Foreign contribution**	For this publication the expression foreign contribution shall have the same meaning assigned to it in section 2(1)(h) of the Foreign

		Contribution (Regulation) Act, 2010 (42 of 2010).
(k)	**HUF**	Hindu Undivided Family
(l)	**ICAI/Institute**	The Institute of Chartered Accountants of India.
(m)	**Ind AS**	The Indian Accounting Standards (Ind AS), as notified vide Companies (Indian Accounting Standards) Rules, 2015 along with the amendments notified from time to time.
(n)	**Institution/auditee**	Trust or institution subject to audit u/s 12A or 10(23C).
(o)	**Person**	As defined in section 2(31) of the Act.
(p)	**Previous year**	As defined in section 3 of the Act.
(q)	**Rules**	The Income-tax Rules, 1962.
(r)	**SA**	Standards on Auditing issued, prescribed and made mandatory by the Institute of Chartered Accountants of India.

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Guidance Note on Reports of Audit under Section 12A/10(23C) of the Income-tax Act,1961

1. Introduction

1.1 Every charitable or religious trust or institution claiming income not includible in total income under section 11 and section 12 or any fund or institution or trust or any university or other educational institution or any hospital or other medical institution claiming income not includible in total income under sub-clauses (iv)/(v)/(vi)/(via) of clause (23C) of section 10 (and the total income without giving effect to the beneficial/exemption provisions exceeds the maximum amount which is not chargeable to income-tax in any previous year) needs to keep and maintain the books of account and other documents as per Rule 17AA of the Income-tax Rules, 1962 and also get its books of account audited mandatorily under the Income-tax Act,1961. Rule 16CC and Rule 17B of the Income-tax Rules 1962 as amended by the Income-tax Amendment (3rd Amendment) Rules, 2023 governs the provisions related to the audit of assessees mentioned above. Rule 17AA provides the particulars of books of account and documents to be maintained by the Trust or Institutions, as the case may be. The audit report in respect of the same is required to be furnished one month prior to the due date of furnishing the return of income u/s 139(1) of the Act. As per the Notification No. 7/2023, dated 21.02.2023, CBDT has issued new (re-notified) Audit Report Form No. 10B and Form No. 10BB by the Income-tax Amendment (3rd Amendment) Rules, 2023 which has come into effect from 01.04.2023 applicable for assessment year 2023-24 onwards.

The said notification can be accessed from the link- https://incometaxindia.gov.in/communications/notification/notification-7-2023.pdf

1.2 This **Guidance Note** covers the provisions of section 10(23C) (iv)/(v)/(vi)/(via), section 11 and 12 and its allied rules at relevant places, along with audit reports in relation to Charitable Trusts & Institutions. The object of this **Guidance Note** is to provide guidance to the auditors for conduct of audit under section 12A and 10(23C). This **Guidance Note** will also be useful for those in charge of governance of charitable institutions for discharging their respective responsibilities towards audit of accounts of charitable institutions

under clause (b) of the tenth proviso to section 10(23C) and 12A(1)(b)(ii) of the Act. For the purpose for brevity in this **Guidance Note,** such entities are referred to as "*Institution/ Auditee*" without going into the fine distinction that may exist between a 'trust' and an "institution". For the sake of convenience, '*Serial Number / Row number/ Field number*' in Form No.10BB/10B is referred to as 'Clause'. Say, Serial Number 1 of Form No.10BB/10B is read as Clause 1 of Form No.10BB/10B.

Objective of this Guidance Note

1.3 This **Guidance Note** intends to,

(i) assist in understanding the respective responsibilities of the institution and the auditor.

(ii) guide the auditor as to the nature and scope of information to be obtained by him from the institution to enable him to conduct the audit.

(iii) provide guidance on the verification procedures to be adopted by the auditor for giving the audit report and the necessary information in the annexure thereto.

(iv) give an idea about the various aspects including issues relating to the law of taxation of trusts/institutions.

(v) explain the circumstances where a disclosure or qualification or disclaimer may be required from the auditor while giving his audit report.

(vi) provide guidance in ensuring compliance with the Accounting Standards issued, prescribed and made mandatory by the Institute of Chartered Accountants of India.

(vii) facilitate compliance of Standards on Auditing (SAs) issued, prescribed and made mandatory by the Institute of Chartered Accountants of India.

Responsibility of the 'Institutions'

1.4 Ensuring compliance of the provisions of sections 11 to 13 and 10(23C) is primarily the responsibility of the trust/institution. Therefore, those in charge of governance of institutions should ensure compliance of provisions of the Income-tax Act, 1961 as well as the other laws governing the institutions. For the purpose of audit under clause (b) of tenth proviso to section 10(23C) and section 12A(b)(1)(ii), the institution should prepare all the necessary

information and particulars required under the relevant provisions to enable the auditor to verify and report in accordance with the requirements of the Act. Further, such information and particulars should be duly authenticated by the competent authority governing the affairs of the institution. It would be advisable for the institution to take into consideration the following principles while preparing the necessary information and particulars:

(a) It can rely upon the judicial precedents while taking any particular view about inclusion or exclusion of any items with appropriate disclosure.

(b) If there is a conflict of judicial opinion on any particular issue, it should refer to the view which has been followed by the assessee while giving the relevant particulars.

The institution should also make available to the auditor all the books of account, records and other documents as may be deemed necessary by the auditor for carrying out the audit.

Financial Action Task Force (FATF)

1.5 The Financial Action Task Force (FATF) is an independent inter-governmental body that develops and promotes policies to protect the global financial system against money laundering, terrorist financing and the financing of proliferation of weapons of mass destruction. The FATF Recommendations are recognized as the global anti-money laundering (AML) and counter-terrorist financing (CFT) standard. The FATF in its recommendations adopted by the FATF Plenary in February, 2012 in respect of "*International Standards on combating money laundering and the financing of terrorism & proliferation*" has recommended the following apart from other recommendations:

Recommendation 2012 (No. 8) –

> "*Countries should review the adequacy of laws and regulations that relate to non-profit organisations which the country has identified as being vulnerable to terrorist financing abuse. Countries should apply focused and proportionate measures, in line with the risk-based approach, to such non-profit organisations to protect them from terrorist financing abuse, including:*
>
> *(a) by terrorist organisations posing as legitimate entities;*
>
> *(b) by exploiting legitimate entities as conduits for terrorist financing, including for the purpose of escaping asset-freezing measures; and*

(c) by concealing or obscuring the clandestine diversion of funds intended for legitimate purposes to terrorist organisations."

The report is hosted at the link-

https://www.fatf-gafi.org/content/dam/fatf-gafi/recommendations/FATF%20Recommendations%202012.pdf.coredownload.inline.pdf

CAG Report on Performance audit on exemptions to charitable Trusts and Institutions

1.6 Also, as per CAG Report No. 12 of 2022 on "*Performance audit on exemptions to charitable Trusts and Institutions*" for the year ended March, 2021 Paragraph 5.3.6 mentions the objective of audit of these institutions:

Charitable trusts claiming exemption under Section 11(1) are required to file Income Tax Returns in Form ITR-7, supported by Audit Report in Form 10B. The Audit Report prescribed under Rule 17B requires the Accountant to give his opinion whether to the best of his information, the accounts give a true and fair view. Besides, the Auditor has to provide some prescribed information in the Audit Report. The principal aim of this Audit Report is to enable the Assessing Officer to satisfy himself about the genuineness of the claim for exemption under Section of the Act and also whether the institution has complied with the requirements prescribed by the statute.

Audit is of the opinion that some additional information/data is required to be provided in the Audit Report so as to enable AOs to check the veracity of the assessee's claim during assessment which are discussed in the succeeding paragraphs.

Further, the executive summary of the above-mentioned para reads as under:

Audit noticed deficiencies in the Audit Report in Form 10B applicable to charitable Trusts/Institutions such as absence of details of break-up of receipt under different heads, details of corpus donation, deemed application of income etc. which impacted the quality of assessment, incorrect claim made by the assessee and loss of revenue.

The report is hosted at the link-

https://cag.gov.in/webroot/uploads/download_audit_report/2022/Report%20No.%2012%20of%202022_PA%20Trusts_English_(12-5-2022)-062f13ddf2d32c6.77327394.pdf

It appears that some of the amendments in the provisions of the Income-tax Act, 1961 relating to Trusts/Institutions have been brought in, in view of the above-mentioned reports.

Rationale behind the amendments in the provisions relating to Charitable Trusts and Institutions

1.7 Certain amendments made by the Finance Act, 2022 which were effective from 1st April, 2023 accordingly apply to the Assessment year 2023-24 and subsequent Assessment years. Similarly, Rule 17AA as inserted by the Income-tax (24th Amendment) Rules, 2022 prescribes the books of account and other documents to be kept and maintained. The detailed rationale explaining the said amendments has been given in Circular No. 23/2022 dated 3rd November, 2022. The relevant extracts of the said circular are reproduced as under-

> *"9. Rationalisation of the provision of Charitable Trust and Institutions*
>
> *9.1 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 subclause (v) or sub-clause (vi) or sub-clause (via) of clause (23C) of section 10 or any trust or institution registered u/s 12AA or 12AB of the Act is exempt subject to the fulfilment of the conditions provided under various sections. The exemption to these trusts or institutions is available under the two regimes:*
>
> *(i) Regime for 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 subclause (v) or sub-clause (vi) or sub-clause (via) of clause (23C) of section 10 (hereinafter referred to as trust or institution under first regime); and*
>
> *(ii) Regime for the trusts registered under section 12AA/12AB (hereinafter referred to as trust or institution under the second regime).*
>
> *9.2 FA 2022 has rationalised the provisions of both the exemption regimes by- (I) ensuring their effective monitoring and implementation.*
>
> *(II) bringing consistency in the provisions of the two exemption regimes; and (III) providing clarity on taxation in certain circumstances.*
>
> *In addition to the above, some amendments consequent to the amendments of past few years have also been undertaken. All the amendments are discussed below:*

9.3 Ensuring effective monitoring and Implementation of two exemption regimes.

9.3.1 Books of account to be maintained by the trusts or institutions under both the regimes.

a) Where the total income of any trust or institution under the second regime, as computed under this Act without giving effect to the provisions of section 11 and section 12 of the Act, exceeds the maximum amount which is not chargeable to income-tax in any previous year, it is required to get its accounts audited. Similar provision exists for the trusts or institutions under the first regime in the tenth proviso to clause (23C) of section 10 of the Act.

b) However, prior to the amendments made vide FA 2022, there was no specific provision under the Act providing for the books of account to be maintained by such trusts or institutions. In order to ensure proper implementation of both the exemption regimes, FA 2022 has amended clause (b) of sub-section (1) of section 12A of the Act and tenth proviso to clause (23C) of section 10 of the Act to provide that where the total income of the trust or institution under both regimes, without giving effect to the provisions of clause (23C) of section 10 or section 11 and 12, exceeds the maximum amount which is not chargeable to tax, such trust or institution shall keep and maintain books of account and other documents in such form and manner and at such place, as may be prescribed. Accordingly, the books of account and other documents required to be maintained by such trust or institution under the first and second regime and the place where they are required to be maintained have been prescribed in rule 17AA of the Income-tax Rules, 1962 which has been notified vide Notification No. 94/2022 (GSR 622 E) dated 10.08.2022 published in the Official Gazette".

Amendments in the provisions relating to Charitable Trusts and Institutions- Rule 16CC and Rule 17B

1.8 As per the Income Tax Amendment (3rd Amendment) Rules,2023 notified on 21.02.2023, Rule 16CC and Rule 17B state as under:

Rule 16CC-Form of Report of audit prescribed under tenth proviso to section 10(23C)

The report of audit of the accounts of a fund or institution or trust or any

university or other educational institution or any hospital or other medical institution which is required to be furnished under clause (b) of the tenth proviso to clause (23C) of section 10 shall be in—

(a) Form No. 10B where—

*(I) the total income of such fund or institution or trust or university or other educational institution or hospital or other medical institution, without giving effect to the provisions of the sub-clauses (iv), (v), (vi) and (via) of the said clause, exceeds **rupees five crores** during the previous year: or*

*(II) such fund or institution or trust or university or other educational institution or hospital or other medical institution has received any **foreign contribution** during the previous year; or*

*(III) such fund or institution or trust or university or other educational institution or hospital or other medical institution has **applied any part of its income outside India** during the previous year.*

(b) Form No. 10BB in other cases.

Explanation. — For the purposes of sub-clause (II) of clause (a), the expression "foreign contribution" shall have the same meaning assigned to it in clause (h) of sub-section (1) of section 2 of the Foreign Contribution (Regulation) Act, 2010 (42 of 2010).

Rule 17B- Audit Report in case of charitable or religious trust, etc.

The report of audit of the accounts of a trust or institution which is required to be furnished under sub-clause (ii) of clause (b) of sub-section (1) of section 12A, shall be in—

(a) Form No. 10B where—

*(I) the total income of such trust or institution, without giving effect to the provisions of sections 11 and 12 of the Act, exceeds **rupees five crores** during the previous year, or*

*(II) such trust or institution has received any **foreign contribution** during the previous year; or*

*(III) such trust or institution has applied any part of its income **outside India** during the previous year.*

(b) Form No. 10BB in other cases.

Explanation. — For the purposes of sub-clause (II) of clause (a), the expression foreign contribution shall have the same meaning assigned to it in clause (h) of sub-section (1) of section 2 of the Foreign Contribution (Regulation) Act, 2010 (42 of 2010).

1.9 As per the present Rule 16CC and 17B, any trust or institution registered under Section 12A or 10(23C) , if its total income (without giving effect to relevant clause of section 10(23C) and section 11 and 12 of the Act) exceeds Rs.5 crores during the previous year or has received any foreign contribution during the previous year or has applied any part of its income outside India during the previous year, shall furnish its audit report in Form No. 10B. Any trust or institution registered under Section 12A or 10(23C) which does not fall into the above stated criteria shall furnish its audit report in Form No.10BB.

1.10 The auditor may note that for the purpose of reckoning the threshold limit of Rs. 5 crores, corpus donation has to be included since the total income has to be computed without giving effect to the provisions of sections 10(23C)(iv)/(v)/(vi)/(via) or sections 11 and 12 of the Act, as the case may be.

1.11 However, agricultural income need not be included since it is exempted under section 10(1) of the Act for which specific exclusion is provided in section 11(7) and 19th Proviso to section 10(23C) of the Act..

1.12 Foreign contribution for the purpose of reporting under this clause shall have the same meaning as defined in section 2(1)(h) of the Foreign Contribution (Regulation) Act, 2010 (42 of 2010) which reads as under:

"foreign contribution" means the donation, delivery or transfer made by any foreign source,—

(i) of any article, not being an article given to a person as a gift for his personal use, if the market value, in India, of such article, on the date of such gift, is not more than such sum as may be specified from time to time, by the Central Government by the rules made by it in this behalf;

(ii) of any currency, whether Indian or foreign;

(iii) of any security as defined in clause (h) of section 2 of the Securities Contracts (Regulation) Act, 1956 (42 of 1956) and includes any foreign security as defined in clause (o) of section 2 of the Foreign Exchange Management Act, 1999 (42 of 1999).

Explanation 1.—A donation, delivery or transfer of any article, currency or foreign security referred to in this clause by any person who has

received it from any foreign source, either directly or through one or more persons, shall also be deemed to be foreign contribution within the meaning of this clause.

Explanation 2.—The interest accrued on the foreign contribution deposited in any bank referred to in sub-section (1) of section 17 or any other income derived from the foreign contribution or interest thereon shall also be deemed to be foreign contribution within the meaning of this clause.

Explanation 3.—Any amount received, by any person from any foreign source in India, by way of fee (including fees charged by an educational institution in India from foreign student) or towards cost in lieu of goods or services rendered by such person in the ordinary course of his business, trade or commerce whether within India or outside India or any contribution received from an agent of a foreign source towards such fee or cost shall be excluded from the definition of foreign contribution within the meaning of this clause;

Note –

In case the FCRA Registration of trust/institution was revoked or renewal was not granted and the organisations continue to earn bank interest on their foreign assets, the same should be regarded as Foreign contributions.

2. Specified date and Audit

2.1 Section 12A(1)(b)(ii) and clause (b) of tenth proviso of section 10(23C) specifies that the auditee is required to get the accounts audited on or before the specified date as referred to in section 44AB of the Act. The auditee is also required to furnish by the date, being the date referred to in section 44AB of the Act, the duly signed and verified auditor's report in Form no. 10B or 10BB (as applicable to the auditee). Such audit report shall be furnished electronically, as per Proviso to Rule no.12(2). ***Specified date*** as referred to in section 44AB is the date one month prior to the due date for furnishing the return of income under sub-section(1) of section 139 of the Act.

2.2 The audit report is required to be uploaded using digital signature of the auditor. In other words, as per prevailing practice, furnishing of the audit report involves the following steps:

(i) The auditor to upload Form No. 10BB/10B in specified format using his digital signature. The said forms to be accompanied by audited financial statements,

(ii) Thereafter, the auditee needs to login to his account in the e-filing portal of the Income-tax, check the tab of '*Worklist'* and approve the said form of audit report.

2.3 Some of the Central and State legislations relating to trusts and charitable institutions may provide for compulsory audit. For example, section 8 of Companies Act, 2013 (old section 25 of the 1956 Act), the Maharashtra Public Trusts Act, 1950, the Madhya Pradesh Public Trust Act 1951, etc. Such requirement of audit has to be construed purely in terms of the statutory provisions of the relevant Acts. This publication deals only with the audit report under section 12A/10(23C) of the Income-tax Act, 1961.

2.4 This Guidance Note will be applicable for Assessment Year 2024-25 and onwards.

3. Penalty

Non-furnishing of Form No. 10BB/10B

3.1 Penalty has not been prescribed under Chapter XXI as such for not getting the books of account audited and non-furnishing or delay in furnishing (electronically) of Audit Report prescribed under section 12A/10(23C). However, as per mandatory conditions for claiming exemption of income by the Trust or Institution, if its total income exceeds the maximum amount which is not chargeable to income-tax, it has to get its books of account audited. However, trustees are duty bound to observe all provisions of law.

3.2 As per the mandatory condition for claiming exemption by charitable and religious institutions under section 11 and 12, as prescribed under Section 12A(1)(b)(ii); where total income of the trust or institution as computed under the Act without giving effect to the provisions of section 11 and 12 exceeds the maximum amount which is not chargeable to income-tax, the accounts of such trust or institution should have been audited and audit report is furnished by the specified date as referred to in Section 44AB of the Act. If the accounts of such trust or institution have not been audited or have not been furnished, such trust or institutions will not be eligible to claim benefit of section 11 and 12.

3.3 Similarly the Educational Institutions and Hospitals falling under clauses (iv), (v), (vi) or (via) of section 10(23C) of the Act will not be eligible to get exemption of income from Total Income under section 10, unless such Institution is getting the accounts audited and furnishing the Audit Report (electronically) by specified date as referred to in section 44AB of the Act.

3.4 However, condonation of delay under section 119(2)(b) of the Income-tax Act, 1961 in filing various forms is provided from time to time which may be referred to in this regard. In this regard, circular no.19/2020 dated 3.11.2020 and Circular no.15/2022 dated. 19-07-2022 can be referred **(Refer Appendix III and IV).**

3.5 The specified date as referred to in section 44AB in relation to the accounts of the assessee of the previous year relevant to an assessment year, means date one month prior to the due date for furnishing the return of income under section 139(1).

Default in delivery of statement in Form No. 10BD or furnishing of certificate in Form No. 10BE

3.6 Section 80G provides for deduction for eligible donations made to charitable and public religious trusts from gross total income. It inter alia includes donations made to "(iv) any other fund or any institution to which this section applies" as a residuary clause. In order to be eligible to fall within the residuary clause 80G(2)(a)(iv), the conditions specified in section 80G(5) are required to be satisfied which inter alia include, at section 80G(5)(viii) and (ix), furnishing of a statement in Form No.10BD by the Donee institutions and issuance of Form No. 10BE to the donor.

3.7 Section 234G provides for a fee for default in delivering a statement in Form No. 10BD or furnishing a certificate in Form No. 10BE. In case, the same is not delivered or furnished within the prescribed time, the assessee is liable to pay Rs 200 per day for every day during which default continues. The late fee should not exceed the donation amount in respect of which delay has occurred in delivering Form No. 10BD.

3.8 As per Rule 18AB, Form No.10BD is to be furnished electronically on or before 31st May, immediately following the Financial Year in which donation is received. Certificate in Form No. 10BE is required to be furnished to donor on or before 31st May.

3.9 Apart from the fee for delay in delivering statement of donations in Form No. 10BD or delay in furnishing certificate in Form No. 10BE, such failure may also attract penalty under section 271K, which shall not be less than Rs.10,000/- but may extend up to Rs.1,00,000/-.

Penalty on Benefits to related persons (Section 271AAE)

3.10 The following penalty is leviable on the Trust/Institution in respect of benefit to related persons (w.e.f. AY 2023-2024) :

- 100% of the aggregate amount of income applied for the benefit of any person referred under section 13(3) of the Act, where the violation is noticed for the first time.
- 200% of the aggregate amount of such income where the violation is noticed again in the subsequent year.

For details, please refer to section 271AAE of the Act.

Penalty for failure to furnish the return of income (section 272A(2)(e)):-

3.11 As per section 272A(2)(e), if any person fails to furnish the return of income which he is required to furnish under section 139(4A)/(4C) or to furnish it within the time allowed and in the manner required under those sub-sections, he shall pay, by way of penalty, a sum of five hundred rupees for every day during which the failure continues.

3.12 The auditee can furnish the return of income within the due date specified under section 139(1) or 139(4) of the Act.

3.13 Section 139(4A) states as under:-

Every person in receipt of income derived from property held under trust or other legal obligation wholly for charitable or religious purposes or in part only for such purposes, or of income being voluntary contributions referred to in sub-clause (iia) of clause (24) of section 2, shall, if the total income in respect of which he is assessable as a representative assessee (the total income for this purpose being computed under this Act without giving effect to the provisions of sections 11 and 12) exceeds the maximum amount which is not chargeable to income-tax, furnish a return of such income of the previous year in the prescribed form and verified in the prescribed manner and setting forth such other particulars as may be prescribed and all the provisions of this Act shall, so far as may be, apply as if it were a return required to be furnished under section 139(1).

3.14 Relevant portion of section 139(4C)(e) states as under:-

Every fund or institution referred to in sub-clause (iv) or trust or institution referred to in sub-clause (v) or any university or other educational institution referred to in sub-clause (iiiab) or sub-clause (iiiad) or sub-clause (vi) or any hospital or other medical institution referred to in sub-clause (iiiac) or sub-clause (iiiae) or sub-clause (via) of clause (23C) of section 10 shall, if the total income in respect of such association or institution, person or fund or trust or university or other

educational institution or any hospital or other medical institution is assessable, without giving effect to the provisions of section 10, exceeds the maximum amount which is not chargeable to income-tax, furnish a return of such income of the previous year in the prescribed form and verified in the prescribed manner and setting forth such other particulars as may be prescribed and all the provisions of this Act shall, so far as may be, apply as if it were a return required to be furnished under section 139(1).

Due date of filing of Return of Income

3.15 Section 12A(1)(ba) provides that the provisions of section 11 and section 12 shall not apply in relation to the income of any trust or institution unless the person in receipt of the income has furnished the return of income for the previous year in accordance with the provisions of section 139(4A), within the time allowed under 139(1) or 139(4) of the Act. Further, in case the assessee has opted for accumulation of income under 11(2), it is required to file a statement referred to in clause (a) of section 11(2) on or before the due date under section 139(1). Accordingly, in such cases, return is also required to be filed within the time allowed under section 139(1).

3.16 The twentieth proviso to section 10(23C) provides that for the purpose of exemption under this clause, every fund or institution or trust or any university or other educational institution or any hospital or other medical institution referred to in section 10(23C) (iv)/(v)/(vi)/(via) shall furnish the return of income for the previous year in accordance with the provisions of section 139(4C) within the time allowed under section 139(1) or 139(4) of the Act.

4. Auditor

4.1 As per the provisions of section 12A(1)(b)(ii) and clause (b) of the tenth proviso to section 10(23C), audit of accounts of trust or institution has to be carried out by '*an accountant'* as *defined in the* Explanation *below sub-section (2)* of section 288. The above-mentioned Explanation reads as under:

"In this section, "accountant" means a chartered accountant as defined in clause (b) of sub-section (1) of section 2 of the Chartered Accountants Act, 1949 (38 of 1949) who holds a valid certificate of practice under sub-section (1) of section 6 of that Act, but does not include except for the purposes of representing the assessee under sub-section (1)—

(a) in case of an assessee, being a company, the person who is not eligible for appointment as an auditor of the said company in

accordance with the provisions of sub-section (3) of section 141 of the Companies Act, 2013 (18 of 2013); or

(b) in any other case,—

(i) the assessee himself or in case of the assessee, being a firm or association of persons or Hindu undivided family, any partner of the firm, or member of the association or the family;

(ii) in case of the assessee, being a trust or institution, any person referred to in clauses (a), (b), (c) and (cc) of sub-section (3) of section 13;

(iii) in case of any person other than persons referred to in sub-clauses (i) and (ii), the person who is competent to verify the return under section 139 in accordance with the provisions of section 140;

(iv) any relative of any of the persons referred to in sub-clauses (i), (ii) and (iii);

(v) an officer or employee of the assessee;

(vi) an individual who is a partner, or who is in the employment, of an officer or employee of the assessee;

(vii) an individual who, or his relative or partner—

(I) is holding any security of, or interest in, the assessee:

***Provided** that the relative may hold security or interest in the assessee of the face value not exceeding one hundred thousand rupees;*

(II) is indebted to the assessee:

***Provided** that the relative may be indebted to the assessee for an amount not exceeding one hundred thousand rupees;*

(III) has given a guarantee or provided any security in connection with the indebtedness of any third person to the assessee:

***Provided** that the relative may give guarantee or provide any security in connection with the indebtedness of any third person to the assessee for an amount not exceeding one hundred thousand rupees;*

(viii) a person who, whether directly or indirectly, has business relationship with the assessee of such nature as may be prescribed;

(ix) a person who has been convicted by a court of an offence involving fraud and a period of ten years has not elapsed from the date of such conviction.

For the purposes of aforesaid provisions, *"relative*" in relation to an individual, means—

(a) spouse of the individual;

(b) brother or sister of the individual;

(c) brother or sister of the spouse of the individual;

(d) any lineal ascendant or descendant of the individual;

(e) any lineal ascendant or descendant of the spouse of the individual;

(f) spouse of a person referred to in clause (b), clause (c), clause (d) or clause (e);

(g) any lineal descendant of a brother or sister of either the individual or the spouse of the individual.

Rule 51A is also relevant to understand the meaning of '*business relationship'* which reads as under:

Nature of business relationship.

51A. For the purposes of sub-clause (viii) of Explanation below subsection (2) of section 288, the term "business relationship" shall be construed as any transaction entered into for a commercial purpose, other than,

(i) commercial transactions which are in the nature of professional services permitted to be rendered by an auditor or audit firm under the Act and the Chartered Accountants Act, 1949 (38 of 1949) and the rules or the regulations made under those Acts;

(ii) commercial transactions which are in the ordinary course of business of the company at arm's length price - like sale of products or services to the auditor, as customer, in the ordinary course of business, by companies engaged in the business of telecommunications, airlines, hospitals, hotels and such other similar businesses.

4.2 One needs to be more careful while accepting the audit assignment and ensure that he/she does not fall into the prohibited categories given in Explanation below section 288(2) read with Rule 51A.

4.3 Though the section refers to the accounts being audited by an accountant which means a chartered accountant as defined above, the audit can also be done by a firm of chartered accountants. This has been a recognised practice under the Act. In such a case, it would be necessary to state the name of the partner who has signed the audit report on behalf of the firm. The member signing the report as a partner of a firm or in his individual capacity should give his membership number while registering himself in the e-filing portal.

4.4 Section 12A/ 10(23C) stipulates that only Chartered Accountants in full time practice should perform the audit. It may be noted that the Council at its 242nd meeting has passed a resolution effective from 1st April 2005, that any member in part-time practice (namely, holding a certificate of practice and also engaging himself in any other business and/or occupation) is not entitled to perform attest functions including tax audit.

4.5 The audit under section 12A/10(23C) being a recurring audit assignment, for expressing professional opinion on the financial statements and the particulars, the member accepting the assignment should communicate with the member who had done audit in the earlier year as provided in the Chartered Accountants Act,1949. When making the enquiry from the retiring auditor, the member accepting the assignment should find out whether there are any professional or other reasons why he should not accept the appointment. The professional reasons for not accepting the appointment include:

- Non-compliance of the provisions of sections 139 and 140 of the Companies Act 2013 as mentioned in Code of Ethics issued by ICAI under Clause (9) of Part I of First Schedule to Chartered Accountants Act, 1949.
- Non-payment of undisputed audit fees by auditees other than in case of sick units for carrying out the statutory audit under the Companies Act, 2013 or various other statutes.
- Issuance of qualified report.

4.6 In case of a person whose accounts of the business or profession have been audited under any other law (i.e. a company, a co-operative society, etc. which is required to get the accounts audited under a Statute), it is not necessary to communicate with the statutory auditor if he had not done audit

under section 12A/10(23C) in the earlier years. Attention of the members is invited to the detailed discussion in the publication of ICAI, "Code of Ethics" – (**Refer Appendix V).** Further, attention of members is invited to the Chapter-VII "*Appointment of an Auditor in case of non-payment of undisputed fees"* of the Council Guidelines No.1- CA(7)/02/2008, dated 8th August, 2008 –(**Refer Appendix VI)** or other guidelines issued by the Council from time to time.

4.7 Some of the issues which are commonly raised in regard to different aspects of audit under section 12A/10(23C) vis-à-vis the liability/ obligations of the auditor are discussed hereunder:

4.8 The liability of the auditor in respect of this audit will be the same as in case of any other audit assignment. It may be noted that when any question relating to the audit conducted by an auditor arises, he is answerable to the Council of the Institute under the Chartered Accountants Act,1949. In all matters, including audit under section 12A/ 10(23C), ICAI's disciplinary jurisdiction will prevail.

4.9 In case the assessee is found guilty of having concealed the particulars of his income, it would not ipso facto mean that the auditor is also responsible. If the Assessing Officer comes to the conclusion that the auditor was grossly negligent in the performance of his duties, he can refer the matter to the ICAI so that appropriate action can be taken against the auditor under the Chartered Accountants Act,1949.

4.10 If the actual work relating to examination of books and records is done by a qualified assistant in a firm of chartered accountants and the partner of the firm signing the audit report has relied upon his work, action, if any, for professional negligence may be initiated against the member who has signed the report and in such an event, it would be open for the member concerned to prove that he has taken due care and diligence in the performance of his duties and is not aware of any reason to believe that he should not have so relied.

4.11 If the qualified assistant (whether or not holding the certificate of practice) is found to be grossly negligent in the performance of his duties, the Council of the Institute can take disciplinary action against him.

4.12 An auditor can accept the assignment of tax representation. The provisions of Volume-I of Code of Ethics should be referred in this regard.

4.13 Under the Code of Ethics, no auditor shall charge or offer to charge, accept or offer to accept, professional fees by way of percentage of profits or

which are contingent upon findings, or results of such employment, except as permitted under any regulation made under the Chartered Accountants Act. In this connection, reference is invited to Clause (10) of Part I of the First Schedule to the Chartered Accountants Act and the commentary on the subject at page 83 of the Volume II of Code of Ethics, 2020 – 12th Edition). Certain exceptions are made in Regulation 192 of Chartered Accountants Regulations,1988. As per Regulation 192 (b), in the case of an auditor of a co-operative society, the fees may be based on a percentage of the paid up capital or the working capital or the gross or net income or profits.

4.14 The opinion expressed by the auditor is not binding on the assessee. If the auditor has qualified his report and expressed an opinion on a particular item, the assessee may take a different view while preparing his return of income. In such cases, it is advisable for the assessee to state his viewpoint and support the same by any judicial pronouncements on which he wants to rely.

4.15 In terms of Council Guidelines No.1 CA(&)/02/2008, dated 8th August, 2008 **– (Refer Appendix VI),** in Chapter-X regarding "*Appointment of an auditor when he is indebted to a concern*", a chartered accountant should not accept the audit of a person to whom he is indebted for more than rupees one lakh. A member of the Institute shall be deemed to be guilty of professional misconduct if he accepts appointment as an auditor of a concern while he is indebted to the concern or has given any guarantee or provided any security in connection with the indebtedness of any third person to the concern, for limits fixed in the statute and in other cases for amount exceeding rupees one lakh. However, *Explanation* below section 288(2) of Income-tax Act, 1961 does not provide for any such threshold and hence irrespective of the quantum of indebtedness, a chartered accountant should not accept the assignment of audit as the same is prohibited by the said Explanation below section 288(2).

4.16 The relaxation provided in the said Explanation is only with respect to the relatives of the individual and not for the individual so appointed as auditor. This must be carefully noted by the member before accepting the assignment of audit. A member of the Institute in practice or a partner of a firm in practice or a firm, or a relative of such member or partner shall not accept appointment as auditor of a concern while indebted to the concern or given any guarantee or provided any security in connection with the indebtedness of any third person to the concern, for limits fixed in the statute and in other cases for amount exceeding Rs. 1,00,000.

4.17 The auditor should obtain from the assessee a letter of appointment for

conducting the audit. It is advisable that such an appointment letter should be signed by the person competent to sign the return of income in terms of the provisions of section 140 of the Act. It would also be useful if the letter affirms that no other auditor was appointed to conduct the audit for the year for which the appointment is being made. The letter may also give the name and address of the previous auditor, wherever relevant. This would give the necessary information to the incoming auditor to enable him to communicate with the previous auditor. The letter of appointment should also specify the remuneration of the auditor. Standard on Auditing (*SA) -210, Agreeing the Terms of Audit Engagemen*t issued by the ICAI requires the auditor to agree the terms of audit engagement with management or those charged with governance as appropriate. The agreed terms of audit engagement would need to be recorded in an audit engagement letter or other suitable form of written agreement and shall include:

(a) The objective and scope of the audit of the financial statements: It should be specifically mentioned that the scope of audit is restricted to the provisions contained in relevant sections of the Income-tax Act,1961 and the Income-tax Rules, 1962.

(b) The responsibilities of the auditor;

(c) The responsibilities of management;

(d) Identification of the applicable financial reporting framework for the preparation of the financial statements; and

(e) Reference to the expected form and content of any reports to be issued by the auditor as per the provisions of Income-tax Act, 1961 and Income-tax Rules, 1962 along with a statement that there may be circumstances in which a report may differ from its expected form and content.

4.18 In the interest of both client and auditor, the auditor should send an engagement letter, before the commencement of the engagement, to help avoid any misunderstanding with respect to the engagement. The engagement letter documents and confirms the auditor's acceptance of the appointment, the objective and scope of the audit and the extent of the auditor's responsibilities to the client. However, it may be noted that wherever an audit is to be conducted under a statute, acknowledgement of the letter of the auditor by the client is considered to be sufficient compliance of SA-210. The auditor should get the statement of particulars, as required in the annexure to the audit report, authenticated by the assessee before he reports the same.

4.19 The auditor is required to upload the audit report directly in the e-filing portal.

4.20 The auditor should charge reasonable fees depending upon the responsibility involved under the revised forms and taking into consideration the work involved in audit assignment which has increased considerably consequent to the revision of the forms. It is necessary that members of the profession should also maintain reasonable standards of professional fees.

4.21 The auditee in respect of which audit is being conducted under section 10(23C)/12A may be governed by the provisions of the relevant statute like Companies Act, 2013, Maharashtra Public Trusts Act, 1950, The Rajasthan Public Trusts Act, 1959 and the like. These relevant statutes may contain provisions regarding the manner of appointment of auditors which may or may not necessarily require appointment at the general body meeting of the institution. The applicable provisions shall be followed while appointing the auditor.

4.22 The appointment of the auditor for audit under section 12A/10(23C) in the case of a company need not be made at the general meeting of the members. It can be made by the Board of Directors or even by any Officer, if so, authorized by the Board in this behalf.

4.23 It is possible for the assessee to appoint two or more chartered accountants as joint auditors for carrying out the audit. In such case, the audit report will have to be signed by all the joint auditors. In case of disagreement, joint auditors can give their reports separately. In this regard, attention is invited to Para 17 of *SA 299 (Revised), Joint Audit of Financial Statements* issued by ICAI reproduced below:

> *"The joint auditors are required to issue common audit report, however, where the joint auditors are in disagreement with regard to the opinion or any matters to be covered by the audit report, they shall express their opinion in a separate audit report. A joint auditor is not bound by the views of the majority of the joint auditors regarding the opinion or matters to be covered in the audit report and shall express opinion formed by the said joint auditor in separate audit report in case of disagreement. In such circumstances, the audit report(s) issued by the joint auditor(s) shall make reference to the separate audit report(s) issued by the other joint auditor(s). Further, separate audit report shall also make reference to the audit report issued by other joint auditors.*

The responsibility of joint auditors will be the same as in the case of other audits e.g. audit under the Companies Act, 2013. For details relating to such responsibility, in the case of joint tax audit, reference may be made to *SA 299 (Revised), Joint Audit of Financial Statements.*

4.24 A chartered accountant who is responsible for writing or maintenance of the books of account of the assessee should not audit such accounts. This principle will apply to the partner of such a member as well as to the firm in which he is a partner. In view of this, a chartered accountant who is responsible for writing or maintenance of the books of account or his partner or the firm in which he is a partner should not accept audit assignment under section 10(23C)/12A in the case of such an assessee.

4.25 A chartered accountant/firm of chartered accountants, who is appointed as tax consultant of the assessee, can conduct audit under section 10(23C)/12A of the Act.

4.26 The Council of ICAI in its 281st meeting held from 3rd to 5th October, 2008 decided that an internal auditor of an assessee, whether working with the organisation or independently practicing chartered accountant or a firm of chartered accountants, cannot be appointed as his tax auditor. The decision was made effective from 12-12-2008.

4.27 The Council of the Institute, at its 378th meeting held on 26th and 27th September, 2018, noted its earlier decision taken at its 281st meeting held from 3rd to 5th October, 2008, that internal auditor of an assessee, whether working with the organization or independently practising Chartered Accountant being an individual chartered accountant or a firm of chartered accountants, cannot be appointed as his Tax auditor (under the Income-tax Act, 1961).

4.28 The intent of the Council of ICAI is clear from the decisions taken by it in respect of tax audit. Accordingly, it can be inferred that an internal auditor of an assessee, whether working with the organisation or independently practicing chartered accountant or a firm of chartered accountants, cannot be appointed as his auditor under section 10(23C)/12A.

4.29 A question may arise whether an assessee can remove an auditor appointed under section 10(23C)/12A. The answer depends upon the facts and circumstances of the case. It is, however, possible for the management to remove an auditor where there are valid grounds for such removal. This may arise where the auditor has delayed the submission of audit report under section 10(23C)/12A for an unreasonable period, and if it is found that there is no possibility of getting the audit report uploaded before the specified date. In

such cases, the management may be justified in removing the auditor. However, the auditor cannot be removed on the ground that he has given an adverse audit report or the assessee has an apprehension that the auditor is likely to give an adverse audit report. If there is any unjustified removal of auditors, the Ethical Standards Board constituted by the Institute may intervene in such cases as per the procedure mentioned in Volume-II of Code of Ethics, 2020 for dealing with the cases of unjustified removal of Auditors after receiving the complaint from a member. A member in practice shall follow the direction given, by the Council or Ethical Standards Board, to him being the incoming auditor not to accept the appointment as auditor, in the case of unjustified removal of the earlier auditor.

4.30 The Institute has recommended fees for professional services on the basis of time devoted by a chartered accountant and his assistants. The fees for audit assignment can be charged by a chartered accountant on the basis of the work involved in the assignment. The revised minimum recommended scale of fees recommended by the Committee for Members in Practice as on date is given in **Appendix VII.**

4.31 It may also be noted that a chartered accountant is required to generate and mention UDIN (Unique Documentation Identification Number) on each attestation/audit reports issued by him. The Institute of Chartered Accountants of India, through the Gazette notification dated 2nd August, 2019, has declared mandatory generation of UDIN for all kind of Certifications, GST and Tax Audit Reports and other Audit, Assurance and Attestation functions performed by practicing members as required by various regulators. Further, the CBDT has made quoting of UDIN mandatory for uploading any certification/audit report on income-tax e-filing portal with effect from 27.04.2020. The UDIN so mentioned for the audit reports/certificates by the Chartered Accountants in the e-filing portal of Income Tax Department, is validated online with the ICAI system-level integration. This validation of UDIN help in weeding out fake or incorrect audit reports not duly authenticated with the ICAI. If, for any reason, a Chartered Accountant is unable to generate UDIN before submission of audit report/certificate, the income-tax e-filing portal allows such submission. However, the Chartered Accountant has to generate and update the UDIN within 60 calendar days from the date of form submission on the income-tax e-filing portal.

5. Books of Account and Records to be maintained

5.1 As mentioned earlier, Institutions are governed by different laws which may emanate from Public Trust Act of the relevant state, the Indian Trusts Act,

1882, the Societies Registration Act, 1860, the Companies Act, 2013 and the like. The different forms of the institutions necessitate different forms of accounting aspects to be complied with under the respective laws under which they are registered. For example, the Companies Act, 2013 requires that books of account may be kept at registered office or at other such place as Board of directors may decide. Likewise, the Rajasthan Public Trusts Act, 1959 requires the auditor to forward the copy of audited financial statements to the Assistant Commissioner within whose jurisdiction the public trust has been registered; the Societies Registration Act, 1860 requires the auditor to forward the copy of the same to Registrar. Likewise, different laws mention different manner of maintenance of books of account and furnishing of the same to the respective authorities.

5.2 Form No. 10BB/10B requires the Auditor to give his opinion as to whether proper books of account have been maintained as per requirements of the Act and also whether the financial statements are in agreement with the books of account so maintained by the institution. In this publication, compliance pertaining to the requirement of Income-tax Act, 1961and related Rules is being discussed.

Requirements of Income-tax Act,1961 and related Rules

5.3 Books of Account are the basis of ascertainment of income. Thus, the institutions must maintain regular books of account. Prior to the amendments made vide Finance Act 2022, there was no specific provision under the Act providing for the books of account to be maintained by such trusts or institutions.

5.4 In order to ensure proper implementation of both the exemption regimes, Finance Act, 2022 has amended section 12A(1)(b) of the Act and tenth proviso to section 10(23C) of the Act to provide that where the total income of the trust or institution under both regimes, without giving effect to the provisions of section 10(23C) or section 11 and 12, exceeds the maximum amount which is not chargeable to tax, such trust or institution shall keep and maintain books of account and other documents in such form and manner and at such place, as may be prescribed. Accordingly, the books of account and other documents required to be maintained by such trust or institution under the first and second regime and the place where they are required to be maintained have been prescribed in rule 17AA of the Income-tax Rules, 1962 which has been notified vide Notification No. 94/2022 (GSR 622 E) dated 10.08.2022 published in the Official Gazette.

5.5 Accordingly, books of account and other documents are to be kept and maintained as prescribed under Rule 17AA (explained in detail in this publication).

5.6 Further, section 145 of the Income-tax Act, 1961 allows computation of income under the heads "*profit and gains from business or profession*" and "*income from other sources*" on cash method or mercantile method of accounting regularly employed by the assessee. The provisions of this section are not applicable in case the assessee does not have income under the above-mentioned heads of income.

5.7 Furthermore, the Finance Act, 2022 inserted an Explanation to section 11, which reads as under:

> *Explanation - For the purposes of this section, any sum payable by any trust or institution shall be considered as application of income in the previous year in which such sum is actually paid by it (irrespective of the previous year in which the liability to pay such sum was incurred by the trust or institution according to the method of accounting regularly employed by it):*
>
> *Provided that where during any previous year, any sum has been claimed to have been applied by the trust or institution, such sum shall not be allowed as application in any subsequent previous year.*

According to this Explanation, application of income for the purposes of claiming exemption under section 11 and 12 shall be allowed only on actual payment basis. This section does not mention that the books of account are to be maintained on cash basis of accounting. However, this section may influence institutions to adopt cash basis of accounting which may not be the intent of the law.

Requirements of Companies Act, 2013

5.8 Also, as per the provisions of the Companies Act, 2013, corporate entities are mandatorily required to maintain books of account on accrual method of accounting. This will also be applicable to section 8 companies registered under the Companies Act. However, for the purpose of application of fund, computation is to be made on actual payment basis.

Requirements by Accounting Standards Board of ICAI

5.9 The Accounting Standards Board of ICAI has issued a Publication titled '*Technical Guide on Accounting for Not-for-Profit Organisations (NPOs).* The objective of the above-mentioned Technical Guide is reproduced below for

reference:

> *"5. This Technical Guide is issued to recommend uniform accounting principles in accordance with the Accounting Standards and other generally accepted accounting principles in India for the preparation and presentation of financial statements of NPOs to meet the common information needs of the various stakeholders. This includes the application of sound accounting principles pertaining to recognition, measurement, presentation and disclosure of various items of income and expenses, assets and liabilities in the financial statements of NPOs keeping in view the peculiarities of their activities. The Technical Guide also recommends formats of financial statements keeping in view the objective of these entities being not-for-profit."*

5.10 Further, attention is invited to the scope para of the publication which has been mentioned below (*relevant extracts only)*:

> *"6. This Technical Guide is applicable to all NPOs whether established as trust, society or in any other form of organisation except those referred to in paragraphs below. It is also applicable to all categories of NPOs, whether community based, national or international, having their activities and operations in India.*
>
> *7. This Technical Guide does not apply to NPOs for which separate pronouncements/formats have been issued by the relevant Statute, concerned Regulator, authority, or specific accounting pronouncements have been issued by the Institute of Chartered Accountants of India (ICAI). For example, formats have been prescribed for Trusts under Maharashtra Public Trust Rules, 1951, Guidance has been specifically given by ICAI for School, Political Parties. However, such NPOs are encouraged to follow this Technical Guide to the extent it is not contradictory to such pronouncements/ formats.*
>
> *8. The requirements of various Acts including the Income-tax Act and the Foreign Contribution (Regulation) Act, do not form part of this Technical Guide*."

5.11 Attention is invited to Para 97 of the said Technical Guide issued by Accounting Standards Board of ICAI [Emphasis supplied]:

> "*97. Proper books of account <u>would not be deemed to be kept</u> with respect to the matters specified therein if:*
>
> *(a) Such books are not kept as are necessary to give a true and fair*

view of the state of affairs of the NPO, and to explain its transactions;

(b) *Such books are not kept on accrual basis and according to the double entry system of accounting; and*

(c) *Such books are not kept so as to reflect a true and fair view of various funds maintained by the NPO.*

According to the above paragraph of the said Technical Guide, proper books of account would not be deemed to have been kept in case the same are not kept on accrual basis and according to the double entry system of accounting.

5.12 The scope of the said Technical Guide clearly mentions that the requirements of various Acts including the Income-tax Act, 1961 do not form part of the said Technical guide. Thus, to that extent, the provisions of Rule 17AA of the Income-tax Rules, 1962, section 145 and proviso to section 11 shall apply. The institutions are however encouraged to follow the Technical Guide issued by Accounting Standards Board of ICAI to the extent it is not contradictory to pronouncements/formats issued by the relevant Statute, concerned Regulator, authority, or specific accounting pronouncements issued by the Institute of Chartered Accountants of India (ICAI).

5.13 For the purpose of reporting in respect of books of account the above aspects should be appropriately considered by the auditor.

6. Form of Financial Statements

6.1 In case of certain categories of assessees, e.g. company, society, charitable trusts etc., respective law governing the assessee prescribe form in which financial statements should be prepared and presented. In such a case, relevant provisions of law should be complied with for preparation and presentation of the financial statements. It should be noted that the responsibility for maintenance of books and records and that for preparation of financial statements is that of the assessee.

6.2 As per para 105 of the Publication titled '*Technical Guide on Accounting for Not-for-Profit Organisations (NPOs) issued by* of Accounting Standards Board of ICAI (relevant extracts only)

".....NPOs which are not registered under the Companies Act but the statute which governs them prescribes a format for the purpose of preparation of the financial statements, should prepare the financial statements in accordance with the requirements of the said statute. The Accounting Standards should also be followed by such NPOs as are

already discussed in this Technical Guide. For use by NPOs, which are not governed by any statute or for which the governing statute does not prescribe any formats, formats of financial statements are given in this Technical Guide. It has been emphasised that an NPO may modify the formats appropriately keeping in view the nature of activities, requirements of donor agencies, etc. The formats are to be viewed as laying down the minimum requirements that NPOs should present in their financial statements. Those NPOs which wish to present more detailed information are encouraged to do so."

6.3 The Accounting Standards Board of ICAI has issued Illustrative Formats of Financial Statements of NPOs in the Publication titled '*Technical Guide on Accounting for Not-for-Profit Organisations (NPOs)*' hosted at the link https://resource.cdn.icai.org/74188asb60123.pdf .

6.4 The accounting process in an organisation culminates in the preparation of its financial statements. Financial statements are intended to reflect the operating results during a given period and the state of affairs at a particular date in a clear and comprehensive manner. The basic financial statements relevant to an NPO are income and expenditure account and balance sheet and notes, other statements and explanatory material that are an integral part of the financial statements. They may also include supplementary schedules and information based on or derived from and expected to be read with such statements. In addition, NPOs should also prepare a cash flow statement in accordance with Accounting Standard (AS) 3, Cash Flow Statements where applicable. Financial statements do not, however, include reports by the governing body, for example, the trustees, statement by the Chairman, discussion and analysis by management and similar reports that may be included in a financial or annual report.

6.5 Income and expenditure account is a nominal account which is prepared by an NPO in lieu of a profit and loss account. An income and expenditure account should contain all revenue, gains and other income and expenses and losses incurred by an NPO during an accounting period. The net result, i.e., the difference between revenues and expenses is depicted in the form of surplus, i.e., excess of income over expenditure, or deficit, i.e., excess of expenditure over income for the period. For the preparation of income and expenditure account only revenue items are taken into consideration and capital items are totally excluded. Incomes received in advance and prepaid expenses at the end of the accounting period are also excluded while preparing this account and are disclosed as a liability and an asset, respectively, in the balance sheet. These are included as incomes and expenses in the accounting periods to which they relate.

6.6 The auditor may consider inviting attention of assesses towards the format appearing in the said publication. The said illustrative format can be accessed from the link https://www.icai.org/post.html?post_id=15772.

7. Accounting Standards

7.1 Recognizing the need to harmonize the diverse accounting policies and practices in use in India and keeping in view the international developments in the field of accounting, the Council of the ICAI has issued Accounting Standards. The developments regarding Accounting Standards and its applicability is given in following paragraphs.

7.2 The legal recognition to the Accounting Standards formulated by the ICAI was granted in October 1998 with insertion of Section 211(3A), (3B), and (3C) in the Companies Act, 1956. The Companies Act, 2013 has replaced Companies Act, 1956. Section 211(3C) of the erstwhile Companies Act had provided that Accounting Standards issued by the ICAI as may be prescribed by the Central Government in consultation with the National Advisory Committee on Accounting Standards (NACAS). As per the proviso to the section, till the notification of the Accounting Standards by the Government, the Accounting Standards issued by the ICAI were required to be followed by companies. In the year 2006, Accounting Standards 1 to 7 and 9 to 29 were notified by the Ministry of Corporate Affairs, Government of India, under the Companies (Accounting Standards) Rules, 2006 vide its notification dated December 7, 2006 in the Gazette of India. These were made effective in respect of accounting periods commencing on or after the publication of these Accounting Standards (i.e., December 7, 2006).

7.3 As per the Companies (Accounting Standards) Rules, 2006, Companies are classified into two categories, i.e., Small and Medium Companies (SMCs) and Non-SMCs. Under the Companies Act, 2013, section 129 provides for compliance with Accounting Standards notified under Section 133. In accordance with section 133, the Central Government prescribes the standards of accounting as recommended by the ICAI in consultation with and after examination of the recommendations made by the National Financial Reporting Authority. Under the Companies Act , 1956 , it was prescribed that the standards of accounting specified by the Institute of Chartered Accountants of India shall be deemed to be the Accounting Standards until the Accounting Standards are prescribed by the Central Government Accordingly, Accounting Standards notified under the Companies (Accounting Standards) Rules, 2006 would continue to be followed under the Companies Act, 2013. In 2021, AS Rules 2006 were mirrored under the Companies Act

2013 and notified as the Companies (Accounting Standards) Rules, 2021 applicable in respect of accounting periods commencing on or after April 01, 2021. Another set of Accounting Standards, i.e., Indian Accounting Standards (Ind AS) that are converged with globally accepted International Financial Reporting Standards have been notified under the Companies (Indian Accounting Standards) Rules, 2015 and already been implemented as per the Roadmap issued by the MCA to all companies listed on stock exchanges in India or outside India with a net worth of Rs. 250 crore or more and unlisted companies with a net worth of Rs. 500 Crore or more.

7.4 "*The Technical Guide on Accounting for Not-for-Profit Organisations (NPOs)"* issued by the Accounting Standards Board of ICAI gives guidance regarding applicability of Accounting Standards to NPOs.

Apart from the same, it also discusses the accounting framework of NPOs, Basis of Accounting and applicability of Accounting Standards to NPOs , Recognition and Measurement Principles, Books of Account to be maintained by an NPO, Fund based Accounting, Disclosures, Transition to accrual basis of accounting and Formats for financial statements of Not-for-Profit Organisations (NPOs).

7.5 Attention is also invited to following paragraphs of the above mentioned Technical Guide with regard to the applicability of Accounting Standards to NPOs:

Para 31 [Emphasis supplied]:

"From Paragraph 30, it is apparent that the Accounting Standards formulated by the ICAI do not apply to an NPO if no part of the activity of such entity is commercial, industrial or business in nature. The Standards would apply even if a very small proportion of activities is considered to be commercial, industrial or business in nature. For example, where an NPO is engaged in the commercial activity of granting loans/credit to small entrepreneurs at nominal rates of interest or in the industrial activity of manufacturing clothes for the rural poor, Accounting Standards formulated by the ICAI would apply to such an NPO. It may be mentioned that since the Accounting Standards contain wholesome principles of accounting, these principles provide the most appropriate guidance even in case of those organisations to which Accounting Standards do not apply. It is, therefore, recommended that all NPOs, irrespective of the fact that no part of the activities is commercial, industrial or business in nature, should follow accrual basis of accounting and Accounting Standards other than for section 8

companies for which specific provisions of the Companies Act 2013 are already applicable. This is because following the Accounting Standards laid down by ICAI would help NPOs to maintain uniformity in the presentation of financial statements, appropriate disclosures and transparency. However, while applying the Accounting Standards certain terms used in the Accounting Standards may need to be modified in the context of the corresponding appropriate terms for NPOs. For instance, where an Accounting Standard refers to the term 'statement of profit and loss', in the context of NPOs, this Technical Guide uses the term 'income and expenditure account'.

Para 34 [Emphasis supplied]

So far, the ICAI has formulated 29 Accounting Standards, of which, 27 Standards are applicable as on date after withdrawal of two Standards i.e. AS 6 on Depreciation and AS 8 on Accounting for Research and Development. For the purpose of applicability of Accounting Standards, pursuant to the notification on Accounting Standards (referred to in Para 32) issued by the Central Government, companies have been classified as Small and Medium Sized Companies (SMCs) and Non-SMCs. ICAI has classified entities other than companies into four categories, viz., Level I, Level II, Level III and Level IV where Level IV, Level III and Level II entities are referred to as Micro, Small and Medium size entities (MSMEs), respectively. The criteria for classification of non-corporate entities and companies into different categories, and the applicability of the individual Accounting Standards to non-corporate entities and companies are given in Appendix I of this Technical Guide. Given their resources and scale of operations, entities falling within the category of SMCs/MSMEs are given relaxations/exemptions under certain Accounting Standards. This is relevant for micro, small and medium-sized NPOs also which meet the criteria of SMCs/MSMEs. In this context it may be mentioned that one of the criteria for categorising SMCs/MSMEs is 'turnover', and turnover in respect of NPOs would mean their gross income and contributions received in corpus fund."

Para 105 [Relevant Extracts only] [Emphasis supplied]:

"NPOs incorporated under section 8 of the Companies Act, 2013, are governed by the provisions of the said Act. Under the Act, these NPOs are required to follow the Accounting Standards notified by the MCA and to prepare balance sheet and statement of profit and loss account (income and expenditure account in case of companies not carrying business for profit) in the formats set out in Schedule III to the Act, or as near thereto as circumstances admit……"

7.6 Accounting Standards generally relevant to NPOs have been discussed in detail in the above-mentioned Technical Guide. Accordingly, the auditor should examine compliance with the mandatory Accounting Standards when conducting such audit.

8. Audit Procedures

8.1 In the case of an audit, the auditor is required to express his opinion as to whether the financial statements give a true and fair view of the state of affairs of the assessee in the case of the balance sheet and in the case of the profit and loss account/ income and expenditure account, of the income and application or profit or loss of its accounting year. As regards the Statement of Particulars annexed (Annexure) to the audit report (Form No. 10BB/10B), the auditor is required to give the opinion as to whether the particulars are true and correct. In giving his report, the auditor will have to use his professional skill, expertise and judgement and apply such audit tests/procedures as the circumstances of the case may require, considering the contents of the audit report. The auditor will have to conduct the audit by applying the generally accepted auditing procedures which are applicable for any other audit. The auditor should use professional judgment to apply the technique of audit sampling in accordance with the principles enunciated in SA 530 *"Audit Sampling"* depending on the nature and volume of transactions, the materiality involved and the internal control procedures followed by the assessee. The auditor should also refer to the other Standards on Auditing (SAs) as may be relevant, issued by ICAI, as well as the "*Guidance Note on Reports or Certificates for Special Purposes"(Revised 2016) issued by ICAI .*

8.2 Section 143 of the Companies Act, 2013 outlines the powers of auditors, including authority to call for books of account, information, documents, explanations, etc., and to access all books and records. Attention is invited to SA 210, *Agreeing the Terms of Audit Engagements*. The Standard requires an auditor to establish whether the pre-conditions for an audit are present so as

to accept or continue an audit engagement. As per para 6(b)(iii) of SA 210 the auditor is required to obtain agreement of management that it acknowledges and understands its responsibilities to provide the auditor with

(a) access to all information of which the management is aware that is relevant to the preparation of the financial statements such as records, documentation and other matters,

(b) additional information that the auditor may request from management for the purpose of the audit and

(c) unrestricted access to persons within the entity from whom the auditor determines it necessary to obtain audit evidence.

Moreover, since the appointment of the auditor is made by the shareholders at the Annual General Meeting (AGM) based on the recommendations of the board of directors. It will be in the interest of the assessee to furnish all the information and explanations and produce books of account and records required by the auditor. If, however, after agreeing to the terms of the engagement, the assessee subsequently refuses to produce any particular record or to give any specific information or explanation in relation to the reporting requirement, the auditor should assess the impact thereof from the perspective of "management integrity" vis-a-vis overall assessment of risk of material misstatements in accordance with *SA 315, Identifying and Assessing the Risks of Material Misstatement Through Understanding the Entity and its Environment* and consequently form his/her opinion for reporting in observations/qualification para of Form No. 10BB/10B.

8.3 The purpose of audit report given under this section is to assist the Income-tax Department to verify whether the assessee has complied with the relevant provisions of the Act. The auditor should keep necessary working papers about the evidence on which he has relied upon while conducting the audit and also maintain all the necessary working papers. Such working papers should include auditor's notes on the following, amongst other matters:

(a) work done while conducting the audit and by whom;

(b) explanations and information given to him during the course of the audit and by whom;

(c) decision on the various points taken;

(d) the judicial pronouncements relied upon by him while making the audit report; and

(e) certificates issued by the client/management letters.

8.4 The requirements of audit documentation are applicable in respect of audit conducted by chartered accountants. For this purpose, attention is also invited to SA 230, *Audit Documentation*, which provides that the auditor should prepare documentation that provides a sufficient and appropriate record of the basis for the auditor's report and evidence that the audit was planned and performed in accordance with SAs and applicable legal and regulatory requirements.

8.5 Certain clauses of audit report in Form No. 10BB/10B may require reporting on some items in respect of which full information may not be available in books of account. In respect of such clauses the auditor will require inputs from the management. The auditor may raise certain issues for soliciting views of Those Charged with Governance. Therefore, the auditor should consider SA 580 – *Written Representations* and consider obtaining written representation from management in accordance with SA 580.

8.6 In case of the conduct of a statutory audit for the purpose of expression of the auditor's opinion as to whether the financial statements depict a '*true and fair'* view, the auditor applies audit sampling technique. Similarly, in case of audits of institution under section 10(23C) or 12A also the auditor may apply audit sampling technique as prescribed in SA 530, *Audit Sampling* on the information provided by the assessee to obtain sufficient appropriate audit evidence to be able to draw reasonable conclusions on which to base the audit opinion. The extent of check undertaken by the auditor would have to be indicated in audit working papers The auditor would be advised to so design the audit programme as would reveal the extent of checking and to ensure adequate documentation in support of the information being certified.

8.7 Where the assessee has been subjected to an internal audit and the auditor decides to use the work of the internal auditor for the purpose of the tax audit under section 10(23C)/12A, the auditor's procedures would be guided by the principles laid down in SA 610 (Revised), *Using the Work of Internal Auditors.*

8.8 The ICAI has pursuant to the issuance of SA 700 (Revised), Forming an Opinion and Reporting on Financial Statements, prescribed a revised format of the auditor's report on financial statements, which has been made effective in respect of audits of financial statements for periods beginning on or after 1st April 2018. Since Form No. 10BB/10B are required to be furnished online in a preset form and the same are not in line with the requirements of SA 700 (Revised), there is no specifically allocated field for providing information relating to the respective responsibilities of the management and the auditor

as required in terms of the principles laid out in SA 700 (Revised). However, having regard to the importance of these respective responsibility paragraphs from the perspective of the readers of the audit report, it is suggested that these respective responsibility paragraphs can be given in the space, provided for giving observations/ Qualification in Form No. 10BB/10B, as the case may be.

8.9 The illustrative Management's responsibility paragraphs and Auditor's responsibility paragraphs in respect of Form No. 10BB/10B are given hereunder. The same may be suitably re-worded to meet the situation envisaged in Form No. 10BB/10B. **"Management's Responsibility for the Financial Statements and the Statement of Particulars in Form No.10BB/10B**

1. *The Management is responsible for the preparation of these financial statements that give a true and fair view of the financial position and financial performance of the assessee (if applicable) in accordance with the applicable financial reporting framework. This responsibility includes the design, implementation and maintenance of internal control relevant to the preparation and presentation of the financial statements that give a true and fair view and are free from material misstatement, whether due to fraud or error.*

2. In preparing the financial statements, management is responsible for assessing the assessee's ability to continue as a going concern, disclosing, as applicable, matters related to going concern and using the going concern basis of accounting unless management either intends to liquidate the assessee or to cease operations, or has no realistic alternative but to do so.

3. Those charged with governance are responsible for overseeing the assessee's financial reporting process.

4. *The Management is also responsible for the preparation of the 'Annexure-Statement of particulars' required to be furnished along with Form No.10BB/10B that give true and correct particulars as per the provisions of the Income-tax Act, 1961 read with Rules, Notifications, Circulars etc. that are to be included in the Statement.*

Auditor's Responsibility for audit of the Financial Statements and the Statement of Particulars in Form No.10BB/10B

Our objectives are to obtain reasonable assurance about whether the financial

statements as a whole are free from material misstatement, whether due to fraud or error, and to issue an auditor's report that includes our opinion. Reasonable assurance is a high level of assurance, but is not a guarantee that an audit conducted in accordance with SAs will always detect a material misstatement when it exists. Misstatements can arise from fraud or error and are considered material if, individually or in the aggregate, they could reasonably be expected to influence the economic decisions of users taken on the basis of these financial statements.

As part of an audit in accordance with SAs, we exercise professional judgment and maintain professional skepticism throughout the audit. We also:

- Identify and assess the risks of material misstatement of the financial statements, whether due to fraud or error, design and perform audit procedures responsive to those risks, and obtain audit evidence that is sufficient and appropriate to provide a basis for our opinion. The risk of not detecting a material misstatement resulting from fraud is higher than for one resulting from error, as fraud may involve collusion, forgery, intentional omissions, misrepresentations, or the override of internal control.
- Obtain an understanding of internal control relevant to the audit in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the entity's internal control.
- Evaluate the appropriateness of accounting policies used and the reasonableness of accounting estimates and related disclosures made by management.
- Conclude on the appropriateness of management's use of the going concern basis of accounting and, based on the audit evidence obtained, whether a material uncertainty exists related to events or conditions that may cast significant doubt on the assessee's ability to continue as a going concern. If we conclude that a material uncertainty exists, we are required to draw attention in our auditor's report to the related disclosures in the financial statements or, if such disclosures are inadequate, to modify our opinion. Our conclusions are based on the audit evidence obtained up to the date of our auditor's report. However, future events or conditions may cause the entity to cease to continue as a going concern.
- Evaluate the overall presentation, structure and content of the financial statements, including the disclosures, and whether the financial statements

represent the underlying transactions and events in a manner that achieves fair presentation.

We communicate with those charged with governance regarding, among other matters, the planned scope and timing of the audit and significant audit findings, including any significant deficiencies in internal control that we identify during our audit.

We also provide those charged with governance with a statement that we have complied with relevant ethical requirements regarding independence, and to communicate with them all relationships and other matters that may reasonably be thought to bear on our independence, and where applicable, related safeguards.

We are also responsible for verifying the statement of particulars required to be furnished/annexed herewith in Form No. 10BB/10B read with Rule 17B/16CC of Income-tax Rules, 1962.

8.10 In this regard, attention of the members is also invited to the Announcement regarding "*Applicability of SA 700 (Revised), Forming an Opinion and Reporting on Financial Statements, to Formats of Auditor's Reports Prescribed Under Various Laws and/ or Regulations*" (01.04.2018), issued by ICAI, given in (**Refer Appendix VIII).**

9. Professional Misconduct

9.1 It may be noted that when any question relating to professional misconduct in connection with audit arises, the auditor would be liable under the Chartered Accountants Act,1949 and the ICAI's disciplinary jurisdiction will prevail in this regard. ICAI has constituted the Taxation Audits Quality Review Board (TAQRB) with a sole aim to review any report prescribed under the Income-tax Act, 1961 and Rules framed thereunder and any report prescribed under the Indirect Tax Laws including GST Law which are certified by a Chartered Accountant with a view to determine, to the extent possible, compliance with the reporting requirements prescribed under the respective Acts and related Rules and pronouncements, guidance notes issued, if any, by ICAI in respect of the same. TAQRB, when finds any material/ serious non-compliance in tax audit report, appropriate action, including referring case for disciplinary proceedings, is initiated.

10. Audit Report

10.1 As per the Notification dated 21.02.2023, CBDT has issued new forms of Audit Report Form No. 10BB and Form No.10B by the Income-tax Amendment (3rd Amendment) Rules, 2023 which came into effect from 01.04.2023 (Assessment Year 2023-24 and onwards).

10.2 Section 12A/10(23C) requires the auditor to submit the audit report in the prescribed form and setting forth the prescribed particulars. Rule 16CC/17B provides that the report of audit of accounts of a person required to be furnished under section 12A/10(23C) shall be in-

*(*a) Form No. 10B where—

(i) the total income of the institution without giving effect to the provisions of sub-clauses (iv), (v), (vi) and (via) of section 10(23C) or section 11 and/or section 12 , as the case may be, exceeds rupees five crores during the previous year: or

(ii) such institution has received any foreign contribution during the previous year; or

(iii) such institution has applied any part of its income outside India during the previous year;

(b) Form No. 10BB in other cases

10.3 In other words, as per the amended Rule 16CC, any trust or institution registered u/s 10(23C) if its total income without giving effect to benefit of sub-clauses (iv), (v),(vi) and (via) of section 10(23C), exceeds Rs.5 crores in a previous year or if it has any foreign contribution during the previous year or if it has applied any part of its income outside India during the previous year shall furnish its audit report in Form No. 10B. In all other cases, report of audit is to be in Form No. 10BB.

10.4 The notification provides for furnishing of Form No. 10B in case any institution registered under section 10(23C) having applied any part of its income outside India during the previous year by such institution. It is pertinent to mention here that provisions of section 10(23C) does not distinguish between application made outside India or within India.

10.5 Now, as per the amended Rule 17B, any trust or institution registered under section 12A if its total income (without giving effect to benefit u/s section 11 and 12) exceeds Rs.5 crores in a previous year or has received any foreign

contribution during the previous year or has applied any part of its income outside India during the previous year shall furnish audit report in Form No.10B. And any trust or institution registered in accordance with section 12A(1)(ac) which does not fall into the above stated criteria shall furnish its audit report in Form No.10BB.

10.6 For the purposes of reporting in Form No.10B foreign contribution shall have the same meaning as assigned to it under section 2(1)(h) of Foreign Contribution (Regulation) Act, 2010 which has been reproduced earlier in this publication.

10.7 Attention is invited to Explanation 2 to section 2(1)(h) of Foreign Contribution (Regulation) Act, 2010, which mentions that:

> *"interest accrued on the foreign contribution deposited in any bank referred to in sub-section (1) of section 17 or any other income derived from the foreign contribution or interest thereon shall also be deemed to be foreign contribution within the meaning of this clause."*

With reference to the above-mentioned Explanation, it may be noted that any trust/institution having interest emanating from the funds of FCRA and therefore Form No. 10B shall be applicable even if no fresh contribution is received.

10.8 As per the "Do's and Don't's" mentioned in Foreign Contribution (Regulation) Act, 2010 (FCRA) At fc_faq_04102022.pdf (fcraonline.nic.in) –

Do not mix Foreign Contribution with Domestic Receipts:-

- Bank accounts must be separate (obviously)
- Do not transfer funds from FC Bank to Non FC (even Direct Bank Transfer)
- Books of Account *must be separate.*

Do not transfer FC funds to other Associations (Sec.7 of FCRA):-

- One can make payments from FC funds to other persons for services rendered by them.

Do not utilize foreign contribution for administrative purpose (Sec.8- of FCRA):-

- Avoid as far as possible more than 20% of foreign contribution, received in a particular financial year to administrative expenses. Provided further that administrative expenses exceeding 20% of such

- contribution may be defrayed with prior permission of the Central Government.

Do not accept foreign contribution without prior permission or having a certificate of FCRA Registration (Sec.11 of FCRA):-

- No association/NGO/Society having a definite cultural, economic, educational, religious or social programme shall accept foreign contribution unless he obtains prior permission or a certificate of registration under FCRA from the Central Government.

11. Issuing Audit Report

11.1 Auditor should obtain a hard copy or soft copy of the financial statements for the previous year under audit duly signed by the signatories eligible to sign the financial statements on behalf of the assessee.

11.2 An audit report should be issued by the auditor in Form No. 10BB/10B as may be applicable along with the statements of particulars. These should be in hard copy physically signed or soft copy digitally signed by the auditor.

11.3 The audit report is to be furnished electronically on the income-tax e-filing portal. It requires the auditor to upload Form No. 10BB or 10B along with Statement of particulars annexed thereto. The same are required to be digitally signed and UDIN is also required to be generated.

12. Requirements of Form No. 10BB and 10B

12.1 The requirement to furnish audit report in Form No. 10BB and Form No. 10B by institution is as under-

Applicability of Form	**Type of Trust or Institutions**	**Particulars**
Form No. 10B	**A trust or Institution registered in accordance with section 12A(1)(ac)**	Total Income exceeds Rs.5 crore during the previous year without giving effect to provisions of section 11 and 12; **OR**
		Receipt of any foreign contribution as defined in section 2(1)(h) of the

Applicability of Form	Type of Trust or Institutions	Particulars
		Foreign Contribution (Regulation) Act, 2010 (42 of 2010);**OR**
		Application of any income outside India
	Any fund, trust or institution or university or other educational institution or any hospital or other medical institution approved under section 10(23C)(iv)/(v)/(vi)/(via)	Total Income exceeds Rs.5 crore during the previous year without giving effect to provisions of section 10(23C)(iv)/(v)/(vi)/(via) **OR**
		Receipt of any foreign contribution as defined in section 2(1)(h) of the Foreign Contribution (Regulation) Act, 2010 (42 of 2010) **OR**
		Application of any income outside India
Form No. 10BB	**In other cases**	

Note- It may be noted that Form No. 10B and 10BB will not be applicable for trust/institutions claiming exemption under section 10(23C)(iiiab)/(iiiac)/(iiiad)/(iiiae).

12.2 Form No. 10BB/10B requires the Auditor to give his opinion as to whether proper books of account have been maintained as per requirements of the Act and also whether the financial statements are in agreement with the books of account so maintained by the institution.

12.3 Thereafter, auditor also has to report that all information and explanations to the best of his knowledge and belief which were

the purposes of audit have been obtained and that in his opinion proper books of account have been maintained at the registered office of the above-named auditee at the address mentioned in the Annexure in the Clause 11/14 of Form No. 10BB/10B.

12.4 The next paragraph mentions about the statement of particulars required to be furnished which is annexed to the audit report in Form No. 10BB/10B. The auditor is required to give his opinion whether the prescribed particulars furnished by the assessee are *true and correct*, subject to observations or qualifications, if any. The auditor may have a difference of opinion with regard to the particulars furnished by the auditee. These differences may pertain to various clauses in the annexure which are to be reported in this paragraph as observations/qualifications.

12.5 Also, any observations/qualifications/adverse remarks/disclaimers found during their audit on any of the clauses of Annexure to Form No. 10BB or Form No. 10B, wherever required are to be reported in this paragraph as observations/qualifications.

12.6 The requirement in Form No. 10BB/10B relating to 'Statement of particulars to be given in the annexure is that the auditor should report that the particulars given therein are "*true and correct*". The terminology "*true and fair*" is widely understood though not defined under the Income-tax Act, 1961. The words *"true and correct*" lay emphasis on factual accuracy of the information.

12.7 The subsequent paragraph requires the auditor to state whether in his opinion and to the best of his information and according to the information given to him, the said accounts give a **true and fair view** subject to observation/qualifications;

(i) in the case of the balance sheet of the state of the affairs of the auditee as on _____ and

(ii) in the case of the income and expenditure account or profit and loss account of the income and application or profit or loss of its accounting year ending on_____.

12.8 In this context, reference is invited to AS-1 relating to disclosure of accounting policies. AS-1 recognises that the major considerations governing the selection and application of accounting policies are:

(i) prudence,

(ii) substance over form and

(iii) materiality.

Therefore, while reporting particulars in annexure to the Form No.10BB/10B, these aspects should be kept in view. In particular, considering the statement of particulars to be given in annexure, the aspect of materiality should be considered. In other words, particulars should be given in respect of material items and the auditors should assess factual correctness relating to these particulars. Attention of the members, in this context is, however, also drawn to Para 51 of "*Framework for Assurance Engagements*" reproduced below:

> *"51. Reasonable assurance" is less than absolute assurance. Reducing assurance engagement risk to zero is very rarely attainable or cost beneficial as a result of factors such as the following:*
>
> - *The use of selective testing.*
> - *The inherent limitations of internal control.*
> - *The fact that much of the evidence available to the Practitioner is persuasive rather than conclusive.*
> - *The use of judgment in gathering and evaluating evidence and forming conclusions based on that evidence.*
> - *In some cases, the characteristics of the subject matter when evaluated or measured against the identified criteria."*

12.9 The auditor needs to report that the financial statements audited by him give a `true and fair' view. With regard to the term "*true and fair view*", the auditor is advised to consider the Framework for Preparation and Presentation of Financial Statements and requirements of SA 700 (Revised), *Forming an opinion and Reporting on Financial Statements*. Attention of the members is drawn to Para 5 of SA 200, O*verall Objectives of the Independent Auditor and Conduct of an audit in accordance with Standards on Auditing*" reproduced below:

> *"5. As the basis for the auditor's opinion, SAs require the auditor to obtain reasonable assurance about whether the financial statements as a whole are free from material misstatement, whether due to fraud or error. Reasonable assurance is a high level of assurance. It is obtained when the auditor has obtained sufficient appropriate audit evidence to reduce audit risk (i.e., the risk that the auditor expresses an*

inappropriate opinion when the financial statements are materially misstated) to an acceptably low level. However, reasonable assurance is not an absolute level of assurance, because there are inherent limitations of an audit which result in most of the audit evidence on which the auditor draws conclusions and bases the auditor's opinion being persuasive rather than conclusive."

12.10 While reporting under this paragraph of Form No. 10BB/ Form No.10B, the auditor besides mandatory requirements of SA 700 (Revised) should report observations/qualifications which affect his reporting about obtaining all the information which were necessary for the purposes of the audit, about the true and fair view of the financial statements. Further, only such observations which are of qualificatory nature should be mentioned under this paragraph. While reporting under any clause of Annexure to Form No.10BB/ 10B, the auditor may be of the view that any elucidation, qualification, disclaimer, etc. is required to be stated. These aspects may also be stated in the said paragraph. All these aspects should also refer number of the clause (of the Annexure) to which it relates. In case the auditor has no observations/ qualification, "NIL" should be reported in this paragraph. The auditor may then give his report as required. The auditor should comply with the Standards on Auditing (SAs) issued by the ICAI while giving his opinion on the financial statements in Form No. 10BB/10B.

12.11 Where any of the requirements in this form are answered in negative or with qualification, the audit report shall state the reasons thereof. The auditor should state this qualification in the audit report in the observations/ qualifications paragraph of Form No. 10BB/10B so that the same becomes a comprehensive report and the user of the audited statement of particulars can understand the impact of such qualifications.

12.12 Form No. 10BB /10B requires that the person, who signs this audit report, shall indicate reference of his membership number. As such, where a chartered accountant acts as an auditor, he should give his membership number with ICAI while registering himself in the e-filing portal. In case the e-filing utility of Form No. 10BB/10B requires the mention of the Firm Registration number and the name of the firm on whose behalf the member has conducted audit, the same should invariably be provided by the auditor. The auditor should also mention the Unique Document Identification Number (UDIN) for issuing the audit report, if available at the time of signing.

Annexure to Form No. 10BB and Form No. 10B

The details required in the annexures to Form No. 10BB and 10B containing statement of particulars have been discussed in detailed in the following paragraphs. Initially in Part I, the **Serial Numbers/ Row Numbers/Field number mentioned in statement of particulars** (**Hereinafter referred to as clauses**) which are substantially similar for both Form No. 10BB and Form No. 10B have been discussed. Thereafter, the remaining clauses of Form No. 10B have been detailed.

The Income Tax Department has issued instructions for filling Form No.10BB and Form No.10B *(Applicable from A.Y. 2023-24 onwards)*. As per the said document :-

> '*These instructions are intended to assist the user in filling the re-notified Form 10B available on e-filling portal and will be applicable from Assessment Year 2023-24 onwards. Please note that instruction file is not a legal document. In case of any ambiguity between the relevant rules and sections of the Income-tax Act, 1961 and Income-tax Rules, 1962, the Income-tax Act, 1961 will always prevail. Therefore, the user should refer relevant provision of Act and Rules before filing the form'.*

The detailed instructions can be downloaded from the utility itself. The existing instructions of Form No. 10BB (online utility only) and version 1.0 of Form No. 10B (offline utility only) are given in **Appendix IX** and **Appendix X** respectively for reference purposes. Also, some FAQs have with respect to Form No. 10BB and Form No. 10B are available on e-filing portal. The same can be viewed using the link given below:

FAQs on Form No. 10BB

https://www.incometax.gov.in/iec/foportal/help/all-topics/statutory-forms/popular-form/form-10BB-faq

FAQs on Form No. 10B

https://www.incometax.gov.in/iec/foportal/help/all-topics/statutory-forms/popular-form/form-10B-faq

These instructions and FAQs may change from time to time. Thus, the members are requested to refer to the latest instructions while furnishing the audit report.

PART I

FORM NO.10BB AND FORM NO.10B

Common Clauses

Common Clauses to Form No.10BB and Form No. 10B

The clauses which are substantially similar in Form No.10BB and Form No.10B are covered in this section of the publication.

13. Basic Details

[Clauses 1-8 of Form No.10BB and 10B]

1. **PAN of the auditee**
2. **Name of the auditee**
3. **Assessment Year**
4. **Previous Year**
5. **Registered address of the auditee**
6. **Other addresses, if applicable** < *refer note**>
7. **Type of the auditee-** *Trust/ Society/ Company/ Others*
8. **Whether the auditee is established under an instrument?**

Note 3 of Form No. 10BB and No.10B*

In serial number 6, provide the address which has been decided by the management by way of a resolution and which has been intimated to the jurisdictional Assessing Officer in writing within seven days of such resolution as per the proviso to sub- rule (3) of rule 17AA;

The requirements of clauses 1 to 8 are discussed as follows:

13.1 *Under clause 1,* the **Permanent Account Number (PAN)** allotted to the assessee whose accounts are being audited (auditee) under section 12A/10(23C) should be reported.

13.2 *Under clause 2,* the **name of the assessee** whose accounts are being audited (auditee)under section 12A/10(23C) as specified in PAN should be reported. In case there is mismatch between name of the assessee as per PAN and as per order issued by department in Form No. 10AB, the same is to be clarified as an observation in audit report.

In case of change in the name of the assessee, if the change has taken place during the financial year, name at the end of the financial year should be stated. However, if the change in name has taken place after the close of the financial year but before signing of audit report, name as at the year ending

date should be mentioned. In either case, fact of name change should be suitably clarified as an observation in audit report.

13.3 *Under clause 3*, the **assessment year** relevant to the previous year for which the accounts are being audited should be mentioned.

13.4 *Under clause 4*, the period of the **previous year** has to be stated. Since the previous year under the Act now uniformly begins on 1st April and ends on 31st March, the relevant previous year should be mentioned. In case of a new assessee who has been incorporated after 1st April, such date of incorporation to 31st March to be mentioned under this clause, otherwise same may be appropriately disclosed in observations/qualifications paragraph.

13.5 *Under clause 5*, the **registered address** of the auditee is to be mentioned. The address should be the same as has been communicated by the assessee to the Income-tax Department as on the date of signing of the audit report. The auditor should verify the relevant details of the assessee from the available income-tax records or from the profile of the assessee on the Income Tax portal. In case of difference, the same should be given as an observation in the audit report.

13.6 *Under clause 6*, **any other address**, if applicable to the auditee to be mentioned. Rule 17AA (3) requires the trust, institutions, hospitals etc. to keep and maintain the books of account and other documents at its registered office. However, the books of account may be kept at such other place as the management may decide by way of resolution. If such resolution is passed by the trust, institutions etc. it shall have to intimate in writing to the jurisdictional Assessing Officer within seven days of passing such resolution giving full address of that other place duly signed by the person who is authorised to sign the return of income u/s 140 of the Act. Thus, in this clause the details of such other place should be mentioned where the books of account and other documents are maintained at a place other than registered office of the trust, institution etc. as per the resolution passed by such trust institutions etc. In case the aforesaid intimation has not been given within the prescribed time and/or there is no resolution which has been passed, the auditor should give observation in the observation/qualification paragraph of the Audit report in Form No. 10BB/10B.

13.7 *Under clause 7,* the **status of the assessee** is to be mentioned. The auditor is required to mention the type of auditee for which the audit has been

conducted under section 12A/10(23C) whether it is Trust/Society/Company or others.

13.8 *Under clause 8*, the auditor has to mention **whether the auditee is established under an instrument** (viz. trust deed, MOA/AOA etc.) or not. The e-filing utility requires the auditor to mention 'Yes/No' under this clause. The auditor may verify the same with the establishment document such as Trust Deed, MOA/AOA, etc. and so on which may be obtained from the management. If it is not registered under any instrument, auditor should get management representation letter to verify the same. The auditor can also re-verify such information for reporting under this clause from the reporting done by the auditee in Form No.10A/10AB, if made available by the auditee.

14. Management

[Clause 9 of Form No.10BB/ Clause 10 of Form No. 10B]

(a) Details of all the Author (s)/ Founder (s)/ Settlor (s)/Trustee (s)/ Members of society/Members of the Governing Council/ Director (s)/ shareholders holding 5% or more of shareholding / Office Bearer (s) of the auditee at any time during the previous year:

- **(1) Name of person**
- **(2) Relation** < *refer note 4 of Form No. 10BB / note 5 of Form No. 10B* >
- **(3) Percentage of shareholding in case of shareholder**
- **(4) Unique Identification Number**
- **(5) Id .Code <***refer note 5 of Form No. 10BB / note 6 of Form No. 10B* >
- **(6) Address**
- **(7) Whether there is any change in relation during previous year of audit - Yes/No**
- **(8) If yes, specify the change**

(b) In case if any of the persons [as mentioned in row 9(a)/10(a)] is not an individual, then provide the following details of the natural persons who are beneficial owners (5% or more) of such person during the previous year:

(1) Sl. No.

(2) Name

(3) Unique Identification Number

(4) ID code < *refer note 5 of Form No.10BB/ note 6 of Form No. 10B* **>**

(5) Address

(6) Non-individual person [as mentioned in serial number no 9(a)/10(a)]in which beneficial ownership held

(7) Percentage of beneficial ownership

(8) Whether there is any change during previous year of audit – (Yes/No)

(9) If yes, specify the change

Note 4# of Form No.10BB & Note 5# of Form No.10B respectively

In serial number 9(a)/10(a), in column (2) for relation one or more of the following codes shall be selected

S. No	*Section*	*Code*
(1)	*Author*	*1*
(2)	*Founder*	*2*
(3)	*Settlor*	*3*
(4)	*Trustee*	*4*
(5)	*Members of society*	*5*
(6)	*Members of the Governing Council*	*6*
(7)	*Director*	*7*
(8)	*Shareholders holding 5% or more of shareholding*	*8*
(9)	*Office Bearer (s)*	*9*
(10)	*Others*	*10*

Note 5## of Form No. 10BB & Note 6## of Form No.10B respectively

In serial number 9(a)/10(a), in column (5), and in serial number 9(b)/10(b), in column (4) for unique identification number and if code, the following should be filled:

If PAN or Aadhar number is available, the same should be mandatorily filled and the following ID code shall be filled:

Type of Identification	***Code***
PAN	*1*
Aadhar Number	*2*

If neither PAN or Aadhar is available, one of the following should be filled:

Type of Identification	***Code***
Taxpayer Identification Number of the country where the person resides;	*3*
Passport number;	*4*
Elector's photo identity number	*5*
Driving License number	*6*
Ration card number	*7*

14.1 In this clause, details of all the Author(s)/ Founder(s)/ Settlor(s)/ Trustee(s)/ Members of society/ Members of the Governing Council/ Director(s)/ shareholders holding 5% or more of the shareholding/ Office Bearer(s)/ of the auditee at any time during the previous year are to be provided.

Note -*The reporting requirement under this clause falls under the heading "Management", which implies that the objective is to report the details of persons who are involved in the management of the assessee. The details of Author(s)/ Founder(s)/ Settlor(s)/ Trustee(s)/ Members of society/ Members of the Governing Council/Director\(s)/ shareholders holding 5% or more of the shareholding/ Office Bearer(s) who are involved in management at any time during the relevant previous year are required to be reported in this clause. Considering that reporting of such details is required under the heading "Management", the details of such persons mentioned therein, who in opinion of auditor are involved in management at any time during the relevant previous year should be reported. Thus, there may be a situation wherein the auditor has to make a judgement of the category of the persons mentioned above who are involved in management and accordingly, details in respect of said persons are required to be given.*

14.2 The details required under this clause are divided into two parts, i.e.

part (a) and part (b). Part (a) requires the details of all specified persons covered under this clause whereas if there is any person other than individual reported in part (a), then part (b) is to be filled up reporting specified particulars of natural persons who are beneficial owners (5% or more).

14.3 Column 1 and *Column 2* require mentioning of the names and relation in context of the table mentioned in *Note 4 and 5* of the Form No.10BB/10B respectively. The said table also provides for the codes which are to be mentioned in column 5. In column no. 2, if more than one relation is applicable for a person, separate records are to be added relation-wise.

14.4 To understand the terms used in this clause mentioned herein, reference may be made to the provisions of Indian Trust Act, 1882 which defines Trust as:

> *A "trust" is an obligation annexed to the ownership of property, and arising out of a confidence reposed in and accepted by the owner, or declared and accepted by him, for the benefit of another, or of another and the owner:*
>
> *"author of the trust": "trustee": "beneficiary": "trust-property": "beneficial interest": "instrument of trust":—the person who reposes or declares the confidence is called the "author of the trust": the person who accepts the confidence is called the "trustee": the person for whose benefit the confidence is accepted is called the "beneficiary": the subject-matter of the trust is called "trust-property" or "trust-money": the "beneficial interest" or "interest" of the beneficiary is his right against the trustee as owner of the trust-property; and the instrument, if any, by which the trust is declared is called the "instrument of trust":*

Other terms like member of Governing Council, shareholders, directors, etc. are self-explanatory and the relevant Statute/constitution instrument(s) concerning the auditee may be referred to if need be.

14.5 Column 3 requires mentioning of percentage of shareholding in case of shareholders. The details required under this clause relate to any or all the person(s) who were at any time holding more than 5% or more of shareholding. Thus, the auditors should verify the details of all the changes occurring in the shareholding effected during the entire year under audit and report the same in this column.

14.6 Column 4 requires mentioning of Unique Identification Number. Note 5 of Form No. 10BB/ Note 6 of Form No.10B respectively provides for "*Type of identification*" to be reported here and their corresponding codes. The same may be referred to while reporting under this clause. These identification numbers may be obtained from the Management and reported accordingly.

14.7 Column 6 requires mentioning of address(es) of the person(s) being reported. The address to be mentioned should be the permanent address of the person or any address of communication as mentioned in the identity proof reported under column 4 or as communicated by the management.

14.8 Column 7 requires the reporting of fact as to whether or not there is any change in the relation of the persons reported in column (1) of this clause. The details of changes are required to be mentioned in column (8) of this clause. The instructions to Form No.10BB/10B clarifies that any change in relation during the previous year of audit is to be reported.

The required details **under this clause** may be verified from any of the following documents for the purpose of reporting:

(i) Latest Form No. 10A/Form No.10AB furnished by the auditee,

(ii) Last year's income-tax return,

(iii) For change in shareholding during the previous year, change details filed in the Form prescribed under Companies Act, 2013 or any other relevant statute, resolution passed during the year etc.

(iv) PAN of person

(v) Aadhar of person

(vi) Minutes of the meetings of the Board, Governing Council and the like

(vii) Filings with other statutory authorities etc.

Besides the above, the auditor may obtain a Management Representation Letter for confirmation of these details.

14.9 Clause 9(b) of Form No. 10BB/ Clause 10(b) of Form No.10B requires reporting of details of all of the natural persons who are beneficial owners (5% or more) of the non-individual persons mentioned in clause 9(a)/10(a). Under clause 9(a)/10(b), individuals and non-individuals falling under the specified categories are both required to be mentioned. In clause (b), further details of beneficial ownership held by natural persons in such non-individual persons

are to be mentioned. These details are required only if the beneficial owners (being a natural person only) is having 5% or more interest in the said entity.

14.10 Reporting under column (1), (2), (3), (4) and (5) are similar to that of clause 9(a)/10(a) and should be reported accordingly.

14.11 Reporting under column (6) is self-explanatory and may be reported accordingly.

14.12 The details of column no. (7)/(8) and (9) under clause 9(b)/10(b) may be verified from any of the following documents for the purpose of reporting:

(i) Latest Form No.10A/Form No.10AB furnished by the auditee,

(ii) Last year's income-tax return,

(iii) For change in shareholding during the previous year, change details filed in the Form prescribed under Companies Act, 2013 or any other relevant statute, resolution passed during the year,

(iv) Filings with other statutory authorities etc.

(v) Minutes of the meetings of the Board, Governing Council and the like.

14.13 Besides the above, the auditor may obtain a Management Representation Letter for conformation of these details.

15. Commencement of activities

[Clause 10 of Form No. 10BB/ Clause 13 of Form No. 10B]

(i) Where the auditee has been granted provisional registration or provisional approval, whether activities have commenced during the previous year

(ii) If yes in 10 (i)/13(i) , date of commencement of activities

(iii) If the answer to 10(i)/13(i) is yes, whether application for registration under section sub-clause (iii) of clause (ac) of sub-section (1) of section 12A or approval under clause (iii) of the first proviso to clause (23C) of section 10 has been filed?

(iv) If yes in 10(iii) above, the date of application for registration or approval.

15.1 According to section 12A of Income-tax Act, 1961, provisions of section 11 and section 12, regarding exemption of income, will not be applicable to institution etc., unless an application for its registration is made as per section 12AB of the Act. The provisional registration so granted shall be valid for a

period of up to 3 years, with an application for renewal being required to be made within a period of 6 months after commencement of activities, or 6 months before expiry of the 3-year period, whichever is earlier.

15.2 Reporting under this clause would be required when the registration renewal application is required to be made in cases of provisional registration/approval. In this case, the auditor should verify the records of the actual commencement of activity in accordance with objects of the entity for the purpose of which provisional registration was being granted and report the actual date of commencement of such activities.

15.3 Under Clause 10 of Form No. 10BB/ Clause 13 of Form No.10B, the auditor has to mention date of commencement of activities where the auditee has been granted provisional registration and if yes, whether application for final registration under section 12A(1)(ac)(iii) or approval under clause (iii) of the first proviso to section 10(23C) has been filed.

15.4 Item No. (i) and (ii) of this clause are applicable in cases where the auditee is granted the provisional registration /approval. In a case where the auditee has obtained the provisional registration/ approval, the auditor is required to state whether the activities have commenced during the previous year and if yes, the date of such commencement. Thus, auditor is required to report about commencement of activities and date of such commencement.

15.5 This bears importance as the entities which are provisionally registered were required to file an application for final registration within 6 months of commencement of their activities or 6 months prior to expiry of their provisional registration whichever is earlier.

15.6 The auditor should verify from the auditee as to which date has been considered as date of commencement and the reason for the same. The auditor should also obtain suitable management representation in this regard. Where the auditee has already commenced their activities during the previous years, it would have filed an application for final registration in Form No. 10AB within 6 months of commencement. The information given by the management can be cross verified from Form No. 10AB submitted by the auditee, if made available as the details of furnishing, its status, date of final registration/ cancellation and URN are required to be reported in Form No. 10AB.

15.7 The auditor should discuss with auditee and apply his professional judgement to validate whether and when the activity is said to have been commenced. Where the activities of the auditee have not commenced during

the previous year, the auditee may not have filed any application for final registration. In such cases, the auditor should verify the activities of the auditee during the previous year and decide whether the activities have actually not commenced. If indeed the activities have not commenced, the auditor should state "No". If according to the auditor, the activities have not commenced, the auditor may bring to the notice of the auditee to take appropriate action and state the correct position in respect of registration under this clause.

15.8 Any trust or institution which requires or needs to get registration under section 10(23C) or 12AB needs to apply for provisional registration under section 12A(1)(ac)(vi)(A) in Form 10A, if it has not commenced its activities. The Principal Commissioner or Commissioner, if satisfied, has to pass an order granting registration for 3 years. The order granting or rejecting such application shall be passed within 1 month from the end of month in which such application was made.

15.9 Any trust or institution which is provisionally registered under section 10(23C) or 12AB has to apply for final registration under section 12A(1)(ac)(iii) in Form 10AB at least six months prior to expiry of the provisional registration or within 6 months of commencement of activities, whichever is earlier. The Principal Commissioner or Commissioner, if satisfied, has to pass an order granting registration for 5 years. The order granting or rejecting such application shall be passed within 6 months from the end of month in which such application was received after satisfying himself about the genuineness of activities and compliance of other laws, as are material for the purpose of achieving its objects.

15.10 Reporting under this clause may be done considering the discussion given in above paragraphs.

15.11 It may be noted that due date for filing Form No. 10A/10AB is further extended to 30.06.2024 (Refer Circular No. 7/2024 dated 25.04.2024- **Appendix XVIII**)

16. Details of Place where books of account and other documents have been kept

[Clause 11 of Form No. 10BB/ Clause 14 of Form No. 10B

(i) Whether the books of account and other documents have been kept and maintained in the form and manner and at such place as prescribed under rule 17AA by the auditee?

(ii) If Yes in (i) above, whether books of account maintained are maintained at registered office? Yes/No

(iii) If No in (ii) above, provide the following details regarding any place other than the registered place where the books of account are maintained

(a) Address of such place where the books are maintained

(b) Date of decision by management to keep account at such place

(c) Date of intimation to Assessing Officer that accounts are kept at such place under proviso to sub-rule (3) of rule 17AA

Clause 14 of Form No. 10B requires <u>further following details</u> in addition to above details:

(1) S. No.

(2) Nature of Books of Account <*Refer Note $$*>

(3) Whether maintained by the auditee

(4) Whether maintained in a computer system,

(5) Whether books of account have been audited

<u>Note 8$$ of Form No.10B</u>

In serial number 14(ii), in column (2) one or more of the codes shall be selected:

S. No	Nature of books of account or other document as provided in rule 17AA	Code
(1)	Cash book	1
(2)	Ledger	2
(3)	Journal	3
(4)	Copies of bills, whether machine numbered or otherwise serially numbered, wherever such bills are issued by the assessee, and copies or counterfoils of machine numbered or otherwise serially numbered receipts issued by the assessee	4
(5)	Original bills wherever issued to the person and receipts in respect of payments made by the person	5
(6)	Any other book that may be required to be maintained in order to	6

S. No	Nature of books of account or other document as provided in rule 17AA	Code
	give a true and fair view of the state of the affairs of the person and explain the transactions effected	
(7)	Books of account, as referred in Serial No. 1 to 6, for business undertaking referred in sub-section (4) of section 11 of the Act	7
(8)	Books of account, as referred in Serial No 1 to 6, for business carried on by the assessee other than the business undertaking referred to in sub-section (4) of section 11 of the Act	8
(9)	Record of all the projects and institutions run by the person containing details of their name, address and objectives	9
(10)	Record of income of the person during the previous year as per rule 17AA(1)(d)(ii)	10
(11)	Record of application of income etc. out of income during the previous year as per rule 17AA(1)(d)(iii)	11
(12)	Record of application of income out of the income of any previous year preceding the current previous year as per rule 17AA(1)(d)(iv)	12
(13)	Record of voluntary contribution made with a specific direction that they shall form part of the corpus, as per rule 17AA(1)(d)(v) ;	13
(14)	Record of contribution received for the purpose of renovation or repair of temple, mosque, gurdwara, church or other place notified under clause (b) of sub-section (2) of section 80G which is being treated as corpus, as per rule 17AA(1)(d)(vi)	14
(15)	Record of loan and borrowings as per rule 17AA(1)(d)(vii)	15
(16)	Record of properties as per rule 17AA(1)(d)(viii);	16
(17)	Record of specified persons as per rule 17AA(1)(d)(ix);	17
(18)	Any other documents containing any other relevant information as per rule 17AA(1)(d)(x).	18

16.1 Section 2(12A) of the Act defines books of account as "*books or books of account*" includes ledgers, day- books, cash books, account-books and other books, whether kept in the written form or in electronic form or in digital form or as print-outs of data stored in such electronic form or in digital form or in a floppy, disc, tape or any other form of electro-magnetic data storage device. As per section 2(*22AA*) of the Act "*document*" includes an electronic record as defined in section 2(1)(f) of the Information Technology Act, 2000 (21 of 2000);

16.2 *Rule 17AA* of the Income-tax Rules, 1962 reads as under:

Books of Account and other documents to be kept and maintained.

17AA. (1) Every fund or institution or trust or any university or other educational institution or any hospital or other medical institution which is required to keep and maintain books of account and other documents under clause (a) of tenth proviso to clause (23C) of section 10 of the Act or sub-clause (i) of clause (b) of sub-section (1) of section 12A of the Act shall keep and maintain the following, namely:

(a) books of account, including the following, namely: -

(i) cash book;

(ii) ledger;

(iii) journal;

(iv) copies of bills, whether machine numbered or otherwise serially numbered, wherever such bills are issued by the assessee, and copies or counterfoils of machine numbered or otherwise serially numbered receipts issued by the assessee;

(v) original bills wherever issued to the person and receipts in respect of payments made by the person;

(vi) any other book that may be required to be maintained in order to give a true and fair view of the state of the affairs of the person and explain the transactions effected;

(b) books of account, as referred in clause (a), for business undertaking referred in sub-section (4) of section 11 of the Act;

(c) books of account, as referred in clause (a), for business carried on by the assessee other than the business undertaking referred in sub-section (4) of section 11 of the Act;

(d) other documents for maintaining, -

(i) record of all the projects and institutions run by the person containing details of their name, address and objectives;

(ii) record of income of the person during the previous year, in respect of,—

(I) voluntary contribution containing details of name of the donor, address, permanent account number (if available) and Aadhaar number (if available);

(II) income from property held under trust referred to under section 11 of the Act along with list of such properties;

(III) income of fund or institution or trust or any university or other education.al institution or any hospital or other medical institution other than the contribution referred in items (I) and (II);

(iii) record of the following, out of the income of the person during the previous year, namely:-

(I) application of income, in India, containing details of amount of application, name and address of the person to whom any credit or payment is made and the object for which such application is made;

(II) amount credited or paid to 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 Act or other trust or institution registered under section 12AB of the Act, containing details of their name, address, permanent account number and the object for which such credit or payment is made;

(III) application of income outside India containing details of amount of application, name and address of the person to whom any credit or payment is made and the object for which such application is made;

(IV) deemed application of income referred in clause (2) of Explanation 1 of sub-section (1) of section 11 of the Act containing details of the reason for availing such deemed application;

(V) income accumulated or set apart as per the provisions of the Explanation 3 to the third proviso to clause (23C) of section 10 or sub-section (2) of section 11 of the Act which has not been applied or deemed to be applied containing details of the purpose for which such income has been accumulated;

(VI) money invested or deposited in the forms and modes specified in sub-section (5) of section 11 of the Act;

(VII) money invested or deposited in the forms and modes other than those specified in subsection (5) of section 11 of the Act;

(iv) record of the following, out of the income of the person of any previous year preceding the current previous year, namely:—

(I) application out of the income accumulated or set apart containing details of year of accumulation, amount of application during the previous year out of such accumulation, name and address of the person to whom any credit or payment is made and the object for which such application is made;

(II) application out of the deemed application of income referred to in clause (2) of Explanation 1 of sub-section (1) of section 11 of the Act, for any preceding previous year, containing details of year of deemed application, amount of application during the previous year out of such deemed application, name and address of the person to whom any credit or payment is made and the object for which such application is made;

(III) application, other than the application referred in item (I) and item (II), out of income accumulated during any preceding previous year containing details of year of accumulation, amount of application during the previous year out of such

accumulation, name and address of the person to whom any credit or payment is made and the object for which such application is made;

(IV) money invested or deposited in the forms and modes specified in sub-section (5) of section 11 of the Act;

(V) money invested or deposited in the forms and modes other than those specified in subsection (5) of section 11 of the Act;

(v) record of voluntary contribution made with a specific direction that they shall form part of the corpus, in respect of-

(I) the contribution received during the previous year containing details of name of the donor, address, permanent account number (if available) and Aadhaar number (if available);

(II) application out of such voluntary contribution referred to in item (I) containing details of amount of application, name and address of the person to whom any credit or payment is made and the object for which such application is made;

(III) amount credited or paid towards corpus to any fund or institution or trust or any university or other educational institution or any hospital or other medical institution referred to in subclause (iv) or sub-clause (v) or sub-clause (vi) or sub-clause (via) of clause (23C) of section 10 of the Act or other trust or institution registered under section 12AB of the Act, out of such voluntary contribution received during the previous year containing details of their name, address, permanent account number and the object for which such credit or payment is made;

(IV) the forms and modes specified in sub-section (5) of section 11 of the Act in which such voluntary contribution, received during the previous year, is invested or deposited;

(V) money invested or deposited in the forms and modes other than those specified in subsection (5) of section 11 of the Act in which such voluntary contribution, received during the previous year, is invested or deposited;

(VI) application out of such voluntary contribution, received during any previous year preceding the previous year, containing details of the amount of application, name and address of the]person to whom any credit or payment is made and the object for which such application is made;

(VII) amount credited or paid towards corpus to any fund or institution or trust or any university or other educational institution or any hospital or other medical institution referred to in subclause (iv) or sub-clause (v) or sub-clause (vi) or sub-clause (via) of clause (23C) of section 10 of the Act or other trust or institution registered under section 12AB of the Act, out of such voluntary contribution received during any year preceding the previous year, containing details of their name, address, permanent account number and the object for which such credit or payment is made;

(VIII) the forms and modes specified in sub-section (5) of section 11 of the Act in which such voluntary contribution, received during any previous year preceding the previous year, is invested or deposited;

(IX) money invested or deposited in the forms and modes other than those specified in subsection (5) of section 11 of the Act in which such voluntary contribution, received during any previous year preceding the previous year, is invested or deposited;

(X) amount invested or deposited back in to such voluntary contribution (which was applied during any

preceding previous year and not claimed as application) including details of the forms and modes specified in sub-section (5) of section 11 in which such voluntary contribution is invested or deposited;

(vi) of contribution received for the purpose of renovation or repair of temple, mosque, gurdwara, church or other place notified under clause (b) of sub-section (2) of section 80G which is being treated as corpus as referred in Explanation 1A to the third proviso to clause (23C) of section 10 or Explanation 3A to sub-section (1) of section 11, in respect of,-

(I) the contribution received during the previous year containing details of name of the donor, address, permanent account number (if available) and Aadhaar number (if available);

(II) contribution received during any previous year preceding the previous year, treated as corpus during the previous year, containing details of name of the donor, address, permanent account number (if available) and Aadhaar number (if available);

(III) application out of such voluntary contribution referred to in item (I) and item (II) containing details of amount of application, name and address of the person to whom any credit or payment is made and the object for which such application is made;

(IV) amount credited or paid towards corpus to 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 Act or other trust or institution registered under section 12AB of the Act, out of such voluntary contribution received during the previous year containing details of their name, address, permanent account number and the object for which such credit or payment is made;

(V) the forms and modes specified in sub-section (5) of section 11 of the Act in which such corpus, received during the previous year, is invested or deposited;

(VI) money invested or deposited in the forms and modes other than those specified in subsection (5) of section 11 of the Act in which such corpus, received during the previous year, is invested or deposited;

(VII) application out of such corpus , received during any previous year preceding the previous year, containing details of amount of application, name and address of the person to whom any credit or payment is made and the object for which such application is made;

(VIII) amount credited or paid to towards corpus 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 Act or other trust or institution registered under section 12AB of the Act, out of such voluntary contribution received during any year preceding the previous year, containing details of their name, address, permanent account number and the object for which such credit or payment is made;

(IX) the forms and modes specified in sub-section (5) of section 11 of the Act in which such corpus, received during any previous year preceding the previous year, is invested or deposited; money invested or deposited in the forms and modes other than those specified in sub-section (5) of section 11 of the Act in which such corpus, received during any previous year preceding the previous year, is invested or deposited;

(vii) record of loans and borrowings,-

(I) containing information regarding amount and date of loan or borrowing, amount and date of repayment, name of the person from whom loan taken, address of lender, permanent account number and Aadhaar number (if available) of the lender;

(II) application out of such loan or borrowing containing details of amount of application, name and address of the person to whom any credit or payment is made and the object for which such application is made;

(III) application out of such loan or borrowing, received during any previous year preceding the previous year, containing details of amount of application, name and address of the person to whom any credit or payment is made;

(IV) repayment of such loan or borrowing (which was applied during any preceding previous year and not claimed as application) during the previous year

(viii) record of properties held by the assessee, with respect to the following, namely, -

(I) immovable properties containing details of,

(i) nature, address of the properties, cost of acquisition of the asset, registration documents of the asset;

(ii) transfer of such properties, the net consideration utilised in acquiring the new capital asset;

(II) movable properties including details of the nature and cost of acquisition of the asset;

(ix) record of specified persons, as referred to in sub-section (3) of section 13 of the Act,-

(I) containing details of their name, address, permanent account number and Aadhaar number (if available);

(II) transactions undertaken by the fund or institution or trust or any university or other educational institution or any hospital or other medical institution with specified persons as referred to in sub-section (3) of section 13 of the Act containing details of date and amount of such transaction, nature of the transaction and documents to the effect that such transaction is, directly or indirectly, not for the benefit of such specified person;

(x) any other documents containing any other relevant information.

(2) The books of account and other documents specified in sub-rule (1) may be kept in written form or in electronic form or in digital form or as print-outs of data stored in electronic form or in digital form or any other form of electromagnetic data storage device.

(3) The books of account and other documents specified in sub-rule (1) shall be kept and maintained by the fund or institution or trust or any university or other educational institution or any hospital or other medical institution at its registered office:

Provided that all or any of the books of account and other documents as referred to in sub-rule (1) may be kept at such other place in India as the management may decide by way of a resolution and where such a resolution is passed, the fund or institution or trust or any university or other educational institution or any hospital or other medical institution shall, within seven days thereof, intimate the jurisdictional Assessing Officer in writing giving the full address of that other place and such intimation shall be duly signed and verified by the person who is authorised to verify the return of income under section 140 of the Act, as applicable to the assessee.

(4) The books of account and other documents specified in sub-rule (1) shall be kept and maintained for a period of ten years from the end of the relevant assessment year:

Provided that where the assessment in relation to any assessment year has been reopened under section 147 of the Act within the period specified in section 149 of the Act, the books of account and other documents which were kept and maintained at the time of reopening of

the assessment shall continue to be so kept and maintained till the assessment so reopened has become final.

16.3 Clause 11 of Form No. 10BB/ Clause 14 of Form No. 10B : This Clause requires the auditor to report as to whether the books of account and other documents have been kept and maintained by the auditee in the form and manner and at such place as prescribed under Rule 17AA, and where the address at which the books so maintained are kept is also required to be mentioned under this clause. If at the time of the audit, the books of account are kept at any place other than registered office, then the auditor is required to mention the details of address of such location along with the details of books of account maintained thereof. The auditor should peruse the resolution passed and intimation given to the Assessing Officer in case the books of account are maintained at place other than the registered office.

16.4 In case of a company assessee auditor should also verify as to whether any forms are filed under the Companies Act for maintenance of books of account at a place other than the registered office. It may be noted that in view of section 128 of the Companies Act, 2013, every company is required to keep books of account on accrual basis. The provisions of the Companies Act, 2013 are, however, not applicable to entities other than companies.

16.5 If the books of account are kept at such place as mentioned under proviso to sub-rule (3) of Rule 17AA and the said resolution is not passed or passed but not intimated to Assessing Officer within the prescribed time limit, the auditor should give appropriate disclosure in the observations/ qualifications paragraph of the audit report.

16.6 In addition to above, clause 14 of Form No. 10B also requires the auditor to state details of books of account which are maintained by the auditee. The list of books of account prescribed, maintained and audited has to be stated under this clause by way of codes provided in the notes. There may be difference between the three. For example, books of account may have been prescribed but all the prescribed books might not have been maintained or all the books of account maintained might not have been produced for examination. The auditor should exercise his professional judgment in order to arrive at the conclusion whether such a situation warrants any disclosure or qualification while forming his opinion on the matters covered by reporting requirements in Form No. 10BB or 10B. Clause 14 of Form No.10B also requires the auditor to mention whether the books of account are maintained electronically and whether they have been audited.

17. Voluntary Contributions and Anonymous Donations

[Clauses 12 to 22 and clause 26 of Form No. 10BB] and [Clauses 21 to 30 and clause 34 of Form No.10B]

For the detailed clause of the respective forms, refer to the complete Form 10B/10BB given in Appendix I

Clauses of Form No.		Particulars	
10BB	10B		
12.	21.	**Whether auditee has filed Form No. 10BD for the previous year** < *If No then skip to serial number 14/23* >	Yes/No
13.	22.	Sum total of donations reported in Form No. 10BD furnished by the auditee for the previous year	Amount in Rs.
14.	23.	Donations not reported in Form No 10BD/ Not required to fill Form No. 10BD	Amount in Rs.
15.	24.	Total voluntary contributions received by the auditee during the previous year	Amount in Rs.
16.	25.	Total Foreign Contribution out of the total voluntary contributions stated in 15/24	Amount in Rs.
17.	26.	Voluntary Contribution forming part of corpus (which are included in 15/24)	Amount in Rs.
18. and 26.	23. and 34.	Anonymous donations taxable @30% under section 115BBC	Amount in Rs.
19.	29.	Application outside India for which approval as per the proviso to clause (c) of sub-section (1) of section 11 has been obtained	Amount in Rs.
20.	27.	Voluntary contributions required to be applied by the auditee during the previous year	Amount in Rs.
21.	28.	Income other than voluntary contributions derived from property held under the trust referred to in section 11 or income of fund or institution or trust or any university or other educational institution or any hospital or other	Amount in Rs.

Clauses of Form No.		Particulars	
		medical institution other than the contribution reported in serial number 15/24	
22.	**30.**	**Income required to be applied in India by the auditee during the previous year**	**Amount in Rs.**

17.1 ***Clauses 12 to 15 of Form No. 10BB / Clauses 21 to 24 of Form No. 10B*** requires reporting of details of donations reported and not reported/ not required to be reported in Form No.10BD.

17.2 Section 80G provides for deduction for eligible donations made to charitable and public religious trusts from gross total income. It inter alia includes donations made to *"(iv) any other fund or any institution to which this section applies"* as a residuary clause. In order to be eligible to fall within the residuary clause 80G(2)(a)(iv), the conditions specified in section 80G(5) are required to be satisfied which inter alia include, at section 80G(5)(viii) and (ix), furnishing of a statement in Form No.10BD by the Donee institutions and issuance of Form No. 10BE to the donor. Similar requirement is provided u/s 35(1A)(i) and (ii) with respect to sums received from entities covered u/s 35(1)(ii)/(iii)/(iia). Donations from entities covered within the purview of 35(1)(ii) and (iii) are eligible for deduction u/s 80GGA of the Act. Thus, only specified donations are required to be reported in Form No.10BD.

17.3 As per Section 80G(5)(viii) and section 35(1A)(i) of the Income-tax Act, 1961, the institution or fund prepares such statement for such period as may be prescribed and deliver or cause to be delivered to the prescribed income-tax authority or the person authorised by such authority such statement in such form and verified in such manner and setting forth such particulars and within such time as may be prescribed. It is applicable from the financial year commencing from 1st April, 2021, i.e. first time for FY 2021-22 and due date was 31st May, 2022, after the close of financial year. For the FY 2022-23 the due date was extended from 31st May to 30th June 2023.

17.4 Recently, Rule 18AB was introduced to counter check the accuracy and reconciliation of the donations claimed by Donor. The CBDT through notification No. 19/2021 dated 26.03.2021, has notified Form No. 10BD and Form No. 10BE to facilitate more transparency, accuracy and reconciliation. Therefore, instead of seeking information from each donor, the responsibility has been given to the institutions receiving donations. Donee Trust is required

to furnish Form No.10BD by 31st May following the end of the financial year. On submission of Form No.10BD, a certificate in Form No. 10BE shall be generated by the system. This Form No.10BE shall be furnished to the donee by 31st May following the end of the financial year.

17.5 Clause 12 of Form No. 10BB/ Clause 21 of Form No. 10B: Whether the auditee has filed Form No. 10BD for the previous year:

This clause requires the auditor to report whether auditee has filed Form No. 10BD for the previous year. In case the answer is affirmative, the auditor must obtain a copy of the Form No. 10BD filed by the auditee and report "Yes". Where there are no transactions reportable in Form No.10BD or where the auditee has not obtained requisite registration u/s 80G or section 35 of the Act, the said Form No. 10BD is not required to be filed by the auditee in which case the auditor may report "No".

17.6 **Clause 13 of Form No.10BB/ Clause 22 of Form No. 10B:Sum total of donations reported in Form No. 10BD furnished by the auditee for the previous year:**

This clause requires the auditor to report total amount of donations reported in Form No. 10BD which could be verified from Part B of the Form No.10BD.

17.7 It is pertinent to note that section 234G provides for a fee for default in delivering a statement in Form No.10BD or furnishing a certificate in Form No.10BE In case, the same is not delivered or furnished within the prescribed time, the donee Institute is liable to pay Rs 200 per day for every day during which such default continues. However, the late fee should not exceed the donation amount in respect of which delay has occurred in delivering Form No. 10BD.

17.8 Apart from the fee for delay in delivering statement of donations in Form No. 10BD or delay in furnishing certificate in Form No. 10BE, such failure may also attract penalty under section 271K, which shall not be less than Rs.10,000/- but may extend up to Rs.1,00,000/-.

17.9 Clause 14 of Form No.10BB/ Clause 23 of Form No. 10B: Donations not reported in Form No. 10BD /Not required to fill Form No. 10BD

This clause requires the auditor to report the donations not reported in Form No. 10BD or donations not required to be reported in Form No.10BD. As has been stated above, only specified donations are required to be reported in Form No. 10BD of an Institution. Hence, all other donations are required to be reported in Clause 14/23 of Form No. 10BB/10B respectively.

17.10 Clause 23 of Form No.10B is wider than Clause 14 of Form No. 10BB as Clause 14 of Form No. 10BB requires reporting of just gross amount of the donations not reported / not required to be reported in Form No. 10BD. However, corresponding clause 23 of Form No. 10B requires reporting of detailed bifurcation as to why a particular amount is not reported / not required to be reported in Form No. 10BD. The **additional reporting in Form No. 10B in clause 23** includes the following:

a) **Particulars to be furnished in clause 23(i) of Form No.10B**:- Donations received by fund or trust or institution of the auditee which is approved u/s 80G(2)(b) of the Act (Donation received towards repair/ renovation of temple, mosque, gurdwara, church or other such notified places).

b) **Particulars to be furnished in clause 23(ii) of Form No.10B**:- Donations qualifying for deduction u/s 80G other than those donations qualifying:

   i) u/s 80G(2)(b) (as it is covered in Point a) above or

   ii) u/s 80G(2)(a)(iv) (as it is captured in Form No. 10BD and already reported in Clause 23/14 of Form No.10B/BD) of the Act.

c) **Particulars to be furnished in clause 23(iii) of Form No. 10B**:- In this sub clause, donations received by fund or trust or institution of the auditee approved u/s 80G(2)(a)(iv) and which are not eligible u/s 80G(5) of the Act i.e. cash donations exceeding Rs 2,000 [refer section 80G(5D)]; donations received from other trusts/ institutions not eligible for deduction; such others to be specified.

d) **Particulars to be furnished in clause 23(iv) of Form No. 10B**:- Donations which could not be reported in Form No. 10BD due to non-availability of identification of donor as required in Form No. 10BD. Form No. 10BD requires donor Identification (like PAN, Aadhar, Passport etc.), name, address. If any of these details are not available in case of a donor, the amount of donation may not have been reported in Form No. 10BD, in which case, it needs to be reported in this clause.

   The remaining donations (which are not anonymous donations as defined under section 115BBC) are required to be reported in this clause i.e. the donations which been received without proof of the donors' particulars like PAN, Aadhar, etc. however, having their name

and address. The anonymous donations are required to be reported separately under clause 18, 26 of Form No. 10BB and clause 23(vi), 34 of Form No. 10B.

e) **Particulars to be furnished in clause 23(v) of Form No. 10B**:- Donations received in kind are to be reported. It may be noted that Explanation 5 to section 80G specifies that donations received only in money qualifies for deduction u/s 80G i.e. donations in kind do not qualify for deduction u/s 80G. Donations received in kind by any other trust or institution registered under section 12AB or approved under section 10(23C) of the Act are also required to be reported.

f) **Particulars to be furnished in clause 23(vi) of Form No.10B and clause 18 of Form No. 10BB**:- Anonymous donations taxable u/s 115BBC of the Act. As per section 115BBC *"anonymous donation*" means any voluntary contribution referred to in section 2(24)(iia), where a person receiving such contribution does not maintain a record of the identity indicating the name and address of the person making such contribution and such other particulars as may be prescribed.

The auditor has to report the following:

A) **Anonymous donation not taxable u/s 115BBC(1)(i)**

Section 115BBC(1)(i) provides that anonymous donation, in excess of the higher of the below amounts, are taxable at the rate of 30%:

i) 5% of the total donations received by the institution

ii) Rs.1,00,000/-

Conversely, the amount received as anonymous donation which is less than the above threshold is not taxable u/s 115BBC. Under clause 23(vi)(a), the auditor is required to report these amounts which are not taxable u/s 115BBC(1)(i).

B) **Anonymous donation not taxable u/s 115BBC(2)(a)**

Under Clause 23(vi)(b), the auditor is required to report anonymous donation received by the institution created or established wholly for religious purposes. These are not taxable u/s 115BBC(2)(a) of the Act.

C) **Anonymous donation not taxable u/s 115BBC(2)(b)**

Under Clause 23(vi)(c), the auditor is required to report anonymous donation received by the institution created or established wholly for charitable and religious purposes other than any anonymous donation made with a specific direction that such donation is for any university, or other educational institution or any hospital or other medical institution run by such institution, i.e. any trust or institution wholly for charitable and religious purposes receiving donation towards religious or charitable purposes other than for the educational or medical institution run by such trust or institution, does not attract Section 115BBC(1) .

D) **Anonymous donation taxable u/s 115BBC**

Under Clause 23(vi)(d), the auditor is required to report anonymous donation taxable at the rate of 30% u/s 115BBC. It is pertinent to note that the amount of anonymous donation taxable u/s 115BBC is also required to be reported in clause 34 of Form No.10B whereas in the Form No.10BB, reporting of section 115BBC is required to be done under clauses 18 and 26.

g) **Particulars to be furnished in clause 23(vii) of Form No.10B:-** Any other voluntary contribution not forming part of Form No. 10BD along with the nature of such contribution.

Under Clause 23(vii), the auditor is required to report any other voluntary contribution not forming part of Form No. 10BD and not covered in any other sub-clauses of Clause 23 of Form No.10B.

It is pertinent to mention here that while the above details/particulars are not provided in Form No. 10BB, the auditor making a report of an institution furnishing Form No.10BB, may maintain these itemized details in his working papers for the purpose of reporting under clause 14 of Form No. 10BB.

Any other voluntary contribution including corpus donation and foreign contribution received are also to be included under this clause. The auditor needs to verify the income ledgers of the auditee and check relevant receipts, grant letters etc. to verify the amounts reported in these clauses.

Donations not eligible for deduction under section 80G are required to be reported under Clause 23 of Form No. 10B. Therefore, in case of amounts reported under Clause 23 of Form No. 10B, the donors will not be able to claim deduction because such donations are not reported in Form No. 10BD or such donation is not required to be reported in Form No. 10BD.

Clause 23(viii) of Form No. 10B: Aggregate of donation not reported in Form No. 10BD. This clause will reflect total of donations reported in Clause 23(i) to 23(vii). This may be an auto-populated field.

17.11 Clause 15 of Form No. 10BB/ Clause 24 of Form No. 10B: Total voluntary contributions received by the auditee during the previous year:

This clause requires the auditor to report the total voluntary contributions received by an institution which is the sum total of the donations reported in Form No. 10BD (as mentioned in clause 13/22 of Form No. 10BB/10B) and the donations which are not reported in Form No. 10BD (as mentioned in clause 14/23 of Form No. 10BB/10B). This field may also be an auto-populated field.

17.12. Clause 16 of Form No. 10BB/ Clause 25 of Form No. 10B: Total Foreign contribution out of the total voluntary contributions stated in Clause 15 of Form No. 10BB/ Clause 24 of Form No. 10B :

This clause requires the auditor to report total foreign contribution out of the total voluntary contributions reported in Clause 15/24 of Form No. 10BB/10B respectively.

17.13 While Form No. 10BB requires reporting of this amount under clause 19, the Rule 17B prescribes that if any institution has received any foreign voluntary contribution, then it has to furnish Form No. 10B and not Form No. 10BB.

17.14 While Form No. 10BB requires reporting of gross amount, Form No. 10B requires reporting details in Schedule FC.

Schedule FC

Details of foreign contribution (As per Form No.10B):-

(1) Nature of foreign contribution received during year

(i) Corpus

(ii) Non Corpus

(2) Amount of foreign contribution received during previous year (in Rs.)

(3) Details of the total application from such contribution during previous year (Amount in Rs.)

17.15 The required details are self-explanatory and are to be reported accordingly.

17.16 Clause 17 of Form No. 10BB/ Clause 26 of Form No. 10B: Voluntary contribution forming part of corpus (which are included in clause 15 of Form No. 10BB/ clause 24 of Form No. 10B)

This clause requires reporting of amount of voluntary contribution forming part of the corpus out of the total voluntary contributions reported in Clause 15/24 of Form No. 10BB/10B.

17.17 Clause 17 of Form No.10BB requires the auditor to report gross amount whereas Clause 26 of Form No.10B requires the auditor to provide detailed bifurcation into:

(a) Corpus representing donations received for the repair / renovation of places notified for the purpose of section 80G(2)(b) eligible for exemption Explanation 3A to section 11(1) and Explanation 1A to the third proviso to section 10(23C)

Deduction under section 80G(2)(b) of the Act is available to the donor in respect of any sums paid by him in the previous year as donations for the renovation or repair of any temple, mosque, gurdwara, church or other place as is notified by the Central Government in the Official Gazette to be of historic, archaeological or artistic importance or to be a place of public worship of renown throughout any State or States.

Explanation 3A to section 11(1) and Explanation 1A to the third proviso to section 10(23C) states as under:

"For the purposes of this sub-section, where the property held under a trust or institution includes any temple, mosque, gurdwara, church or other place notified under clause (b) of sub-section (2) of section 80G, any sum received by such trust or institution as voluntary contribution for the purpose of renovation or repair of such temple, mosque, gurdwara, church or other place, may, at its option, be treated by such trust or institution as forming part of the corpus of the trust or the institution, subject to the condition that the trust or the institution,—

(a) applies such corpus only for the purpose for which the voluntary contribution was made

(b) does not apply such corpus for making contribution or donation to any person;

(c) maintains such corpus as separately identifiable; and

(d) *invests or deposits such corpus in the forms and modes specified under sub-section (5) of section 11."*

Sub-clause (A) of clause 26 of Form No. 10B requires the auditor to report the amount eligible for exemption under section 11(1) or 10(23C) in view of conditions specified above.

It may be noted that any trust or institution other than notified under section 80G(2)(b) of the Act, cannot *suo moto* treat any voluntary contribution as forming part of corpus unless intended by the donor.

(b) Corpus donations referred to in Section11(1)(d) or Explanation 1 to the third proviso to section 10(23C) and invested modes specified under section 11(5)

Corpus donation is a donation in the form of voluntary contributions made with a specific direction that they shall form part of the corpus of the trust or institution. However, as per section 11(1)(d) of the Act, it does not form part of the Total Income of the institution on complying with conditions therein specified. Section 11(1)(d) provides that income in the form of voluntary contributions made with a specific direction that they shall form part of the corpus of the trust or institution subject to the condition that such voluntary contributions are invested or deposited in one or more of the forms or modes specified in section 11(5) maintained specifically for such corpus shall not be included in total income as per section 11.

Details of corpus amount and corpus investments are also required to be furnished in "*Schedule Corpus*" of Form No. 10B given below:

Schedule Corpus: Details of Corpus (As per Form No. 10B)

Type of Corpus donation

(i) Representing donations received for the renovation or repair of places notified under 80G(2)(b) on or after 01.04.2020

(ii) Other than (i) above received on or after 01.04.2021

(iii) Other than (i) and (ii) above

(1) Opening balance at beginning of the previous year (Corpus not applied till the beginning of the previous year)

(2) Received/Treated as corpus during the previous year

(3) Applied during the previous year

(4) Amount invested or deposited back in to corpus (which was earlier applied and not claimed as application if such application fulfilled the conditions).

(5) Total amount invested or deposited back into corpus

(6) Financial year in which (4) was applied earlier

(7) Closing balance (1+2+5-3)

(8) Invested in mode specified in section 11(5)

(9) Amount tax in previous assessment year

(10) Invested in mode other than specified in section 11(5) as on last day of the previous year

(11) If corpus donation is of type (i) then whether it fulfills the following conditions

- **Amount applied out of corpus for the purpose other than for which the voluntary contribution was made**
- **Contribution or donation to any person;**
- **Maintained as not separately identifiable**
- **invested or deposited in the forms and modes other those specified under sub-section (5) of section 11.**

Even though the required details are self-explanatory, discussion on the fields of this schedule has been done in clause 23/31 of Form No.10BB/10B respectively and are to be reported accordingly.

17.18 Clause 19 of Form No. 10BB/ Clause 29 of Form No. 10B: Application outside India for which approval as per the proviso to clause

(c) of sub-section (1) of section 11 has been obtained. This clause requires the auditor to report income applied outside India which is eligible under section 11(1)(c).

17.19 While Form No. 10BB requires reporting of this amount under clause 19, Rule 17B prescribes that if any institution has applied any part of its income outside India, then it has to furnish Form No. 10B and not Form No. 10BB.

17.20 Section 11(1) provides that :-

> *Subject to the provisions of sections 60 to 63, the following income **shall not be included in the total income** of the previous year of the person in receipt of the income-*
>
> *(a) ….*
>
> *(b) …..*
>
> (c) income derived from property held under trust –
>
> *(i) created on or after the 1st day of April, 1952, for **charitable purpose** which tends to promote international welfare in which India is interested, to the extent to which such income is applied to such purposes outside India, and*
>
> *(ii) for **charitable or religious purposes created before the 1st day of April, 1952,** to the extent to which such income is applied to such purposes outside India, shall not be included in total income of the Institute, provided general or special order of CBDT is obtained by the Institute.*
>
> *Provided that the Board, by general or special order, has directed in either case that it shall not be included in the total income of the person in receipt of such income;*

17.21 It may be noted that one of the conditions mentioned in Proviso to section 11(1)(c) is that the Central Board of Direct Taxes, by general or special order, has to direct in either case that it shall not be included in the total income of the person in receipt of such income.

17.22 The auditor for the purpose of reporting under this clause may examine/verify the order issued by CBDT for section 11(1)(c). This is important as this income is non-included in the total income of the previous year of the person in receipt of such income.

17.23 Details of the same are also required to be given in "*Schedule Int App*" as under:

Schedule Int App- Details of income applied outside India

(1) S. No.

(2) Name of the person to whom remittance is made

(3) Taxpayer Identification Number if available

(4) Amount of remittance out of India which is reported in Form No. 15CA (In Rs.)

(5) Amount of remittance outside India other than (4) (In Rs.)

(6) Charitable or religious purpose for which application is made

(7) Country of application

(8) Whether applied for promoting international welfare in which India is interested and is and not to be included in total income of the auditee? If approval, for application outside India has been taken

(9) Approval number

(10) General/ special

(11) Date of approval

17.24 Majority of the information required to be reported is self-explanatory, however, the auditor may peruse all the foreign remittances, approvals, Form No.15CA, and purpose of remittance as per the grant letter and explanation provided by the auditee for reporting in this clause. The auditor may also obtain a management representation letter from the auditee as to the amount spent which is reportable under this clause.

17.25 Section 11(1)(a) grants benefit in case of income applied to such purposes in India. The auditor should note that the information under this schedule is in respect of the income applied outside India. Auditor may come across a situation where remittance is made outside India, for such purposes in India, in which case there shall be no reporting requirement under this clause.

17.26 Clause 20 of Form No. 10BB/ Clause 27 of Form No. 10B: Voluntary contributions required to be applied by the auditee during the previous year

This clause requires mentioning of voluntary contribution required to be applied by the auditee. The same may be an auto populated field. It includes amount of voluntary contributions referred to in Clause 15/24 of Form No. 10BB/10B respectively as reduced by amounts received towards corpus under clause 17/26 and anonymous donations taxable u/s 115BBC of the Act referred to in Clause 23(vi)(d).

17.27 Whereas, under clause 20 of Form No. 10BB additionally what is required to be reduced is application outside India in accordance with section 11(1)(c) of the Act after seeking appropriate approval as reported in Clause 19 of Form No. 10BB. As has been stated earlier in this **Guidance Note** , the entities applying income outside India are required to fill up Form No. 10B. Hence, if there is any application outside India, then such entities will be required to fill Form No. 10B only and not the Form No. 10BB.

17.28 Clause 21 of Form No. 10BB / Clause 28 of Form No. 10B: Income other than voluntary contributions derived from property held under the trust referred to in section 11 or income of fund or institution or trust or any university or other educational institution or any hospital or other medical institution other than the contribution reported in serial number 15/24

This clause requires reporting of income other than voluntary contributions derived from property held under trust referred to in section 11 or income of fund or institution or trust or any university or other educational institution or any hospital or other medical institution (other than the contribution reported in Clause 15/24 of Form No.10BB/10B). This income may include receipts from main objects, incidental objects, any rental income, dividend, capital gains, interest or any such other income. It may be noted that the '*Schedule AI'* of ITR 7 also requires reporting on the same lines.

17.29 Clause 22 of Form No. 10BB/ Clause 30 of Form No. 10B: Income required to be applied in India by the auditee during the previous year

This clause requires the auditor to report the income that is required to be applied in India by the auditee during the previous year.

17.30 For the purposes of Form No. 10B, it is:

Voluntary contributions reported in Clause 27

Add: Other income reported in Clause 28

Less: Amount applied outside India under section 11(1)(c) as reported in Clause 29.

Whereas, in case of Form No. 10BB, it is the sum total of voluntary contributions as reported in Clause 20 and other income reported in Clause 21.

17.31 This may be an auto populated field.

18. Application of Income

[Clause 23 of Form No. 10BB/ Clause 31 of Form No. 10B]

For the detailed clause of the respective forms, refer to the complete Form 10B/10BB given in the Appendix I

Application of income (excluding application not eligible and reported under serial number 27/ 37 of Form 10BB/10B)

23(i)/31(i)	**Total amount applied for charitable or religious purposes in India during the previous year**
23(ii)/31(iii)	**Amount which was not actually paid during the previous year [if included in (i)]**
31(ii)	**Details of application out of (i) (a) and (i) (b) resulting in payment in excess of Rs. 50 lakh during the previous year to any person**
23(iii)/31(iv)	**Amount actually paid during the previous year which accrued during any earlier previous year but not claimed as application of income in earlier previous year**
23(iv)/31(v)	**Total amount to be allowed as application**
23(v)/31(vii)	**Amount invested or deposited back in corpus which was applied during any preceding previous year and not claimed as application during that previous year**
31(vi)	**Bifurcation of application in 31(v) into Revenue or Capital**
23(vi)/31(viii)	**Repayment of loan or borrowing during the previous year which was earlier applied and not claimed as application during that previous year**

Amount to be disallowed from application

23(vii)/31(ix)	**Amount disallowable under thirteenth proviso to clause (23C) of section 10 or Explanation 3 to sub-section (1) of section 11 read with sub-clause (ia) of clause (a) of section 40 -Fill Schedule TDS disallowed**
23(viii) /31(x)	**Amount disallowable under thirteenth proviso to section 10(23C) or Explanation 3 to sub-section (1) of section 11 read with sub-section (3) or (3A) of section 40A-Fill schedule 40A(3)/schedule 40A(3A)**
23(ix)/31(xi)	**Donation to any fund or institution or trust or any university or other educational institution or any hospital or other medical institution referred to in sub - clauses (iv), (v), (vi) or (via) of clause (23C) of section 10 of the Act or any trust or institution referred to in sections 11 or 12 of the Act towards corpus**
23(x)/31(xii)	**Donation to Any fund or institution or trust or any university or other educational institution or any hospital or other medical institution referred to in sub - clauses (iv), (v), (vi) or (via) of clause (23C) of section 10 of the Act or any trust or institution referred to in sections 11 or 12 of the Act not having same objects**
23(xi)/31(xiii)	**Donation to any person other than any fund or institution or trust or any university or other educational institution or any hospital or other medical institution referred to in sub - clauses (iv), (v), (vi) or (via) of clause (23C) of section 10 of the Act or any trust or institution referred to in sections 11 or 12 of the Act**
23(xii)/31(xiv)	**Application outside India for which approval under the proviso to clause (c) of sub-section (1) of section 11 has not been obtained**
23(xiii)/31(xv)	**Application outside India for which approval under the proviso to clause (c) of sub-section (1) of section 11 has been obtained**
23(xiv)/31(xvi)	**Applied for any purpose beyond the objects of the trust or institution**

23(xv)/31(xvii) Any other disallowance

23(xvi)/31(xviii) Total allowable application

23(xvii)/31(xix) Amount deemed to have been applied during the previous year under clause (2) of Explanation 1 to sub-section (1) of section 11

23(xviii)/31(xx) Income accumulated under the provisions of Explanation 3 to the third proviso to clause (23C) of section 10 or sub-section (2) of section 11 Amount in Rs.

23(xix)/31(xxi) Income accumulated or set apart for application to charitable or religious purposes or stated objects of trust or institution to the extent it does not exceed 15 % of the income

18.1 Section 11(1)(a) provides that income derived from property held under trust wholly for charitable or religious purposes shall not be included in total income where the income is applied to such charitable or religious purposes in India. Section 11(1)(b) provides that, in case of a trust created before commencement of the 1961 Act, the income derived from property held under trust in part for charitable or religious purposes shall not be included in total income of the Trust where the income is applied to the said charitable or religious purposes in India. These clauses also provide that such income, not in excess of 15% of income derived from such property could be set apart for application to such purposes in India. Further, Explanation to section 11 provides that any sums payable by the institution shall be claimed as application only when the sums are paid. Hence, application is allowed on payment basis irrespective of the method of accounting adopted by the institution.

18.2 Clause 23(i) of Form No. 10BB/ Clause 31(i) of Form No. 10B : Total amount applied for charitable or religious purposes in India during the previous Year

This clause requires the auditor to verify and report the total amount applied for charitable or religious purpose in India during the previous year. While Clause 23(i) of Form No. 10BB requires providing of gross amount of the amounts applied, clause 31(i) of Form No. 10B in its part (a) requires additional reporting of such application in electronic mode or otherwise in respect of contribution or donation to any other person during the previous year and in (b) part requires reporting of object wise application other than the application provided in (a);

18.3 In both cases, electronic modes shall be the following modes referred in Rule 6AABA of the Income-tax Rules, 1962 (*Please refer Notes to Form No.10B*):

(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;

Further, as per Circular no. 6 of 2023, dated. 24.05.2023 (Refer Appendix XI), it is also clarified that for the purposes of Form No. 10B and Form No. 10BB, electronic modes referred to above 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.

18.4 The details given in this clause will also have various bifurcation which is given in Schedule ER of ITR Form 7 including the amounts of Expenditure in respect of properties, Establishment expenses, Remuneration to trustees, Legal expenses, Audit fees, Miscellaneous expenses, Depreciation or Addition to Fixed assets and other Expenditure on the objects i.e. revenue plus capital expenditure.

18.5 For the purpose of application of income, there is no distinction on account of revenue or capital nature. As such, in applying the income for charitable or religious purposes, even capital expenditure may be incurred. However, such bifurcation is sought in clause 31(vi) of Form No. 10B in respect of total amount allowed as application and worked out under clause 31(v) of Form No. 10B.

18.6 The expression '*application to charitable purposes'* is one of wide import. To find out whether the '*income*' of a charitable trust has been applied for charitable purposes, the auditor should have due regard to the objects of the trust.

18.7 However, section 11(6) provides that where in respect of any asset acquisition of which has been claimed as an application of income in the same or any other previous year, then depreciation cannot be considered as an application in any of the years. Thus, in respect of capital expenditure, the institution can consider either capital expenditure in respect of any asset as application or alternatively depreciation in respect of such an asset as application.

18.8 Explanation 5 to section 11(1) clarifies that the calculation of income required to be applied or accumulated during the previous year shall be made without any set off or deduction or allowance of any excess application of any of the years preceding the previous year.

18.9 The payment of tax out of current year's income has to be considered as application for charitable purposes.

18.10 As per Explanation 4(iii) to Section 11(1) of the Income-tax Act, 1961 inserted with effect from AY 2024-25, where eligible donations have been made by any Trust/ Institutions to other Trusts/ Institutions, only 85% thereof shall be treated as application of income. For the balance 15%, the Central Board of Direct Taxes (CBDT) has vide Circular No. 3, F. No.370142/5/2023-TPL dated 06.03.2024 clarified that the balance 15% of such donation by donor trust/ institution shall not be required to be invested in specified modes u/s 11(5) of the Act as entire 100% has been donated to the other trust/ institution and is so accordingly eligible under the first or second regime. (Refer Circular No. 3/2024 dated 06.03.2024-**Appendix XVII).**

18.11 Clause 31(ii) of Form No. 10B: Details of application out of (i) (a) and (i) (b) resulting in payment in excess of Rs. 50 lakh during the previous year to any person

This clause requires the auditor to report the details of payments made under clause 31(i)(a) and (b) above in excess of Rs 50 lakhs requires reporting of name of person to whom amount paid or credited, PAN, amount of application, mode of application (electronic or others), whether tax deducted and section under which tax deducted. While verifying the details to be reported under clause 31(i), the auditor should maintain record of the bifurcation required in clause 31(ii) also. The particulars required in this clause are self-explanatory and are to be reported accordingly.

18.12 Clause 23(ii) of Form No.10BB/ Clause 31(iii) of Form No. 10B : Amount which was not actually paid during the previous year [if included in (i)] -

Out of above, the amount which was not paid during the previous year is required to be reported in clause 23(ii)/31(iii) of Form No.10BB/10B as the same is not considered as application.

18.13 Any sum payable by any trust or institution shall be considered as application of income in the previous year in which such sum is actually paid by it (irrespective of the previous year in which the liability to pay such sum was incurred by the trust or institution according to the method of accounting regularly employed by it). However, that where during any previous year, any sum has been claimed to have been applied by the trust or institution, such sum shall not be allowed as application in any subsequent previous year.

18.14 Therefore, application of income should be considered only when the same is actually paid. It may be noted that proviso to section 43B of the Act allows consideration of amount actually paid on or before due date of furnishing return of income under section 139(1). Such relaxation is not there in Explanation to section 11, therefore, actual payments only till the end of the previous year can be considered.

18.15 The reporting in this clause may also be reconciled with reporting in clause 23(viii) / 31(x) of Form No. 10BB/10B respectively as it may be possible that disallowances are made in these clauses for the payments relating to earlier period for which disallowances were made in earlier year(s). However, at the time of payment during the year under audit, the payments are made in violation of thirteenth proviso to section 10(23C) or Explanation 3 to section 11(1) read with section 40A(3A).

18.16 The auditor is thus required to report the amounts which were not actually paid during the previous year so that the balance which are paid could be allowed as application.

18.17 Clause 23(iii) of Form No. 10BB/ Clause 31(iv) of Form No. 10B: Amount actually paid during the previous year which accrued during any earlier previous year but not claimed as application of income in earlier previous year

This clause requires the auditor to report liability incurred in any earlier previous year but actually paid during the previous year and not claimed as application in earlier previous year.

18.18 The auditor should maintain working papers in this regard. The reporting in this clause may also be reconciled with reporting in clause 23(vii) and (viii) / 31(ix) and 31(x) of Form No. 10BB/10B respectively as it may be possible that disallowances are also made eligible to be reported in those clauses.

18.19 In case, the Auditor is reporting/ computing disallowances in both the clauses, it may result in double addition to the application of income to be computed. As such if the disallowances are made under clauses 23(vii) and (viii) / 31(ix) and 31(x) of Form No. 10BB/10B respectively, then a suitable disclosure in the observation paragraph of the audit report be made in this clause i.e. 23(iii)/31(iv).

18.20 Similarly, if disallowances are not made in clause 23(iii)/31(iv) a suitable disclosure in observation paragraph of the audit report stating the facts may also be given.

18.21 Clause 23(iv) of Form No. 10BB/ Clause 31(v) of Form No. 10B: - Total amount to be allowed as application

The amount to be allowed as application is an auto-populated field in Clause 23(iv)/31(v) of Form No.10BB/10B.

18.22 Clause 31(vi) of Form No. 10B: Bifurcation of application in 31(v) into Revenue or Capital

Form No. 10B also requires bifurcation of application into capital and revenue under Clause 31(vi). The same is not required in Form No.10BB. It may be noted that bifurcation of application as revenue and expenditure is also required to be reported in ITR 7.

18.23 Clause 23(v) of Form No. 10BB/ Clause 31(vii) of Form No. 10B: Amount invested or deposited back in corpus which was applied during any preceding previous year and not claimed as application during that previous year

Under Clause 23(v)/ 31(vii), the auditor is required to report amount invested or deposited back in corpus which was applied during any preceding previous year and not claimed as application during that previous year.

18.24 Clause 23(vi) of Form 10BB/ Clause 31(viii) of Form No. 10B: Repayment of loan or borrowing during the previous year which was earlier applied and not claimed as application during that previous year

This clause requires reporting of repayment of loan or borrowing during the previous year which was earlier applied and not claimed as application during that previous year.

18.25 For the purposes of determining the amount of application, the amount of application for charitable or religious purposes from the corpus as referred to in section 11(1)(d), shall not be treated as application of income for charitable or religious purposes.

18.26 The amount not so treated as application, or part thereof, shall be treated as application for charitable or religious purposes in the previous year in which the amount, or part thereof, is invested or deposited back, into one or more of the forms or modes specified in section 11(5) maintained specifically for such corpus, from the income of that year and to the extent of such investment or deposit.

18.27 The amount invested or deposited back shall not be treated as application for charitable or religious purposes unless such investment or deposit is made within a period of five years from the end of the previous year in which such application was made from the corpus.

18.28 The amount invested or deposited back shall not be treated as application where application from the corpus was made on or before the 31st March, 2021.

18.29 Explanation 4(i)/(ii) to section 11(1) provides that for determination of amount of application under section 11(1)(a)/(b), the application out of corpus/ loan or borrowings shall not be treated as application of income for charitable or religious purposes, in the year of application. But, where application is made after 1st April 2021 from corpus/ loans or borrowings, such application is allowable in the year when the same is deposited or invested back in the modes specified under section 11(5) from the income of that year.

18.30 If any loan or borrowings have been taken during the previous year, and repaid during the same year, but did not result in application towards charitable or religious purposes, then any repayment of such loan or borrowings cannot be treated as application of income.

18.31 However, if any loan or borrowings has been taken during the previous year, and repaid during the same year, and whole or part of such loan or borrowings has been applied from the corpus during the previous year towards charitable or religious purposes, then repayment of such loan or borrowings or part thereof shall be treated as application of income during the previous year to the extent such amount has been applied towards charitable or religious purposes. Remaining amount of loan or borrowings (applied towards charitable or religious purposes) outstanding at the end of previous year shall

be treated as application of income in the succeeding previous year(s) in which such loan or borrowing has been repaid subject to other conditions specified in the relevant provision of the Act. However, only if the repayment of loan is made within a period of 5 years from the end of the previous year in which such application was made, the same would be treated as application of income.

18.32 Similar treatment will apply in case of amount invested or deposited back into the corpus.

18.33 With effect from 01.04.2023, this allowance of application in the said year and to the extent of invested or deposited back is allowed only when there is no violation of the following, at the time of application from the corpus/ loans or borrowings:

a) *Section 11(1)(c)* i.e. The trust/institution has not made any payments outside India for charitable or religious purposes without seeking approval from the CBDT as per proviso to section 11(1)(c).

b) *Explanation 2 to section 11(1)* – The Trust has not made any donation to any trust or institution towards corpus.

c) *Explanation 3 to Section 11(1)* – The Trust has not made any payment to resident without deduction of tax at source and payment thereof to Government which are disallowable u/s 40(a)(ia). The Trust has not made payment to any person exceeding Rs 10,000 which are disallowable under section 40A(3) as detailed above.

d) *Explanation 5 of Section 11(1)* – The Trust has not claimed any deduction, set off or allowance of any excess application of any of the year preceding the previous year while calculating application or accumulation u/s 11(1).

e) *Explanation to Section 11* – The institution has made actual payment of the sum irrespective of the previous year in which the liability to pay such sum was incurred by the trust or institution.

f) *Provisions of section 13(1)(c)* – The Trust has not violated provisions of section 13(1)(c)

18.34 While Form No. 10BB just requires reporting of the gross amount, Form No. 10B requires filling up of '*Schedule Corpus*' and '*Schedule LB*' reproduced hereunder:

Schedule Corpus: Details of Corpus

Details given in this publication earlier

Schedule LB: Details of Loan and Borrowing

(1) Opening balance as on 1st April of the previous year

(2) Loan and borrowings taken for applications towards objectives during the previous year.

(3) Applied for the objects of the trust or institution during the previous year.

(4) Amount of repayment of loan or borrowing during the previous year (which was earlier applied and not claimed as application if such application fulfilled the conditions as required).

(5) Financial year in which (4) was applied earlier.

(6) Total repayment of loan or borrowing during the previous year. (In Rs.)

(7) Closing Balance as on 31st March (1+2-6=7)

Amount to be disallowed from application

18.35 Clause 23(vii) Form No. 10BB/ Clause 31(ix) of Form No. 10B: Amount disallowable under thirteenth proviso to clause (23C) of section 10 or Explanation 3 to sub section (1) of section 11 read with sub-clause (ia) of clause (a) of section 40 – Fill Schedule TDS disallowed

This clause requires reporting of the amount disallowable under thirteenth proviso to section 10(23C) read with section 40(a)(ia) or Explanation 3 to section 11(1) read with section 40(a)(ia).

18.36 Under section 40(a)(ia), where, on any sum payable to a resident, tax is deductible at source under Chapter XVII-B and such tax has not been deducted or having been deducted is not paid on or before the due date specified under section 139(1) for furnishing the return of income for the said previous year, 30% of such sum is not eligible for deduction while computing income chargeable under the head "*Profits and Gains of Business or Profession*".

18.37 Explanation 3 to Section 11(1) and similarly the thirteenth proviso to section 10(23C) provide that the provisions of section 40(a)(ia) shall apply mutatis mutandis for the purposes of determining the amount of application under the clauses/items mentioned thereunder.

18.38 Accordingly, such amounts, not meeting the above requirements shall be inadmissible and shall be required to be disclosed under the '*Schedule TDS'(to be read as Schedule TDS disallowable in Form No. 10B)*. For this purpose, the auditor will be required to examine whether the provisions relating to tax deduction at source have been complied with in respect of sums specified. For this purpose, the auditor may examine the books of account and tax deduction statements and returns.

Schedule TDS disallowable in Form No. 10B- Details of amounts inadmissible amount disallowable under thirteenth proviso to clause (23C) of section 10 or sub-section (1) of section 11 read with sub-clause (ia) of clause (a) of section 40

Schedule TDS Disallowable comprises of Part (a) and (b).

(a) Details of payment on which tax is not deducted

- **(1) Date of payment**
- **(2) Amount of payment (in Rs)**
- **(3) Nature of payment**
- **(4) Name of Payee**
- **(5) PAN or Aadhar of payee, if available**
- **(6) Address of Payee**

(b) Details of payment on which tax has been deducted but has not been paid on or before the due date specified in sub-section (1) of section 139

- **(1) Date of payment**
- **(2) Amount of payment (in Rs)**
- **(3) Nature of payment**
- **(4) Name of Payee**
- **(5) PAN or Aadhar of payee, if available**
- **(6) Address of Payee**
- **(7) Amount of tax deducted**
- **(8) Amount out of (7) deposited, if any**

18.39 Under clause "a" of this Schedule, the auditor is required to report the details of disallowable amount on which tax was deductible but has not been deducted in terms of section 40(a)(ia) during the previous year.

18.40 Similarly, under clause "b" of this schedule, the auditor is required to report the details of sums paid on which tax has been deducted during the previous year but not paid/deposited during the previous year or in the subsequent year before the expiry of time prescribed under section 139(1) for the purposes of furnishing of return of income for the said previous year.

18.41 Where the auditee claims deduction under the second proviso to section 40(a)(ia), it is deemed that he has deducted and paid the tax and hence such sum on which tax is so deemed to be deducted and paid is not inadmissible.

18.42 Section 40(a) specifies certain amounts which shall not be deducted in computing the income chargeable under the head "Profits and gains of business or profession". The relevant provisions for A.Y.2023-24 are as under:

> **Resident Payments:** 30% of any sum is disallowed where sum is payable to a resident on which tax is deductible at source under chapter XVII-B and such tax has not been deducted or after deduction has not been paid on or before the due date specified in section 139(1).
>
> As per first proviso to Section 40(a)(ia), where tax is deducted in any subsequent year, or has been deducted during the previous year but paid after the due date specified in section 139(1), disallowed component of the expenditure is allowable as a deduction in the year in which such tax has been paid. Further, the second proviso to section 40(a)(ia) read with Section 201 provides that where an assessee fails to deduct the whole or any part of the tax in accordance with the provisions of Chapter XVII-B on any such sum but is not deemed to be an assessee in default under the first proviso to sub-section (1) of section 201, then, for the purpose of clause (ia) of section 40(a), it shall be deemed that the assessee has deducted and paid the tax on such sum on the date of furnishing of return of income by the payee referred to in the said proviso.
>
> A certificate is to be obtained in Form 26A by the person who has not deducted tax and obtain the form that the deductee is not responsible for deduction of tax and hence the lack of tax deduction does not attract the provisions of Section 201. Auditor is advised to check the certificate vide Form 26A and how it has been reflected in the statement of TDS filed vide Form 24Q / Form 26Q / Form 27Q.

18.43 The provisions of section 40(a)(ia) disallow only 30% of any sum payable to a resident on which tax is deductible at source under Chapter XVII-B and such tax has not been deducted or after deduction has not been paid on or before the due date specified under section 139(1). The first proviso to section 40(a)(ia) provides that where any sum on which tax has been deducted in any subsequent year or has been deducted during the previous year but paid after the due date specified in sub-section (1) of section 139, thirty percent of such sum shall be allowed as a deduction in computing the income of the previous year in which such tax has been paid.

18.44 The auditor should obtain in writing from the assessee the details of all payments debited to the profit and loss account/ income and expenditure account. The auditor should use his professional judgement in these matters based upon decided cases and he may rely upon legal opinion obtained by the assessee where no tax is required to be deducted in respect of the amount so provided. In case he disagrees with the stand taken by the auditee, he may report the same in observations/qualifications paragraph of the audit report.

18.45 Under *(a) of Schedule of TDS disallowances*, the auditor is required to report payments to residents on which tax is required to be deducted but not deducted in respect of payments specified under clause 40(a)(ia). The Auditor is required to give details under this clause for each individual payee.

18.46 Similarly, *under (b) of Schedule of TDS disallowances*, the auditor is required to report payments on which tax is deducted but is not deposited within the time prescribed during the previous year or in subsequent year. Such details are also required to be given for each individual payee prescribed under Section 40(a)(ia).

18.47 Under this sub-clause, the auditor is required to report the details of payment on which tax is not deducted at source and also the details of payment on which tax has been deducted but not paid during the previous year or in the subsequent year before the expiry of time prescribed u/s 139(1). The auditor should maintain the relevant data in his working papers for the purpose of reporting under this schedule.

18.48 Under section 40(a)(ia), any payment of the expenses, specified therein on which tax is deductible under Chapter XVIIB and such tax has not been deducted or after deduction has not been paid on or before the date of filing of return specified under section 139(1), 30% of the expenditure is not eligible for deduction while computing income chargeable under the head *"profits and*

gains of business or profession". Accordingly, such amount will be inadmissible and will be required to be disclosed under this clause. For this purpose, the auditor will be required to examine whether the provisions relating to tax deduction at source have been complied with in respect of payments specified under the clause. For this purpose, the auditor may examine the books of account and tax deduction returns/statements pertaining to these payments.

18.49 Where the auditee claims deduction under the second proviso to sub-section (ia), it is deemed that he has deducted and paid the tax and hence such sum on which tax is so deemed to be deducted and paid is not inadmissible, the auditor should verify compliance with the requirements of section 201. He should also obtain and keep in his record a copy of certificate in Form 26A as required by section 201 read with section 40(a)(ia).

18.50 The Auditor should also reconcile the particulars given under this clause with the particulars given under "*Schedule TDS/TCS*" and "*Schedule Statement of TDS/TCS*" and "*Schedule Interest on TDS/TCS*" to clause 49 of Form no. 10B to the extent applicable. Here the auditor is required to report the details of payment on which tax is not deducted at source and also the details of payment on which tax has been deducted but not paid on or before the due date specified in section 139(1). The auditor should maintain the relevant data in his working papers for the purpose of reporting under this schedule.

IMPORTANT POINTS REQUIRING CONSIDERATION

Compliance of section 40(a)(ia) with respect to "sums payable" or "Paid during the year"

18.51 An issue may arise as to whether the provisions of section 40(a)(ia) apply to the sums payable to the resident or does it also include the amounts already paid to a resident. This issue arises owing to the language of the said sub-clause. The phrase used is "*thirty per cent of any sum payable to a resident, on which tax is deductible at source.*". However, the said issue is already settled by the judgment of the Apex Court in the case of Palam Gas Service v. Commissioner of Income-Tax. The Apex Court observed:

> *"Section 40(a)(ia) covers not only those cases where the amount is payable but also when it is paid. In this behalf, one has to keep in mind the purpose with which section 40 was enacted one has also to keep in mind the provisions of sections 194C and 200. Once it is found that the*

aforesaid sections mandate a person to deduct tax at source not only on the amounts payable but also when the sums are actually paid to the contractor, any person who does not adhere to this statutory obligation has to suffer the consequences which are stipulated in the Act itself.

When the entire scheme of obligation to deduct the tax at source and paying it over to the Central Government is read holistically, it cannot be held that the word 'payable' occurring in section 40(a)(ia) refers to only those cases where the amount is yet to be paid and does not cover the cases where the amount is actually paid. If the provision is interpreted in the manner suggested by the appellant herein, then even when it is found that a person, like the appellant, has violated the provisions of Chapter XVIIB (or specifically sections 194C and 200 in the instant case), he would still go scot-free, without suffering the consequences of such monetary default in spite of specific provisions laying down these consequences.

18.52 It is relevant to note that in the above-mentioned case, although the Apex court was concerned specifically with the provisions of section 194C, still the ratio holds good for entire Chapter XVII-B as the case actually dealt with the interpretation of provisions of section 40(a)(ia). Hence, the auditor is required to check compliance with the provisions of section 40(a)(ia) in respect of amounts not only payable to the resident as at the year end but also all such payments which have been already made during the year on which tax was required to be deducted and to be deposited under the provisions of Chapter XVII-B.

Disallowance of application on payment basis

18.53 Explanation to section 11 has been inserted by Finance Act, 2022 which provides that any sum payable by the trust or institution shall be considered as application of income in the previous year in which *such sum is actually paid by it*. Similar amendment had also been brought in for trusts/institutions claiming exemption under section 10(23C) by inserting Explanation 3 to the said clause.

18.54 The reporting in clause 23(vii) of Form No. 10BB and 31(ix) of Form No. 10B, is in respect of application which has been allowed and included in clause 23(iv) of Form No. 10BB and clause 31(v) of Form No. 10B. In case an application is not claimed/not allowed due to non-payment during the previous year, then, the same would not be included in the figure in clause 23(iv)/31(v).

Hence, the question of further disallowance of the amount of application by way of reporting in clause 23(vii)/31(ix) does not arises.

Revision of Form No. 10BB/ 10B in relation to payment made after the date of filing the form but before the due date of return of income

18.55 Further, it is also important to note that there is a time gap of one month between the due date of filing Audit Report in Form No. 10BB/10B i.e 30th September and the due date of filing of return of income by the auditee i.e 31st October.

18.56 In certain cases, members are called upon to report on the accounts reopened and revised by the board of directors. The accounts of a company once adopted at its annual general meeting should not normally be re-opened and revised. The Institute and the Ministry of Corporate Affairs have affirmed this position. In case of revision, the audit report should be given in the manner as required by the Institute in SA-560 (Revised), *Subsequent Events*. The Ministry of Corporate Affairs had also clarified that accounts can be revised to comply with technical requirements. It may be pointed out that report under section 10(23C)/12A should not normally be revised. However, sometimes a member may be required to revise his audit report on grounds such as:

(i) revision of accounts of a company after its adoption in annual general meeting.

(ii) change of law e.g. retrospective amendment.

(iii) change in interpretation, e.g., CBDT Circulars, judgements, etc.

18.57 In case where a member is called upon to report on the revised accounts, then he must mention in the revised report that the said report is a revised report and a reference should be made to the earlier report also. In the revised report, reasons for revising the report should also be mentioned.

18.58 Also, section 40(a)(ia) allows deduction of an expense where the tax in respect of such amount has been deducted and paid up to the due date of filing of return of income. In case, in respect of an amount, the assessee had deducted the tax but not paid the same up to the date of filing of such Form No.10BB/10B by the Auditor, and subsequently, the assessee pays the same by the due date of furnishing the return of income (i.e., within the one month gap) or in such time, the payee files his return of income complying with requirements of first proviso to Section 201(1), the Auditor shall be required to revise his audit report under Form No. 10BB/10B to allow the deduction of 30% so disallowed earlier and reported in the already filed Form No. 10BB/10B.

18.59 While the Tax Audit Report furnished under section 44AB is allowed to be revised under Rule 6G(3), no such provision has been made in the Rule 16CC/17B to revise the Audit Report furnished under Section 12A.Therefore, unless the same is made available under Rule 16CC/17B, the assessee may have to take recourse to other steps to claim the amounts as application of income in case the tax is deposited/deemed to be deposited after the Audit Report has been furnished by the auditor disallowing the said amounts. In case it is not restricted, it is advisable to revise the audit report.

18.60 Clause 23(viii) of Form No.10BB/ Clause 31(x) of Form 10B : Amount disallowable under thirteenth proviso to section 10(23C) or Explanation 3 to sub-section (1) of section 11 read with sub-section (3) or (3A) of section 40A- Fill schedule 40A(3)/ schedule 40A(3A)

This clause requires reporting of amount disallowable under thirteenth proviso to section 10(23C) or Explanation 3 to section 11(1) read with of section 40A(3)/(3A).

Requirement of this clause pertaining to section 40A(3)/ 40A(3A)

18.61 Explanation 3 to section 11(1) provides that for determination of any amount of application claimed u/s 11(1)(a) or (b) i.e. application towards charitable or religious purposes in India, provisions of section 40A(3)/40A(3A) shall be taken into consideration as this section applies to income under the head "*Profits and Gains from Business or Profession".*

18.62 (a) As per the provisions of sub-section (3) of section 40A where the assessee incurs any expenditure in respect of which a payment or aggregate of payments made to a person in a day, otherwise than by an account payee cheque drawn on a bank or account payee bank draft or use of electronic clearing system through a bank account or through such other electronic mode as may be prescribed, exceeding rupees ten thousand, no deduction would be allowed in respect of such expenditure. In case of payment made for plying, hiring or leasing of goods carriage, limit is Rs. 35,000/- instead of Rs. 10,000/-

(b) Further, as per the provisions of section 40A(3A) where any allowance has been made in the assessment for any year in respect of any liability incurred by the assessee for any expenditure and subsequently during any previous year the assessee makes payment in respect thereof, otherwise than by an account payee cheque drawn on a bank or account payee bank draft or use of electronic clearing system through a bank

account or through such other electronic mode as may be prescribed exceeding Rs. 10,000, the payment so made shall be deemed to be the profits and gains of business or profession and accordingly chargeable to income-tax with respect to that previous year. In case of payment made for plying, hiring or leasing of goods carriage, limit is Rs. 35,000/- in place of Rs. 10,000/-.

(c) Further, no disallowance would be made if the payment or aggregate of payments, exceeding Rs. 10,000 (Rs. 35000 in case of plying, hiring or leasing of goods carriage) is made to a person in a day otherwise than by an account payee cheque drawn on a bank or account payee bank draft or use of electronic clearing system through a bank account or through such other electronic mode as may be prescribed in respect of cases and circumstances prescribed under Rule 6DD having regard to the nature and extent of banking facilities available, considerations of business expediency and other relevant factors.

Rule 6DD provides that the disallowance/ addition under sub-section (3) and (3A) of section 40A shall not be made in certain cases or circumstances. In very brief, these are enumerated below:

- Payment to specified entities engaged in banking and insurance activities,
- Payment to Government when required to be made in legal tender,
- Payments through banking channels with use of bill of exchange, book adjustment, transfers,
- Payments to specified growers, cultivators etc.,
- Payment to cottage industry,
- Payment in village not served by a bank to resident of such place,
- Payments of specified terminal benefits to employees up to Rs. 50,000/-,
- Payment to agent who is required to make payment in cash,
- Payment by authorised dealer for purchase of foreign currency etc.,

Auditors are advised to consider Rule 6DD and relative Circulars for complete details of above. Auditors will also need to verify that the

conditions laid down for the mitigating circumstances are strictly complied with.

(d) Other electronic modes of payment referred to in section 40A(3) and section 40A(3A) have been prescribed in Rule 6ABBA. For the purpose of sub-sections (3) and (3A), the electronic modes are prescribed by Rule 6ABBA and such modes include:

(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) Aadhaar Pay;

18.63 As per Circular no. 6 of 2023, dated. 24.05.2023 **(Refer Appendix XI),** it is also clarified that for the purposes of Form No. 10B and Form No. 10BB, electronic modes referred to above 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.

18.64 Similarly, where a trust / institution applies its income in respect of which a payment or aggregate of payments made to a person in a day, otherwise than by an account payee cheque drawn on a bank or account payee bank draft, or use of electronic clearing system through a bank account or through such other electronic mode as may be prescribed, exceeds Rs 10,000, no application shall be allowed in respect of such payments.

18.65 The auditor is required to report the application which is required to be disallowed for payment made in excess of Rs 10,000 otherwise than through electronic mode.

18.66 For the purpose of furnishing the above particulars, the auditor should obtain a list of all cash payments in respect of expenditure exceeding Rs. 10,000 (Rs.35000/- in case of plying, hiring or leasing goods carriages w.e.f. 1.10.2009) made by the assessee during the relevant year which should include the list of payments exempted in terms of Rule 6DD with reasons. This

list should be verified by the auditor with the books of account in order to ascertain whether the conditions for specific exemption granted under clauses (a) to (l) of Rule 6DD are satisfied. Details of payments which do not satisfy the above conditions should be stated under this clause. Certain audit tools are available to find out such payments expeditiously and accurately. These tools may be employed in case data to be checked is voluminous.

18.67 Practically, it may not be possible to verify each payment, reflected in the bank statement, as to whether the payment has been made through account payee cheque, demand draft or use of electronic clearing system through a bank account or through such other electronic mode as may be prescribed, it is thus desirable that the auditor should obtain suitable certificate from the assessee to the effect that the payments for expenditure referred to in section 40A(3) and section 40A(3A) were made by account payee cheque drawn on a bank or account payee bank draft or use of electronic clearing system through a bank account or through such other electronic mode as may be prescribed, as the case may be. Where the reporting has been done on the basis of the certificate of the assessee, the fact shall be reported as an observation/qualification paragraph of the audit report in Form No. 10BB/10B, as the case may be. The auditor, in his report may comment as suggested below while reporting under this sub-clause:

> "*It is not possible for me/us to verify whether the receipts/payments have been accepted/made otherwise than by an account payee cheque or an account payee bank draft, as necessary evidence is not in the possession of the assessee*".

18.68 It is important to check that an application of income as referred to in clause 23(iii)/31(iv) of Form No. 10BB/10B respectively, allows the application of income on payment basis. However, in case it violates the conditions prescribed in 40A(3A) read with applicable rules and circulars, the same shall be added in this clause.

18.69 The auditor is required to fill schedule 40A(3)/schedule 40A(3A) as under:

Schedule 40A(3): Details of amount is disallowable under thirteenth proviso to section 10(23C) or Explanation 3 to sub-section (1) of section 11 read with sub-section (3) of section 40A

(1) S. No

(2) Date of payment

(3) Amount of payment (In Rs.)

(4) Nature of payment (In Rs.)

(5) Details of payee

- **Name**
- **PAN or aadhar, if available**
- **Address**

Schedule 40A(3A): Details of Amount disallowable under thirteenth proviso to section 10(23C)/sub-section (1) of section 11 read with sub-section (3A) of section 40A

(1) S. No

(2) Date of payment

(3) Amount of payment (In Rs.)

(4) Nature of payment (In Rs.)

(5) Details of payee

- **Name**
- **PAN or aadhar, if available**
- **Address**

The particulars required to be filled in the above-mentioned schedules are self-explanatory and may be filled accordingly.

Schedule DI: Details of deemed application under Explanation 1 to sub-section (1) of section 11 and deemed income under sub-section (1B) of section 11

(1) Year in which income is deemed to be applied (F.Y.)

(2) Date of furnishing Form 9A (2)

(3) Amount deemed to be applied during the previous year referred to in column 1

(4) Reason of deeming application

(a) income has not been received during that year

(b) any other reason

(5) Out of the deemed application claimed earlier, amount required to be applied

(6) Amount taxed in any earlier assessment year out of the amount referred to in column (5) (Fill schedule DA)

(7) Out of the deemed application claimed, amount required to be applied during the financial year pertaining to current assessment year (5-6)

(8) Amount of deemed application claimed in earlier years, applied during the financial year relating to current AY

(9) Amount which could not be applied and deemed to be income under section 11(1B) during the previous year (7-8)

(10) Balance Amount of deemed application (5) –(7)

IMPORTANT POINTS REQUIRING CONSIDERATION

Applicability of the provisions of section 40A (3)-Revenue or Capital Expenditure

18.70 An important issue that arises for consideration is whether the provisions of section 40A(3) apply with respect to the revenue expenditure only or with regard to the capital expenditure also. Section 40A(3) restricts the limit of expenditure otherwise than by way of account payee cheque/bank draft/ECS through bank account/prescribed electronic modes in a day to a person to Rs. 10,000. For the purpose of application of income, there is no distinction on account of revenue or capital nature. As such, in applying the income for charitable or religious purposes, even capital expenditure may be considered. In case the assessee is of the view that the same shall not be applicable to capital expenditure, the auditor may make an appropriate disclosure in the observations/ qualifications para of the audit report. The auditor may consider the application of income accordingly.

Applicability of provisions of section 40A(3A) on Trusts/Institutions

18.71 The auditor may examine the requirement of reporting under this schedule i.e., considering its applicability on trusts/ institution as disallowances under section 40A(3A) may not be applicable. This is due to insertion of Explanation in Section 11 and Explanation 3 to Section 10(23C) by Finance Act, 2022. As per Explanation to section 11, any sum payable by

any trust or institution shall be considered as application of income in the previous year in which such sum is actually paid by it (irrespective of the previous year in which the liability to pay such sum was incurred by the trust or institution according to the method of accounting regularly employed by it).

18.72 The proviso to the said Explanation further provides that where during any previous year, any sum has been claimed to have been applied by the trust or institution, such sum shall not be allowed as application in any subsequent previous year.

18.73 As per the above newly inserted Explanation, an amount shall be allowed as application of income to a trust or institution only on "payment basis" i.e., only when the amount as claimed has been actually paid by it. Hence, there may be no requirement at all to examine and report the non-compliance under Section 40A(3A). This is because the pre-requisite for applicability of the provisions of Section 40A(3A) is the allowability of the amounts incurred by the trusts/institution in an earlier year on accrual basis.

18.74 However, the amounts already claimed as expense by the trust/institution prior to the coming in effect of the said Explanation shall be still relevant for reporting purposes in case of non-compliance with the provisions of Section 40A(3A). In simple words, the auditor shall be required to report the non-compliance with the provisions of Section 40A(3A) for any amount outstanding as a payable as on 31.03.2021 in the books of the trust/institution and claimed as application of income prior to A.Y. 2022-23.

18.75 The reporting in this clause may also be reconciled with reporting in clause 23(iii)/ 31(iv) of Form No. 10BB/10B respectively as it may be possible that deduction in these clauses have been claimed for the payments relating to earlier period(s) for which disallowances have been made in earlier year(s). However, at the time of payment during the year under audit, the payments are made in violation of thirteenth proviso to section 10(23C) or Explanation 3 to section 11(1) read with section 40A(3A). The auditor should appropriately report the same in this clause.

18.76 Clause 23(ix) of Form No. 10BB/ Clause 31(xi) of Form No. 10B: Donation to any fund or institution or trust or any university or other educational institution or any hospital or other medical institutions referred to in sub-clauses (iv), (v), (vi) or (via) of clause (23C) of section 10 of the Act or any trust or institution referred to in sections 11 or 12 of the Act towards corpus.

This Clause requires reporting of donation to any fund or institution or trust or any university or other educational institution or any hospital or other medical institution referred to in section 10(23C) (iv), (v), (vi) or (via) of the Act or any trust or institution referred to in section 11 or 12 of the Act towards Corpus.

Application u/s 11(1)(a)/(b) disallowed for payments towards corpus of any other entity as per Explanation 2 to Section 11(1)

18.77 Explanation 2 to section 11(1) provides that where any amount is credited or paid, out of income referred to in section 11(1)(a) or (b) read with Explanation 1, to any fund or trust or institution or any university or other educational institution or any hospital or other medical institution referred to in sub-clause (iv), (v), (vi), (via) of section 10(23C) or other trust or institution registered under section 12AA or section 12AB, as the case may be, being contribution with a specific direction that it shall form part of the corpus, such sum shall not be treated as application of income for charitable or religious purposes.

18.78 The auditor is required to report any such donations to corpus of other entities which are disallowable as per Explanation 2 to section 11(1). The auditor may obtain a management representation with regard to amount to be reported under this clause. The auditor should examine the same with the books of account, correspondence between donor and donee, receipts issued by donee and other relevant documents for reporting as available with the auditee under this clause.

18.79 Clause 23(x) of Form No.10BB/ Clause 31(xii) of Form No. 10B : Donation to Any fund or institution or trust or any hospital or other medical institution referred to in sub-clauses (iv), (v), (vi) or (via) of clause (23C) of section 10 of the Act or any trust or institution referred to in sections 11 or 12 of the Act not having same objects

This clause requires reporting of donation to any fund or institution or trust or any university or other educational institution or any hospital or other medical institution referred to in section 10(23C) (iv), (v), (vi) or (via) of the Act or any trust or institution referred to in sections 11 or 12 of the Act not having same objects.

18.80 Reporting under this clause requires verification of objects of the institution. The comparison of 'objects' of two or more institutions, if not feasible, then management representation may be obtained by the auditor. In cases where trust deed of the institution is not made available to the auditor

for verification purposes, appropriate disclosure shall be made in the observations/Qualification para of Form No. 10BB/10B. The auditor should examine the same with the books of account, correspondence between donor and donee, receipts issued by donee and other relevant documents as available with the auditee for reporting under this clause.

18.81 It may be further noted that such reporting becomes relevant also in case of merger with any other entity which is a registered trust or institution not having objects similar to it (refer section 115TD).

18.82 Clause 23(xi) of Form No.10BB/ Clause 31(xiii) of form No. 10B: Donation to any person other than any fund or institution or trust or any university or other educational institution or any hospital or other medical institution referred to in sub-clauses (iv), (v), (vi) or (via) of clause (23C) of section 10 of the act or any trust or institution referred to in sections 11 or 12 of the Act

This clause requires reporting in respect of Donation to any person other than any fund or institution or trust or any university or other educational institution or any hospital or other medical institution referred to in of section 10(23C) (iv), (v), (vi) or (via) of the Act or any trust or institution referred to in sections 11 or 12 of the Act.

18.83 The auditor may obtain a management representation with regard to amount to be reported under this clause. The auditor should examine the same with the books of account, correspondence between donor and donee, receipts issued by donee and other relevant documents as available with the auditee for reporting under this clause.

18.84 Clause 23(xii) of Form No.10BB/ Clause 31(xiv) of Form No. 10B: Application outside India for which approval under the proviso to clause (c) of sub-section (1) of section 11 has not been obtained

This clause requires reporting of amount in respect of Application outside India for which approval under proviso to section 11(1)(c) has not been obtained and not been reported under Clause 19 of Form No. 10BB and Clause 29 of Form No. 10B.

18.85 Clause 23(xiii) of Form No.10BB/ Clause 31(xv) of Form No. 10B - Application outside India for which approval under the proviso to clause (c) of sub-section (1) of section 11 has been obtained

This clause requires the auditor to report the amount of Application outside India for which approval under proviso to section 11(1)(c) has been obtained.

The Auditor should reconcile the said amount with the amount reported in "*Schedule Intt App"* reported under Clause 19 of Form No. 10BB and Clause 29 of Form No. 10B.

18.86 The auditor is required to verify the amounts remitted outside India for charitable or religious purposes and CBDT applications and approvals obtained by the auditee and report the amounts applied outside India for such purposes with CBDT approval [at clause 31(xv)] and without CBDT approval [at clause 31(xiv)]. In either case i.e. whether CBDT approval was obtained or not obtained, notified Form No.10B also requires reporting the amount under the sub clause (xv) of clause 31 of Form No. 10B under the heading, "Amount to be disallowed from application".

Note *- It is pertinent to mention here that Form No. 10B and not the Form No. 10BB is applicable to entities which have applied income outside India in a given previous year. However, these two sub clauses are also there in Form No.10BB. Hence, if there is any application outside India, then such entities will be required to fill Form No. 10B only and not the Form No.10BB*.

18.87 The notification provides for furnishing of Form No. 10B in case any institution registered under section 10(23C) having applied any part of its income outside India during the previous year by such institution. It is pertinent to mention here that provisions of section 10(23C) does not distinguish between application made outside India or within India.

18.88 Clause 23(xiv) of Form No.10BB/ Clause 31(xvi) of Form No. 10B: Applied for any purpose beyond the objects of the trust or institution

This clause requires reporting of the amount applied for any purpose beyond the objects of the auditee.

18.89 Section 11 permits application of income derived from property held under Trust to the charitable and religious purposes, and section 10(23C) of the Act specifies to apply its income or to accumulate it for application wholly and exclusively to the objects for which it is established. Hence, application not within object clauses of the auditee is disallowable.

18.90 The auditor is required to report the amount applied for any purpose beyond objects of the trust or institution. The auditor may obtain a management representation with regard to amount to be reported under this clause. The auditor should examine the same with the books of account, trust deed/ formation documents and other relevant documents as available with the auditee for the purpose of reporting under this clause.

18.91 Clause 23(xv) of Form No.10BB/ Clause 31(xvii) of Form 10B: Any other disallowance

This clause requires reporting of any other disallowance. The nature of such disallowance should be maintained by the auditor in his working papers. It may be noted that the disallowances specifically covered under various sub-clauses of 23/31 of Form No. 10BB/10B respectively should not be reported again in this sub-clause.

18.92 The auditor may obtain a management representation with regard to amount to be reported under this clause. The auditor should examine the same with the books of account and other relevant documents as available with the auditee for the purpose of reporting under this clause.

18.93 Clause 23(xvi) of Form No.10BB/ Clause 31(xviii) of Form No.10B: Total allowable application

This Clause requires reporting of total allowable application. The amount of total allowable application is arrived at by reducing the amounts of application disallowable from the total application. This is an auto-populated field.

18.94 Clause 23(xvii) of Form No.10BB/ Clause 31(xix) of Form No. 10B: Amount deemed to have been applied during the previous year under clause (2) of Explanation 1 to sub-section (1) of section 11

This clause requires reporting of the amounts deemed to have been applied during the previous year under clause (2) of Explanation 1 to Section 11(1).

Clause 2 of Explanation 1 to Section 11(1) provides that *for the purposes of clause (a) and (b) of section 11, if, in the previous year, the income applied to charitable or religious purposes in India falls short of eighty-five per cent of the income derived during that year from property held under trust, or, as the case may be, held under trust in part, by any amount—*

(i) for the reason that the whole or any part of the income has not been received during that year, or

(ii) for any other reason,

then—

(a) in the case referred to in sub-clause (i), so much of the income applied to such purposes in India during the previous year in

which the income is received or during the previous year immediately following as does not exceed the said amount, and

(b) in the case referred to in sub-clause (ii), so much of the income applied to such purposes in India during the previous year immediately following the previous year in which the income was derived as does not exceed the said amount,

may, at the option of the person in receipt of the income (such option to be exercised at least 2 months prior to the due date specified under section 139(1) for furnishing the return of income, in such form and manner as may be prescribed) (Refer Rule 17 by furnishing Form No.9A) *be deemed to be income applied to such purposes during the previous year in which the income was derived; and the income so deemed to have been applied shall not be taken into account in calculating the amount of income applied to such purposes, in the case referred to in sub-clause (i), during the previous year in which the income is received or during the previous year immediately following, as the case may be, and, in the case referred to in sub-clause (ii), during the previous year immediately following the previous year in which the income was derived.*

18.95 The auditor is required to report the amount deemed to be applied as per Clause 2 to Explanation 1 of section 11(1) under clause 23(xvii)/(31(xix) of Form No.10BB/10B respectively. The auditor should also verify whether or not Form No. 9A was furnished by the auditee as per Rule 17 prior to 2 months before the due date specified in section 139(1) of the Act.

18.96 In this regard, attention is invited to Circular no. 6 of 2023 dated 24.05.2023 **(Refer Appendix XI)**, wherein it has been clarified that the statement of accumulation in 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 section 139(1) of the Act.

18.97 It may further be noted that there is no similar provision in section 10(23C) relating to deemed application of income as referred in clause 2 of Explanation 1 to section 11(1) of the Act i.e. requirement of furnishing of Form No. 9A

18.98 Further, schedule DI is also required to be filled by entities furnishing Form No. 10B (not required for entities furnishing Form No.10BB):

Schedule DI: Details of deemed application under Explanation 1 to sub-section (1) of section 11 and deemed income under sub-section (1B) of section 11

(1) Year in which income is deemed to be applied (F.Y.) (Dropdowns to be provided).

(2) Date of furnishing Form 9A (2)

(3) Amount deemed to be applied during the previous year referred to in column 1.

(4) Reason of deeming application (Dropdowns to be provided)

(a) income has not been received during that year

(b) any other reason

(5) Out of the deemed application claimed earlier, amount required to be applied.

(6) Amount taxed in any earlier assessment year out of the amount referred to in column (5) *(Fill schedule DA)*

(7) Out of the deemed application claimed, amount required to be applied during the financial year pertaining to current assessment year (5-6)

(8) Amount of deemed application claimed in earlier years, applied during the financial year relating to current AY

(9) Amount which could not be applied and deemed to be income under section 11(1B) during the previous year (7-8)

(10) Balance Amount of deemed application (5)-(7)

18.99 The particulars required to be reported under this schedule are self-explanatory and may be filled by the auditor accordingly.

18.100 Clause 23(xviii) of Form No.10BB/ Clause 31(xx) of Form No. 10B: Income accumulated under the provisions of Explanation 3 to the third proviso to clause (23C) of section 10 or sub-section (2) of section 11 Amount in Rs.

This clause requires reporting of income accumulated as per the provisions of Explanation 3 to the third proviso to section 10(23C) or section 11(2).

18.101 As per section 11(2) and Explanation 3 to the third proviso of section 10(23C), where eighty-five per cent of the income is not applied, or is not deemed to have been applied, towards the objects of the trust or institution in India during the previous year but is accumulated or set apart, either in whole or in part, for application to such purposes in India, such income so accumulated or set apart shall not be included in the total income of the previous year of the person in receipt of the income, provided the following conditions are complied with, namely:—

(a) such person furnishes a statement in the prescribed form and in the prescribed manner to the Assessing Officer (Rule 17, Form No.10) at least 2 months prior to the due date specified in section 139(1) for furnishing the income-tax return stating the purpose for which the income is being accumulated or set apart and the period for which the income is to be accumulated or set apart, which shall in no case exceed five years (excluding the period during which income could not be applied due to an order or injunction of any court);

(b) the money so accumulated or set apart is invested or deposited in the forms or modes specified in section 11(5);

18.102 Any amount credited or paid out of amount accumulated or set apart, specified in Form No.10 furnished as per section 11(2)(a) or section 10(23C) of the Act, to any trust or institution registered under section 12AB or to any fund or institution or trust, referred under section 10(23C)(iv)/(v)/(vi) or (via), shall not be treated as application of income for charitable or religious purposes, either during the period of accumulation or thereafter.

18.103 Attention is invited to Circular no. 6 of 2023 dated. 24.05.2023 **(Refer Appendix XI)**, where it is clarified that the statement of accumulation in Form No.10 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 section 139(1) of the Act.

18.104 The auditor should examine the same with the books of account and other relevant documents as available with the auditee for the purpose of reporting under this clause.

18.105 The auditor is required to report the amount accumulated under Clause 23(xviii)/31(xx). *"Schedule AC"* is to be filled by entities filing Form No. 10B (not required for entities filing Form No.10BB):

Schedule AC: The details of accumulation

S no.

(1) Year of accumulation (F.Y.) (1*) (Provide dropdown for last seven Financial years)*

(2) Date of furnishing Form 10 *(dd/mm/yyyy***)**

(3) Amount accumulated in the year of accumulation

(4) Purpose of accumulation

(5) Amount applied for Charitable or religious purposes upto the beginning of previous year

(6) Balance to be applied *(3-5)*

(7) Amount taxed in any earlier assessment *(Fill schedule AC**A**)*

(8) Balance available for application (6-7)

(9) Amount applied for Charitable or religious purpose during the previous year out of previous years accumulation

(10) Amount applied for purposes other than the purpose for which such accumulation was made (if applicable)

(11) Amount credited or paid to any trust or institution registered under section 12AB or approved under sub-clauses (iv) or (v) or (vi) or (via) of clause (23C) of section 10 (if applicable)

(12) Balance amount available for application (8)-(9)-(10)-(11)

(13) Amount invested or deposited in the modes specified in section 11(5) out of (12)

(14) Amount invested or deposited in the modes other than specified in section 11(5) out of (12) (if applicable)

(15) Amount which is not utilized during the period of accumulation (if applicable)

(16) Amount deemed to be income within the meaning of sub-section (3) of section 11 (if applicable) (*10)+(11)+(14)+(15)*

18.106 The particulars to be reported under this clause are self-explanatory and may be reported accordingly.

18.107 Clause 23(xix) of Form No.10BB/ Clause 31(xxi) of Form No. 10B: Income accumulated or set apart for application to charitable or religious purposes or stated objects of trust or institution to the extent it does not exceed 15% of the income

This clause requires reporting of income accumulated or set apart for application to charitable or religious purposes or stated objects of trust or institution to the extent it does not exceed 15% of the income.

18.108 As per section 11(1)(a)/(b) or 10(23C), Trusts and Institutions are allowed to accumulate or set apart their income to the extent of 15%, for unlimited period. The auditor is required to report the amounts so set apart in clause 23(xix)/31(xxi) of Form No.10BB/10B respectively.

19. Taxable income

[Clause 24 of Form No. 10BB/ Clause 32 of Form No. 10B]

Under this clause, taxable income is reportable which is total income required to be applied in India as reduced by total allowable application and amounts set apart, accumulated, deemed to be applied as per section 11(1), third proviso to section 10(23C), Explanation 3 to third proviso to section 10(23C), section 11(2) and Clause 2 of Explanation 1 to Section 11. This is an auto populated field.

20. Income taxable under section 115BBI

[Clause 25 of Form No. 10BB/ Clause 33 of Form 10B]

Income taxable under section 115BBI

(a)	*Whether the auditee has any deemed income referred to in sub-section (1B) of section 11 which is chargeable to tax @ 30% under section 115BBI and the amount of such deemed income ?*	*Yes / No*
(b)	*Whether the auditee has any deemed income referred to in Explanation 4 to third proviso to clause (23C) of section 10 or sub-section (3) of section 11 which is chargeable to tax @ 30% under section 115BBI and the amount of such deemed income ?*	*Yes / No*

	(i)	*Whether the income accumulated is applied for the purposes other than charitable or religious purposes or ceases to be accumulated or set apart for application thereto*	*Yes / No*
	(ii)	*Whether such income accumulated cease to remain invested or deposited in any of the forms or modes specified in sub-section (5) of section 11*	*Yes / No*
	(iii)	*Whether such income accumulated is not utilized for the purpose for which it is so accumulated or set apart during the period referred to in clause (a) of Explanation 3 to third proviso to clause (23C) of section 10 or clause (a) of sub-section (2) of section 11*	*Yes / No*
	(iv)	*Whether such income accumulated is credited or paid to any trust or institution registered under section 12AA or section 12AB or to 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*	*Yes / No*
(c)	*(i)*	*Whether the auditee has any income which is income not to be excluded from the total income under twenty first proviso to clause (23C) of section 10 or clause (c) of sub-section (1) of section 13 which is chargeable to tax @ 30% under section 115BBI and the amount of such income*	*Yes / No*
	(ii)	*Whether the auditee has any income which is not to be excluded from the total income under clause(b) of third proviso to clause (23C) of section 10 or clause (d) of sub-section (1) of section 13 which is chargeable to tax @ 30% under section 115BBI and the amount of such income*	*Yes / No*
(d)		*Whether the auditee has any income accumulated or set apart in excess of fifteen per cent of the income where such accumulation is not allowed under any specific provision of the Act and which is chargeable to tax @ 30% under section 115BBI and the amount of such income?*	*Yes / No*

(e)	*Whether the auditee has made any application out of India which is not excluded from total income under clause (c) of sub-section (1) of section 11*	*Yes / No*

20.1 Section 115BBI provides that certain specified income of institutions are chargeable to tax at the rate of 30% notwithstanding anything contained in any other provision of this Act.

"*Specified income*" means,—

(a) income accumulated or set apart in excess of fifteen per cent of the income where such accumulation is not allowed under any specific provision of this Act; or

(b) deemed income referred to in Explanation 4 to the third proviso to clause (23C) of section 10, or sub-section (1B) or sub-section (3) of section 11; or

(c) any income, which is not exempt under clause (23C) of section 10 on account of violation of the provisions of clause (b) of the third proviso of clause (23C) of section 10, or not to be excluded from the total income under the provisions of clause (d) of sub-section (1) of section 13; or

(d) any income which is deemed to be income under the twenty-first proviso to clause (23C) of section 10 or which is not excluded from the total income under clause (c) of sub-section (1) of section 13; or

(e) any income which is not excluded from the total income under clause (c) of sub-section (1) of section 11.

20.2 Tax on income other than specified income would be calculated on the amount of income-tax with which the assessee would have been chargeable had the total income of the assessee been reduced by the aggregate of specified income.

20.3 As per section 164(2) of the Act-

"*In the case of relevant income which is derived from property held under trust wholly for charitable or religious purposes, or which is of the nature referred to in sub-clause (iia) of clause (24) of section 2, or which is of the nature referred to in sub-section (4A) of section 11, tax shall be*

charged on so much of the relevant income as is not exempt under section 11 or section 12, as if the relevant income not so exempt were the income of an association of persons :

Provided that in a case where the whole or any part of the relevant income is not exempt under section 11 or section 12 by virtue of the provisions contained in clause (c) or clause (d) of sub-section (1) of section 13, tax shall be charged on the relevant income or part of relevant income at the maximum marginal rate."

20.4 No deduction in respect of any expenditure or allowance or set off of any loss shall be allowed to the assessee under any provision of this Act in computing the specified income.

20.5 These provisions are introduced by the Finance Act, 2022 and applicable from AY 2023-24 onwards.

20.6 Section 11(1B) of the Act states as under-

"Where any income in respect of which an option is exercised under clause (2) of the Explanation to sub-section (1) is not applied to charitable or religious purposes in India during the period referred to in sub-clause (a) or, as the case may be, sub-clause (b), of the said clause, then, such income shall be deemed to be the income of the person in receipt thereof—

(a) in the case referred to in sub-clause (i) of the said clause, of the previous year immediately following the previous year in which the income was received; or

(b) in the case referred to in sub-clause (ii) of the said clause, of the previous year immediately following the previous year in which the income was derived".

20.7 Section 11(3) of the Act states as under-

Any income referred to in sub-section (2) which—

(a) is applied to purposes other than charitable or religious purposes as aforesaid or ceases to be accumulated or set apart for application thereto, or

(b) ceases to remain invested or deposited in any of the forms or modes specified in sub-section (5), or

(c) is not utilised for the purpose for which it is so accumulated or set apart during the period referred to in clause (a) of that sub-section,

(d) is credited or paid to any trust or institution registered under section 12AA or section 12AB or to 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,

shall be deemed to be the income of such person of the previous year,—

(i) in which it is so applied or ceases to be so accumulated or set apart under clause (a); or

(ii) in which it ceases to remain so invested or deposited under clause (b); or

(iii) being the last previous year of the period, for which the income is accumulated or set apart but not utilised for the purpose for which it is so accumulated or set apart under clause (c); or

(iv) in which it is credited or paid to any fund or institution or trust or any university or other educational institution or any hospital or other medical institution under clause (d).

20.8 The conditions under Explanation 4 to third proviso of section 10(23C) are similar as to section 11(3) of the Act, except of section 11(3)(a) is to be read as under for Explanation 4 to third proviso of section 10(23C)-

"(a) is applied for purposes other than wholly and exclusively to the objects for which the 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) is established or ceases to be accumulated or set apart for application thereto;"

20.9 In Form No. 10BB the auditor needs to report gross amount chargeable to tax u/s 115BBI, whereas in Form No. 10B the auditor is required to report itemized details within each of the specified income. Section 11(1B) provides for violation of conditions specified in Form No. 9A.

20.10 Clause 25 of Form No. 10BB/ Clause 33 of Form No. 10B - Clause 25 of Form No.10BB needs reporting of only the gross amount chargeable to tax u/s 115BBI whereas clause 33 of Form No. 10B requires detailed reporting and as such for reporting in clause 25 the said details (i.e., as required in clause 33 for Form No.10B) should be maintained as working paper while reporting in Form No. 10BB.

20.11 Clause 33(a) of Form No.10B- requires the auditor to state in "*Yes/ No"* whether the auditee has any deemed income referred to in section11(1B) which is chargeable to tax @ 30% under section 115BBI and the amount of such deemed income.

20.12 In case the response is affirmative, schedule DI is also required to be filled (not required for entities furnishing Form No. 10BB):

Schedule DI:
Details of deemed application under Explanation 1 to sub-section (1) of section 11 and deemed income under sub-section (1B) of section 11

(1) Year in which income is deemed to be applied (F.Y.) *(Dropdowns to be provided)*

(2) Date of furnishing Form 9A

(3) Amount deemed to be applied during the previous year referred to in column 1

(4) Reason of deeming application *(Dropdowns to be provided)*

- **(a) income has not been received during that year**
- **(b) any other reason**

(5) Out of the deemed application claimed earlier, amount required to be applied

(6) Amount taxed in any earlier assessment year out of the amount referred to in column (5) *(Fill schedule DA)*

(7) Out of the deemed application claimed, amount required to be applied during the financial year pertaining to current assessment year *(5-6)*

(8) Amount of deemed application claimed in earlier years, applied during the financial year relating to current AY

(9) Amount which could not be applied and deemed to be income under section 11(1B) during the previous year *(7-8)*

(10) Balance Amount of deemed application *(5)-(7)*

20.13 The particulars required to be reported under this schedule are self-explanatory and may be filled by the auditor accordingly.

20.14 Clause 33(b) of Form No.10B requires the auditor to state in "Yes/No" whether the auditee has any deemed income referred to in Explanation 4 to third proviso section 10(23C) or section 11(3) which is chargeable to tax @ 30 % under section 115BBI and the amount of such deemed income.

20.15 In case the response is affirmative, schedule AC is also required to be filled (not required for entities furnishing Form No. 10BB). It may be noted that this schedule is also required to be filled in case of clause 31(xx) and may be referred from there.

20.16 While reporting under this clause the auditor may refer to the provisions of Explanation 4 to section 10(23C) which reads as under:

Explanation 4.—Any income referred to in Explanation 3, which,—

(a) is applied for purposes other than wholly and exclusively to the objects for which the 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) is established or ceases to be accumulated or set apart for application thereto; or

(b) ceases to remain invested or deposited in any of the forms or modes specified in sub-section (5) of section 11; or

(c) is not utilised for the purpose for which it is so accumulated or set apart during the period referred to in clause (a) of Explanation 3; or

(d) is credited or paid to any trust or institution registered under section 12AA or section 12AB or to 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),

shall be deemed to be the income of such person of the previous year—

(i) in which it is so applied or ceases to be so accumulated or set apart under clause (a); or

(ii) in which it ceases to remain so invested or deposited under clause (b); or

(iii) being the last previous year of the period, for which the income is accumulated or set apart under clause (a) of Explanation 3, but not utilised for the purpose for which it is so accumulated or set apart under clause (c); or

(iv) in which it is credited or paid to any fund or institution or trust or any university or other educational institution or any hospital or other medical institution under clause (d).

20.17 Also, refer to provisions of section 11(3) which are similar to the provisions of Explanation 4 to third proviso of section 10(23C)

20.18 Clause 33(b) requires stating of "*Yes/No*" in respect of (i) to (iv) sub-clauses which correspond to the above-mentioned relevant provisions of section 10(23C) and section 11. In case the response is affirmative "*Amount in Rs*." is also to be given. In case the amount column of the sub-clauses mentioned below do not get auto- populated by filling Schedule AC, the same are to be provided manually. The amount to be reported under these sub-clauses may be reconciled with the amounts reported under Schedule AC, to the extent possible.

20.19 Clause 33(c) of Form No.10B requires to state in "Yes/No" in respect of the following sub-clauses. In case the response is affirmative, the amount is also to be reported:

(i) Whether the auditee has any income which is income not to be excluded from the total income under twenty first proviso to clause (23C) of section 10 or clause (c) of sub-section (1) of section 13 which is chargeable to tax @ 30 % under section 115BBI and the amount of such income

While reporting under this clause, the auditor should also consider the provisions of twenty first proviso to section 10(23C) or section 13(1)(c) read with provisions of section 13(3). The provisions of the twenty first proviso to section 10(23C) reads as under:

> *Provided also that where the income or part of income or property 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), has been applied directly or indirectly for the benefit of any person referred to in sub-section (3) of section 13, such income or part of income or property shall, after taking into account the provisions of sub-sections (2), (4) and (6) of the said section, be deemed to be the income of such fund or institution or trust or university or other educational institution or hospital or other medical institution of the previous year in which it is so applied:

Section 13(1)(c) reads as under:

(1) Nothing contained in section 11 or section 12 shall operate so as to exclude from the total income of the previous year of the person in receipt thereof—

(a) …

(b) …

(bb) [***]

(c) in the case of a trust for charitable or religious purposes or a charitable or religious institution, any income thereof—

(i) if such trust or institution has been created or established after the commencement of this Act and under the terms of the trust or the rules governing the institution, any part of such income enures, or

(ii) if any part of such income or any property of the trust or the institution (whenever created or established) is during the previous year used or applied,

directly or indirectly for the benefit of any person referred to in sub-section (3) , such part of income as referred to in sub-clauses (i) and (ii) :

Provided that in the case of a trust or institution created or established before the commencement of this Act, the provisions of sub-clause (ii) shall not apply to any use or application, whether directly or indirectly, of any part of such income or any property of the trust or institution for the benefit of any person referred to in sub-section (3), if such use or application is by way

of compliance with a mandatory term of the trust or a mandatory rule governing the institution :

Provided further that in the case of a trust for religious purposes or a religious institution (whenever created or established) or a trust for charitable purposes or a charitable institution created or established before the commencement of this Act, the provisions of sub-clause (ii) shall not apply to any use or application, whether directly or indirectly, of any part of such income or any property of the trust or institution for the benefit of any person referred to in sub-section (3) in so far as such use or application relates to any period before the 1st day of June, 1970;

The provisions of section 13(2) read as under:

13(2) Without prejudice to the generality of the provisions of clause (c) and clause (d) of sub-section (1), the income or the property of the trust or institution or any part of such income or property shall, for the purposes of that clause, be deemed to have been used or applied for the benefit of a person referred to in sub-section (3),—

(a) if any part of the income or property of the trust or institution is, or continues to be, lent to any person referred to in sub-section (3) for any period during the previous year without either adequate security or adequate interest or both;

(b) if any land, building or other property of the trust or institution is, or continues to be, made available for the use of any person referred to in sub-section (3), for any period during the previous year without charging adequate rent or other compensation;

(c) if any amount is paid by way of salary, allowance or otherwise during the previous year to any person referred to in sub-section (3) out of the resources of the trust or institution for services rendered by that person to such trust or institution and the amount so paid is in excess of what may be reasonably paid for such services;

(d) if the services of the trust or institution are made available to any person referred to in sub-section (3) during the previous year without adequate remuneration or other compensation;

(e) if any share, security or other property is purchased by or on behalf of the trust or institution from any person referred to in sub-section (3) during the previous year for consideration which is more than adequate;

(f) if any share, security or other property is sold by or on behalf of the trust or institution to any person referred to in sub-section (3) during the previous year for consideration which is less than adequate;

(g) if any income or property of the trust or institution is diverted during the previous year in favour of any person referred to in sub-section (3):

Provided that this clause shall not apply where the income, or the value of the property or, as the case may be, the aggregate of the income and the value of the property, so diverted does not exceed one thousand rupees;

(h) if any funds of the trust or institution are, or continue to remain, invested for any period during the previous year (not being a period before the 1st day of January, 1971), in any concern in which any person referred to in sub-section (3) has a substantial interest.

The provisions of section 13(3) read as under:

13 (3) The persons referred to in clause (c) of sub-section (1) and sub-section (2) are the following, namely :—

(a) the author of the trust or the founder of the institution;

(b) any person who has made a substantial contribution to the trust or institution, that is to say, any person whose total contribution up to the end of the relevant previous year exceeds fifty thousand rupees;

(c) where such author, founder or person is a Hindu undivided family, a member of the family;

(cc) any trustee of the trust or manager (by whatever name called) of the institution;

(d) any relative of any such author, founder, person, member, trustee or manager as aforesaid;

(e) any concern in which any of the persons referred to in clauses (a), (b), (c), (cc) and (d) has a substantial interest.

The auditor should obtain and can rely on management representation which includes the list of the persons specified under section 13(3) [*The CBDT has accepted this view vide Circular No.143 [F.No.180/74/73- IT(A-I)], dated 20.8.1974 given in* ***Appendix XII*** *]* and also transactions held with them during the year and resulting into direct and/or indirect benefits to the specified persons, with reference to reasons mentioned in section 13(2), besides using the professional judgement. The auditor is to consider the provisions of section 13(2) and obtain adequate documentation in respect of items listed in the said section to ascertain that the same are adequate. The auditor may refer to guidance available in publications issued by ICAI, in respect of section 40A(2), so as to determine whether there is any deemed application for the benefit of persons referred to in section 13(3) of the Act.

(ii) Whether the auditee has any income which is not to be excluded from the total income under clause (b) of third proviso to clause (23C) of section 10 or clause (d) of sub-section (1) of section 13 which is chargeable to tax @ 30% under section 115BBI and the amount of such income

While reporting under this clause the auditor should also consider the provisions of clause (b) of third proviso to section 10(23C) or section 13(1)(d).

The provisions of section 13(1)(d) read as under:

(d) in the case of a trust for charitable or religious purposes or a charitable or religious institution, any income thereof, if for any period during the previous year—

(i) any funds of the trust or institution are invested or deposited after the 28th day of February, 1983 otherwise than in any one or more of the forms or modes specified in sub-section (5) of section 11; or

(ii) any funds of the trust or institution invested or deposited before the 1st day of March, 1983 otherwise than in any one or more of the forms or modes specified in sub-section (5) of section 11 continue to remain so invested or deposited after the 30th day of November, 1983; or

(iii) any shares in a company, other than—

(A) shares in a public sector company;

(B) shares prescribed as a form or mode of investment under clause (xii) of sub-section (5) of section 11,

are held by the trust or institution after the 30th day of November, 1983 73[, to the extent of such deposits or investments referred to in sub-clauses (i), (ii) and (iii)]:

Provided that nothing in this clause shall apply in relation to—

(i) any assets held by the trust or institution where such assets form part of the corpus of the trust or institution as on the 1st day of June, 1973;

(ia) any accretion to the shares, forming part of the corpus mentioned in clause (i), by way of bonus shares allotted to the trust or institution;

(ii) any assets (being debentures issued by, or on behalf of, any company or corporation) acquired by the trust or institution before the 1st day of March, 1983;

(iia) any asset, not being an investment or deposit in any of the forms or modes specified in sub-section (5) of section 11, where such asset is not held by the trust or institution,

otherwise than in any of the forms or modes specified in sub-section (5) of section 11, after the expiry of one year from the end of the previous year in which such asset is acquired or the 31st day of March, 1993, whichever is later;

(iii) any funds representing the profits and gains of business, being profits and gains of any previous year relevant to the assessment year commencing on the 1st day of April, 1984 or any subsequent assessment year.

Explanation.—Where the trust or institution has any other income in addition to profits and gains of business, the provisions of clause (iii) of this proviso shall not apply unless the trust or institution maintains separate books of account in respect of such business.

Explanation.—For the purposes of sub-clause (ii) of clause (c), in determining whether any part of the income or any property of any trust or institution is during the previous year used or applied, directly or indirectly, for the benefit of any person referred to in sub-section (3), in so far as such use or application relates to any period before the 1st day of July, 1972, no regard shall be had to the amendments made to this section by section 7 [other than sub-clause (ii) of clause (a) thereof] of the Finance Act, 1972.

20.20 The provisions of clause (b) of third proviso to section10(23C) are similar to the above-mentioned provisions of section 13(1)(d).

20.21 The auditor should verify the transactions as specified in above provision and report in case they are covered by the above-mentioned provisions. Additionally, the auditor may obtain management representation besides using the professional judgement.

20.22 Clause 33(d) of Form No.10B requires the auditor to state in "Yes/No" as to whether the auditee has any income accumulated or set apart in excess of fifteen per cent. of the income where such accumulation is not allowed under any specific provision of the Act and which is chargeable to tax @ 30 % under section 115BBI and the amount of such income.

20.23 There is no exhaustive list of such income which is required to be reported under this clause. The auditor may use his professional judgement while reporting in this clause.

20.24 Clause 33(e) of Form No.10B requires the auditor to state in "Yes/No" as to whether the auditee has made any application out of India which is not excluded from total income under section 11(1)(c). In case, the response is affirmative, "*Schedule Int App*" is to be filled. The said schedule has been discussed earlier and may be referred to therefrom.

21. Anonymous donations which is chargeable to tax @30% under section 115BBC

[Clause 26 of Form No. 10BB/ Clause 34 of Form No. 10B]

The reporting under this clause has already been discussed with Clauses 12 to 22 of Form No. 10BB and clauses 21 to 30 of Form No.10B and may be accordingly referred to therefrom.

22. Application of income out of the different sources during the previous year

[Clause 27 of Form No. 10BB/ Clause 37 of Form No. 10B]

For the detailed clause of the respective forms, refer to the complete Form 10B/10BB given in the Appendix I

(A) Income accumulated under the third proviso to clause (23C) of section 10 or under sub-section (2) of section 11 during any earlier previous year

(B) Income deemed to be applied in any preceding year under clause (2) of Explanation 1 to sub-section (1) of section 11 during any earlier previous year

(C) Income of earlier previous years up to 15% accumulated or set apart

(D) Corpus

(E) Borrowed fund

(F) Any other (please specify)

Note-*While furnishing Form No. 10B, application of income out of the different sources is to be bifurcated between Electronic modes and other than Electronic modes as well as schedules to be filled for each sub-clauses. No such bifurcation of modes or filling is required in Form No. 10BB.*

22.1 The electronic modes shall be the following modes referred to in Rule 6AABA of the Income-tax Rules, 1962 *(Please refer Note No.10 to Form No. 10B):*

(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;

22.2 As per Circular no. 6 of 2023, dated. 24.05.2023 **(Refer Appendix XI)**, it is hereby clarified that for the purposes of Form No. 10B and Form No. 10BB, electronic modes referred to above 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.

22.3 The reporting is to be done accordingly under this clause. This clause also requires filling of various schedules including *Schedule AC, DI, Corpus, LB* which have been discussed earlier in this publication. The same may be referred to accordingly for reporting in this clause.

22.4 In this clause 27 of Form No. 10BB/ clause 37 of Form No. 10B, application of income out of the sources specified under sub clauses of clause 27 of Form No. 10BB/ clause 37 of Form No. 10B are to be reported here and such amounts will not be treated as application of income during the previous year as mentioned in clause 23 of Form No. 10BB/ clause 31 of Form No. 10B which states "*Application of Income (Excluding application not eligible and reported under serial number 37"*.

(A) Income accumulated under third proviso to section 10(23C) or under section 11(2) during any earlier previous year-*Schedule AC required to be filed while furnishing Form No. 10B*

The provisions of third proviso to section 10(23C) or under section 11(2) have been reproduced earlier in this publication which may be referred to.

(i) Where 85% of the income, as per section 10(23C) is not applied for

wholly and exclusively to the objects for which it is established or, as per section 11(2) of the Act not applied or not deemed to have been applied to charitable or religious purposes in India during the previous year, it is required to accumulated or set apart such income for future application. The incomes so accumulated will not be included in the total income of the trusts, university or institution if the following conditions are applied:

- *Such trust or institution furnishes Form No. 10* – notice of accumulation of income by religious or charitable trust or university or institution electronically to Assessing Officer, at least two months prior to the due date specified for furnishing the return of income*(Also please refer clarification vide para 15 of Circular 6 dated 24th May 2023 in* ***Appendix XI***).
- Such accumulation cannot be for more than 5 years, and period during which income accumulated or set apart could not be applied due to order or injunction of any court to be excluded in computing 5 years. Money so accumulated or set apart is invested or deposited in specified mode as mentioned under section 11(5).

(ii) *Accumulation under Section 11(2)*

As per the provisions of section 11(2) of the Act, if the trust or institution has not applied 85% of its income during any previous year, it is allowed to accumulate such income for a period not exceeding 5 years subject to furnishing of Form No. 10 at least two months before due date of furnishing return of income u/s.139(1) and investing or depositing such money in forms or modes specified u/s. 11(5) of the Act.

Moreover, as per section 11(3) of the Act, if the accumulated income is not utilized for the purpose for which it is accumulated or set apart, it shall be deemed to be the income of the previous year being the last previous year of the period of which it is accumulated. Hence, now if the accumulated income is not applied within 5 years, the same shall be taxed in the 5th year itself. Before the amendment by Finance Act 2022, it was taxed in the 6th year under section 11(3) of the Act.

In other words, where eighty-five per cent of the income is not applied, or is not deemed to have been applied to charitable or religious purposes in India during the previous year but is accumulated or set

apart, either in whole or in part for application to such purposes in India, such income so accumulated or set apart shall not be included in the total income of the previous year of the person in receipt of the income, provided the following conditions are complied with, namely:—

(a) such person furnishes a statement in the prescribed form and in the prescribed manner to the Assessing Officer, stating the purpose for which the income is being accumulated or set apart and the period for which the income is to be accumulated or set apart, which shall in no case exceed five years;

(b) the money so accumulated or set apart is invested or deposited in the forms or modes specified in sub-section (5);

(c) the statement referred to in clause (a) is furnished at least two months before the due date specified under of section 139(1) for furnishing the return of income for the previous year.

Provided that in computing the period of five years referred to in clause (a), the period during which the income could not be applied for the purpose for which it is so accumulated or set apart, due to an order or injunction of any court, shall be excluded.

However, Circular no. 6 of 2023 dated 24.05.2023 (**Refer Appendix IX**), clarifies that the statement of accumulation in Form No. 10 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 139(1) of the Act.

It is advisable to furnish the Form No.9A or Form No.10 up to the due date of furnishing of Audit Report i.e. 30th September. In order to ensure that there is no conflict in information reported in Form No.10 vis-a-vis Form No.10BB/10B, the filing of Form No.9A and Form No.10 should be done as stated above.

Schedule AC is required to be filled under this clause which has been discussed earlier. The same may be referred to accordingly.

(B) Income deemed to be applied in any preceding year under clause (2) of Explanation 1 to sub-section (1) of section 11 during any earlier previous Year- *Schedule DI required to be filed while furnishing Form No.10B*

Clause 2 of Explanation 1 to section 11(1) provides *that:*

> *For the purposes of section 11(a) and 11(b), if, in the previous year, the income applied to charitable or religious purposes in India falls short of eighty-five per cent of the income derived during that year from property held under trust, or, as the case may be, held under trust in part, by any amount—*
>
> *(i) for the reason that the whole or any part of the income has not been received during that year, or*
>
> *(ii) for any other reason,*
>
> *then—*
>
> *(a) in the case referred to in sub-clause (i), so much of the income applied to such purposes in India during the previous year in which the income is received or during the previous year immediately following as does not exceed the said amount, and*
>
> *(b) in the case referred to in sub-clause (ii), so much of the income applied to such purposes in India during the previous year immediately following the previous year in which the income was derived as does not exceed the said amount,*
>
> *may, at the option of the person in receipt of the income (such option to be exercised at least 2 months prior to the due date specified under section 139(1) for furnishing the return of income, in such form and manner as may be prescribed (*as per Rule 17 by furnishing Form No. 9A*) be deemed to be income applied to such purposes during the previous year in which the income was derived; and the income so deemed to have been applied shall not be taken into account in calculating the amount of income applied to such purposes, in the case referred to in sub-clause (i), during the previous year in which the income is received or during the previous year immediately following, as the case may be, and, in the case referred to in sub-clause (ii), during the previous year immediately following the previous year in which the income was derived.*

Circular no. 6 of 2023 dated. 24.05.2023 **(Refer Appendix XI)** clarifies that the statement of accumulation in 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 139(1) of the Act.

As mentioned earlier, it is advisable to furnish the Form No.9A or Form No.10 up to the due date of furnishing of Audit Report i.e. 30th September. In order to ensure that there is no conflict in information reported in Form No.9A vis-a-vis Form No.10BB/10B, the filing of Form No.9A and Form No.10 should be done as stated above.

'*Schedule DI'* is required to be filled under this clause which has already been discussed earlier. The same may be referred to accordingly.

(C) Income of earlier previous years up to 15% accumulated or set apart- This clause requires reporting of the application of income out of income of earlier previous years to the extent of 15% accumulated or set apart. It may be noted that consolidated amount is to be reported under this clause as the utility does not require reporting of year wise amount. However, the same should be maintained in the working papers by the auditor.

For reporting under this clause, the auditor may obtain a Certificate from the auditee regarding the amount set apart of earlier previous years for general accumulation along with calculation of such 15%, supported by financial statements of the relevant previous year(s).

Initially for reporting in Form No. 10BB/10B, there will be practical difficulties in verifying the amount set apart of earlier previous years for general accumulation along with calculation of such 15%. In such cases, the auditor should verify the transactions with reference to such evidence which may be available. In the absence of satisfactory evidence, for answering, under this clause. The suggested comment is as follows:

> *"It is not possible for me/us to verify the amount set apart of earlier previous years for general accumulation along with calculation of such 15%, as the necessary evidence is not in the possession of the assessee in respect of clause 27(C)/37(C)of Form No. 10BB/10B. Thus, reliance has been placed on the information provided in the management representation"*

(D) Application of Income out of Corpus -*Schedule Corpus is required to be filed while furnishing Form No.10B*

Any amount applied during the previous year out of the corpus is to be mentioned under this clause. Such amount is not treated as application of income at the time of utilization but shall be treated as application in the year in which it is invested or deposited back in the modes specified under section 11(5) of the Act. The related provisions have been discussed in earlier clauses requiring reporting in Schedule Corpus and may be referred accordingly.

Under sub-clause (D) '*Schedule Corpus'* is to be filled which has already been discussed earlier. The same may be referred to accordingly.

(E) Application of Income out of borrowed fund-*Schedule LB required to be filed while furnishing Form No.10B*

Any amount applied during the previous year out of borrowed funds are to be mentioned under this clause. Such amount is not treated as application of income at the time of utilization but shall be treated as application in the year in which it is repaid in case of the loan or borrowing. The related provisions have been discussed in earlier clauses requiring reporting in Schedule Corpus and may be referred to accordingly.

Under sub-clause (D) schedule Corpus is to be filled and under sub-clause (E) Schedule LB is required to be filed while furnishing Form No.10B. The said schedules have already been discussed earlier in this publication. The same may be referred to accordingly.

(F) Any other (Please specify)

Under this clause, any amounts not treated as application of income during the previous year and not covered in sub clause (A) to (E) to be mentioned. Also, under sub-clause (F) schedule LB is to be filled while furnishing Form No. 10B. The said schedule and related provisions have already been discussed earlier and may be referred to accordingly.

23. Persons referred to in 13(3)

[Clause 28 and 29 of Form No. 10BB and Clause 41 and 42 of Form No.10B]

Details of specified person as referred to in sub-section (3) of section 13** *[Clause 28 of Form No. 10BB / Clause 41 of Form 10B]*

- **Code of person referred to in sub-section (3) of section 13 <Refer Note^^>**
- **Name of such person**
- **PAN of such person**
- **Aadhar number of such person, if allotted**
- **Address of such person**
- **If code 2 selected in column (1) specify the amount of contribution made to the auditee**

Note 6 of Form No. 10BB & Note 11 of Form No. 10B

In serial number 28(Form No.10BB)/ 41 (Form 10B) Select one or more of the following codes for specified person:

S.no.	*Nature of Person*	*Code*
(1)	*the author of the trust or the founder of the institution;*	*1*
(2)	*any person who has made a substantial contribution to the trust or institution, that is to say, any person whose total contribution up to the end of the relevant previous year exceeds fifty thousand rupees;*	*2*
(3)	*where such author, founder or person is a Hindu undivided family, a member of the family;*	*3*
(4)	*any trustee of the trust or manager (by whatever name called) of the institution;*	*4*
(5)	*any relative of any such author, founder, person, member, trustee or manager as aforesaid;*	*5*
(6)	*any concern in which any of the persons referred above have a substantial interest.*	*6*

23.1 Clause 28 of Form No. 10BB / Clause 41 of Form No. 10B requires reporting of details of specified person as referred to in section 13(3). Section 13 prescribes various situations where section 11 or section 12 shall not apply.

23.2 In this regard, section 13(1)(c) specifies that;

> (*c) in the case of a trust for charitable or religious purposes or a charitable or religious institution, any income thereof—*

(i) *if such trust or institution has been created or established after the commencement of this Act and under the terms of the trust or the rules governing the institution, any part of such income ensures, or*

(ii) if any part of such income or any property of the trust or the institution (whenever created or established) is during the previous year used or applied,

directly or indirectly for the benefit of any person referred to in section 13(3), such part of income shall not be excluded from the total income i.e. section 11 or 12 shall not apply to such part of income.

23.3 However, as per proviso to section 13(2)(g) any application of income or property up to Rs.1000/- in favour of the specified persons would not disentitle the institutions from application of such income.

23.4 Rule 17AA(1)(d)(ix), provides that :

"Every fund or institution or trust or any university or other educational institution or any hospital or other medical institution which is required to keep and maintain books of account and other documents under clause (a) of tenth proviso to clause (23C) of section 10 of the Act or sub-clause (i) of clause (b) of sub-section (1) of section 12A of the Act shall keep and maintain the following, namely:

(i)…..

(ii)….

….

(ix) record of specified persons, as referred to in sub-section (3) of section 13 of the Act,-

(i) containing details of their name, address, permanent account number and Aadhaar number (if available);

(ii) transactions undertaken by the fund or institution or trust or any university or other educational institution or any hospital or other medical institution with specified persons as referred to in sub-section (3) of section 13 of the Act containing details of date and amount of such transaction, nature of the transaction and

documents to the effect that such transaction is, directly or indirectly, not for the benefit of such specified person;"

23.5 As mentioned above, as per Rule 17AA(1)(d)(ix) the institution is required to maintain record of specified persons under section 13(3). The auditor may verify the record so maintained with supporting documents, if available, for the purpose of reporting under this clause. The details required under this clause are self-explanatory and thus can be reported by the auditor accordingly.

23.6 In case the record is not maintained by the auditee as per requirements of 17AA(1)(d)(ix) and thus not made available to the auditor, the fact may be reported under observation/ qualification paragraph of the Audit report.

23.7 The auditor may obtain management representation which includes the list of the persons specified under section 13(3) [*The CBDT has accepted this view vide Circular No.143 (F.No.180/74/73- IT(A-I)], dated 20.8.1974 given in (**Refer Appendix XII**)*

23.8 In case the specified person reported (*selection of code 2)* is any person who has made a substantial contribution to the trust or institution, that is to say, any person whose total contribution up to the end of the relevant previous year exceeds fifty thousand rupees; the amount of such contribution is also required to be reported under column 6.

23.9 It may be noted that for the purposes of providing details in clause 28 of Form No. 10BB and clause 41 of Form No. 10B-

(a) the aforesaid details (that is, of persons making substantial contribution) may be given with respect to those persons whose total contribution during the previous year exceeds fifty thousand rupees;

(b) details of relatives of such person, as referred to In (a) above may be provided, if available.

(c) details of concerns in which such person, as referred to in (a) above, has substantial interest may be provided, if available.

Please refer Circular No. 17/2023, dated 09.10.2023 **- Appendix XVI**

23.10 It is to be noted that this amount may not pertain only to the previous year but may also pertain to earlier previous years which may or may not be available with the auditee more so as the Rule 17AA has been notified through Income-tax (Twenty-Fourth Amendment) Rules, 2022 w.e.f 10.08.2022. Prior to the same, there were no identifiable details of books of account or other documents that were required to be maintained in respect of specified persons.

23.11 Thus, it is advisable that the auditor may take management representation for the purpose of reporting with respect to this clause.

23.12 It may be noted that Form No. ITR 7 i.e. Return of Income for persons required to furnished by specified trusts/institutions also requires reporting in *Part General- Other Information*-of name of persons mentioned under section 13(3)(b) who has made substantial contribution to the trusts/institutions during the previous year only.

23.13 In view of this, a suitable observation be given in observations/ qualifications paragraph of Audit form.

23.14 Another column under this clause requires reporting of Aadhar number of the specified person, if allotted. However, Rule 17AA (relevant extracts mentioned above) mentions that the Aadhar number is to be reported only if it is available. There is a possibility that the Aadhar number is allotted to the specified person, but the same is not made available to the auditee or the auditor for the purpose of reporting under this clause. Since the Rule supersedes the Form, the reporting may be done accordingly.

23.15 Details of income/property/transactions referred to in section 13(2) *[Clause 29 of Form No.10BB & Clause 42 of Form No. 10B]*

(**a) Whether any part of the income or property of the auditee is, or continues to be, lent to any specified person for any period during the previous year without either adequate security or adequate interest or both** *[Schedule SP-a]*

(b) Whether any land, building or other property of the auditee is, or continues to be, made available for the use of any specified person, for any period during the previous year without charging adequate rent or other compensation. *[Schedule SP-b]*

(c) Whether any amount is paid by way of salary, allowance or otherwise during the previous year to any specified person out of the resources of the auditee for services rendered by that person

to such auditee and the amount so paid is in excess of what may be reasonably paid for such services. *[Schedule SP-c]*

(d) Whether the services of the auditee are made available to any specified person during the previous year without adequate remuneration or other compensation. *[Schedule SP-d]*

(e) Whether any share, security or other property is purchased by or on behalf of the auditee from any specified person during the previous year for consideration which is more than adequate. *[Schedule SP-e1/e2]*

(f) Whether any share, security or other property is sold by or on behalf of the auditee to any specified person during the previous year for consideration which is less than adequate. *[Schedule SP-f1/f2]*

(g) Whether any income or property of the auditee is diverted during the previous year in favour of any specified person. *[Schedule SP-g]*

(h) Whether any funds of the auditee are, or continue to remain, invested for any period during the previous year, in any concern in which any specified person has a substantial interest. *[Schedule SP-h]*

23.16 In respect of the above sub-clauses of clause 29 of Form No.10BB, the auditor needs to state only "Yes/ No". If the answer is affirmative, the amount is also to be reported. However, in the sub-clauses of clause 42 of Form No. 10B, apart from the stating 'Yes/ No', related schedules (SP-a to SP-h) are to be filled in case the answer is affirmative. The auditor while reporting in Form No.10BB may maintain the details of these schedules as working papers.

23.17 Since this clause revolves around the 'Specified Person' as per Section 13(3) it is important to know the provisions of section 13(3) which have been reproduced while discussing clause 33(c) of Form No.10B respectively and accordingly may be referred to.

23.18 For the purpose of reporting in these sub-clauses, the auditor may,

(a) examine the records to identify the specified persons referred under section 13(3). As stated in above clauses, the Auditor should obtain the Donor wise list of donations from the management to identify the Donor

who have contributed above Rs. 50,000 upto the end of relevant financial year. The Auditor may also examine the party-wise details of salaries, rental, interest and other expenses and rent income, interest income etc. to see if any transactions are entered with the specified persons.

(b) The auditor also needs to verify the records maintained by the auditee as required under Rule 17AA(1)(d)(ix), the provisions of which have been reproduced while discussing clause 28 of Form No. 10BB/ clause 41 of Form No. 10B. If, during verification of above records, the auditor comes across transactions which are for the benefit of such specified persons, then such transactions are to be reported under this clause.

(c) Apart from verification of records, the Auditor may obtain a Management representation from the auditee confirming the list of specified persons and details of transactions between the auditee and specified person referred under section 13(3).

(d) The auditor may obtain management representation which includes transactions held between the auditee and the specified persons referred to under section 13(3) during the year resulting in direct and/or indirect benefits, but not at adequate or reasonable price to the specified persons. The auditor may refer to guidance available in publications issued by ICAI, in respect of section 40A(2) for purpose of determining adequate consideration.

23.19 In respect of clause 29(a) of Form No.10BB/ clause 42(a) of Form No. 10B: Whether any part of the income or property of the auditee is, or continues to be, lent to any specified person for any period during the previous year without either adequate security or adequate interest or both

The auditor is required to state "*Yes/ No*" as to whether any part of the income or property of the auditee is, or continues to be, lent to any specified person for any period during the previous year without either adequate security or adequate interest or both. In Form No. 10B reporting in *Schedule SP-a* is required in case the answer is affirmative whereas in Form No. 10BB in that case only the amount is to be reported.

23.20 For the purposes of reporting under this clause, the auditor may:

(a) examine books of account to check whether any income has been lent in the previous year to the persons referred in section 13(3).

(b) analyze the receivables and find out whether it includes the names of any such persons;

(c) ascertain whether the given amount is a loan/deposit and

(d) if it is a loan/deposit, verify the documents, securities offered and rate of interest.

(e) Check from record of properties held by assessee, maintained as per Rule 17AA(1)(d)(viii) whether property of the institution is lent and continues to be lent to the persons referred to in section 13(3).

(f) In case of section 8 company, the auditor may check disclosures made under section 186(4) of Companies Act, 2013 in the audited financial statements of the full particulars of loans given to such person and the purpose for which the loan is proposed to be utilized by such person and to check register of loans given which is kept and maintained *in Form MBP 2*.

(g) Analyze the details of interest income to identify if any interest has been received from the specified persons.

(h) Obtain a representation from the auditee, apart from the due diligence of the records of the trust, to identify transactions with specified persons.

Following Schedule to be filled while furnishing Form No. 10B (Not to be filled while furnishing Form No. 10BB)

Schedule SP-a: Whether any part of income or property of the auditee is lent, or continues to be lent, to the specified person during the previous year?

(1) S. No.

(2) Name of specified person

(3) PAN of specified person

Details

(4) Nature of income or property which is lent

(5) Amount for which income or property is, or continues to be, lent to specified person for any period during the previous year

Details of Security

(6) Nature of security

(7) Value of security

(8) Value of adequate security

Details of interest

(9) Actual rate of interest that is charged

(10) Adequate rate of Interest

23.21 Most of the particulars required to be reported under this schedule are fact based and should be reported accordingly. In so far as adequacy/ reasonability is concerned, the same has been discussed in earlier paragraphs and may be referred accordingly while reporting.

23.22 In respect of clause 29(b) of Form No. 10BB/ clause 42(b) of Form No. 10B: Whether any land , building or other property of the auditee is, or continues to be, made available for the use of any specified person, for any period during the previous year without charging adequate rent or other compensation

The auditor needs to state "*Yes/ No*" as to whether any land, building or other property of the auditee is, or continues to be, made available for the use of any specified person, for any period during the previous year without charging adequate rent or other compensation. In Form No. 10B reporting in *Schedule SP-b* is required in case the answer is affirmative whereas in Form No. 10BB in that case only the amount is to be reported.

23.23 For the purposes of reporting under this clause, the auditor may:

(a) Check record of properties maintained by the auditee as per rule 17AA(1)(d)(viii) and 17AA(1)(d)(ii)(II) or take the list of assets owned by the institution;

(b) ascertain whether the assets have been made available for the use of specified persons and

(c) In case the record is not maintained by the auditee as per requirements and thus not made available to the auditor, the fact may be reported under observation/ qualification paragraph of the Audit report.

(d) report the details of rent or compensation charged which is not adequate and not reasonable.

Following Schedule to be filled while furnishing Form No. 10B (Not to be filled while furnishing Form No. 10BB)

Schedule SP-b: Details of land, building or other property of the auditee which is, or continues to be, made available during the previous year for use of the specified person, during the previous year.

(1) S. No

(2) Name of specified person

(3) PAN of specified person

Details of asset

(4) Nature of asset < land/ building/ other property >

(5) Address

Duration for which asset is, or continues to be, made available for the use of specified person during the previous year,

(6) From dd/mm/yyyy

(7) To dd/mm/yyyy

Details of rent for the previous year

(8) Amount of rent

(9) Adequate rent

Details of other compensation for the previous year

(10) Nature

(11) Amount of compensation

(12) Adequate compensation

23.24 Most of the particulars required to be reported under this schedule are fact based and are to be reported accordingly. In so far as adequacy/ reasonability is concerned, the same has been discussed in earlier paragraphs and may be referred accordingly while reporting.

23.25 In respect of clause 29(c) of Form No. 10BB/ clause 42(c) of Form No. 10B: Whether any amount is paid by way of salary , allowance or otherwise during the previous year to any specified person out of the resources of the auditee for services rendered by that person to such auditee and the amount so paid is in excess of what may be reasonably paid for such services

The auditor needs to state "Yes/ No" as to whether any amount is paid by way of salary, allowance or otherwise during the previous year to any specified person out of the resources of the trust or institution for services rendered by that person to such auditee and the amount so paid is in excess of what may be reasonably paid for such services. In Form No. 10B reporting in *Schedule SP-c* is required in case the answer is affirmative whereas in Form No. 10BB in that case only the amount is to be reported.

23.26 For the purposes of reporting under this clause, the auditor may:

(a) examine books of account to check whether any payment by way of salary, allowance or otherwise has been made in the previous year to the persons referred in section 13(3).

(b) Check the appointment letters or agreements, resolution etc. to understand the scope of services etc.

(c) Check the records to see if any benefit in the form of perquisites are provided and whether the same is in accordance with the appointment letter or the resolution passed by the trust.

(d) The auditor is to report the amount paid in excess of what may be reasonably paid for such services. In this regard, the auditor may obtain and rely on the management representation as discussed in earlier paragraphs for adequacy/ reasonableness.

Following Schedule to be filled while furnishing Form No. 10B (Not to be filled while furnishing Form No. 10BB)

Schedule SP-c: Details of salary, allowance or otherwise which is paid to the specified person out of the resources of the auditee for services rendered by him during the previous year

(1) S. No.

(2) Name of specified person

(3) PAN of specified person

(4) Nature of services rendered by specified person

Details of payment for the previous year

(5) Nature of payment < Salary/ Allowance/ Otherwise (please specify)>

(6) Amount of payment (in Rs)

(7) Reasonable amount for services

23.27 Most of the particulars required to be reported under this schedule are fact-based and should be reported accordingly. In so far as adequacy/ reasonability is concerned, the same has been discussed in earlier paragraphs and may be referred accordingly while reporting.

23.28 In respect of clause 29(d) of Form No. 10BB/ clause 42(d) of Form No. 10B: Whether the services of the auditee are made available to any specified person during the previous year without adequate remuneration or other compensation

The auditor is required to state "*Yes/ No*" as to whether the services of the auditee are made available to any specified person during the previous year without adequate remuneration or other compensation; In Form No. 10B reporting in *Schedule SP-d* is required in case the answer is affirmative whereas in Form No. 10BB in that case only the amount is to be reported.

23.29 Section 12(2) provides that the value of any services, being medical or educational services, made available by any charitable or religious trust running a hospital or medical institution or an educational institution, to any person referred to in section 13(3)(a)/(b)/(c)/(cc)/(d), shall be deemed to be income of such trust or institution derived from property held under trust wholly for charitable or religious purposes during the previous year in which such services are so provided and shall be chargeable to income-tax notwithstanding the provisions of section 11(1).

As per Explanation to section 12(2) - for the purposes of this sub-section, the expression "value" shall be the value of any benefit or facility granted or provided free of cost or at concessional rate to any person referred to in section 13(3)(a)/(b)/(c)/(cc)/(d).

23.30 For the purposes of reporting under this clause the auditor may examine books of account, minutes of Management or General body meeting, other

relevant records of the institution to ascertain whether any services of the institution were made available to any person/s referred to in section 13(3).

23.31 The other relevant record which may be examined can be, say, patients' record for hospital/medical institutions, students' record for school/college, members' record for library etc. Where any benefit or facility is granted or provided free of cost or at concessional rate or inadequate consideration, it is necessary to ascertain amount of remuneration or compensation received and to report the same. If it is not received, then it should be accordingly reported.

23.32 It may be noted that in case of Form No.10B, similar reporting is required in clause 35 which may be overlapping with reporting under this sub-clause. The auditor may consider the impact of reporting of the said amount at both places and report accordingly using his professional judgement. Appropriate observation be mentioned in the observation/ qualification paragraph.

Following Schedule to be filled while furnishing Form No. 10B (Not to be filled while furnishing Form No. 10BB)

Schedule SP-d: Details of the services of the auditee are made available to the specified person during the previous year?

(1) S. No

(2) Name of specified person

(3) PAN of specified person

Details of services

(4) Nature of services made available

(5) Value of services made available (In Rs.)

Details of remuneration for the previous year

(6) Actual amount of remuneration for the service

(7) Adequate remuneration for the service

Details of compensation for the previous year

(8) Nature of compensation for the service

(9) Actual amount of compensation for the service

(10) Adequate compensation

23.33 Most of the particulars required to be reported under this schedule are fact based and should be reported accordingly. In so far as adequacy/ reasonability is concerned, the same has been discussed in earlier paragraphs and may be referred accordingly while reporting.

23.34 In respect of clause 29(e) of Form No. 10BB/ clause 42(e) of Form No. 10B: Whether any share, security or other property is purchased by or on behalf of the auditee from any specified person during the previous year for consideration which is more than adequate - The auditor needs to state *"Yes/ No"* as to whether any share, security or other property is purchased by or on behalf of the auditee from any specified person during the previous year for consideration which is more than adequate; In Form No. 10B reporting in *Schedule SP-e1/e2* is required in case the answer is affirmative whereas in Form No. 10BB in that case only the amount is to be reported. *Schedule SP-e1* requires details of share, security purchased whereas *Schedule SP-e2* requires details of other property being immovable purchased.

23.35 For the purposes of reporting under this clause the auditor may:

- Examine books of account, minutes of Management or General body meeting, investment record/schedule, other relevant records of the institution and investment record to ascertain whether any share, security or other property was purchased by or on behalf of the trust/institution during the previous year from any person/s referred to in section 13(3). Where such purchase has been made, particulars of shares and security purchased for the consideration which is more than adequate is to be reported.
- The auditor may obtain the record and documents from the auditee to ascertain the adequate consideration. Example- Market quotes of stock exchange for securities etc.
- There is no method prescribed for determining the fair market value for the purpose of reporting under schedule SP e-1 i.e. for shares securities etc, thus the auditor may use the method provided in Rule 11UA(1)[c(a)/(b)].
- There is no method prescribed for determining the fair market value for the purpose of reporting under schedule SP e-2, i.e. immovable property. The auditor may obtain the valuation from the registered approved valuer.

- The auditor may use the work of another expert for the said purpose. While doing so, the Auditor should have regard to the principles laid down in SA 620, *Using the Work of An Auditor's Expert.*
- The auditor may also obtain management representation.

Following Schedule to be filled while furnishing Form No. 10B (Not to be filled while furnishing Form No. 10BB)

Schedule SP-e1 : Details of any share, security is purchased by or on behalf of the auditee from the specified person during the previous year?

(1) S. No

(2) Name of specified person

(3) PAN of specified person

(4) Nature of property purchased

Details of Shares or Security

(5) Name of the company/concern of which the shares are purchased

(6) Number of shares purchased during the previous year

(7) Price of each share/security

(8) Total consideration paid share or security

(9) Adequate consideration for shares or security

Details of other property being movable

(10) Nature of property

(11) Number of property purchased

(12) Price of property

(13) Total consideration paid for property during the previous year

(14) Adequate Consideration

Schedule SP-e2 : Details in case of other property being immovable

(1) S. No

(2) Name of specified person

(3) PAN of specified person

(4) Type of asset (Land/ Residential/ Commercial Property etc.)

(5) Address of property

(6) Area (in Sq ft)

(7) Stamp value duty

(8) Details of Consideration

- Amount of consideration paid for asset
- Adequate consideration for asset

23.36 Most of the particulars required to be reported under this schedule are fact based and should be reported accordingly. In so far as adequacy/ reasonability is concerned, the same has been discussed in earlier paragraphs and may be referred accordingly while reporting.

23.37 In respect of clause 29(f) of Form No.10BB/ clause 42(f) of Form No. 10B:, Whether any share, security or other property is sold by or on behalf of the auditee to any specified person during the previous year for consideration which is less than adequate –

The auditor needs to state "Yes/ No" as to whether any share, security or other property is sold by or on behalf of the auditee to any specified person during the previous year for consideration which is less than adequate. In Form No. 10B reporting in *Schedule SP-f1/ f2* is required in case the answer is affirmative whereas in Form No. 10BB in that case only the amount is to be reported. *Schedule SP-f1* requires details of share, security sold whereas *Schedule SP-f2* requires details of other property being immovable sold.

23.38 For the purposes of reporting under this clause the auditor may :

- Examine books of account, minutes of Management or General body meeting, investment record/schedule, Demat account, other relevant records of the institution and investment record to ascertain whether any share, security or other property was sold by or on behalf of the trust/institution during the previous year to any person/s referred to in section 13(3) for consideration which is less than adequate, is to be reported.
- Obtain the record and documents from the auditee to ascertain the adequate consideration. Example- Market quotes of stock exchange for securities, stamp duty value in case of immovable properties, etc.

- There is no method prescribed for determining the fair market value for the purpose of reporting under schedule SP-f1 i.e. for shares securities etc., thus the auditor may use the method provided in Rule 11UA(1)[c(a)/(b)].
- There is no method prescribed for determining the fair market value for the purpose of reporting under schedule SP-f2, i.e. immovable property. The auditor may obtain the valuation from the registered approved valuer.
- The auditor may use the work of another expert for the said purpose. While doing so, the Auditor should have regard to the principles laid down in SA 620, *Using the Work of An Auditor's Expert.*
- The auditor may also obtain a management representation.

Following Schedule to be filled while furnishing Form No. 10B (Not to be filled while furnishing Form No. 10BB)

Schedule SP- f 1: Details of any share, security sold by or on behalf of the trust or institution to a specified person during the previous year?

(1) S. No

(2) Name of specified person

(3) PAN of specified person

(4) Nature of property sold

Details of Shares or Security

(5) Name of the Company or Concern of which the shares are sold

(6) Number of shares sold during the previous year

(7) Price of each share or security

(8) Total consideration share/security

(9) Adequate consideration for share or security

Details of Other Property being Movable

(10) Nature of movable property

(11) Number of movable properties sold

(12) Price of movable property

(13) Total consideration for property during the previous year

(14) Adequate consideration

Schedule SP- f 2: Details in case of other property being immovable

(1) S. No

(2) Name of specified person

(3) PAN of specified person

(4) Type of asset

(5) Address of property

(6) Area (in Sq ft)

(7) Stamp Duty Value

(8) Details of Consideration

- Amount of consideration for asset
- Adequate consideration for asset

23.39 Most of the particulars required to be reported under this schedule are fact based and should be reported accordingly. In so far as adequacy/ reasonability is concerned, the same has been discussed in earlier paragraphs and may be referred accordingly while reporting.

23.40 In respect of clause 29(g) of Form No. 10BB/ Clause 42(g) of Form No.10B: Whether any income or property of the auditee is diverted during the previous year in favour of any specified person –

The auditor needs to state "*Yes/ No"* as to whether any income or property of the auditee is diverted during the previous year in favour of any specified person. In Form No.10B reporting in *Schedule SP-g* is required in case the answer is affirmative whereas in Form No. 10BB in that case only the amount is to be reported.

23.41 For the purposes of reporting under this clause the auditor may:

- Examine books of account, minutes of Management or General body meeting, property record, other relevant records of the institution, investment record and property record to ascertain whether any income or property of the trust/institution was diverted during the previous year in favour of any person/s referred to in section 13(3). Where such

income or property has been diverted, particulars of amount of income or value of property so diverted is to be reported.

- However, as per proviso to section 13(2)(g) any application of income or property upto Rs.1000/- in favour of the specified persons would not disentitle the institutions from application of such income. Thus, not required to be reported under this sub-clause.
- Any decline in income of the institution without any prima facie reason as compared to the previous year may indicate the need to further examine the relevant documents to ascertain whether any diversion of income or property has taken place.
- Obtain a management representation in respect of any such diversion of income or property and verify such details and report the same under this clause besides using the professional judgement.

Following Schedule to be filled while furnishing Form No. 10B (Not to be filled while furnishing Form No. 10BB)

Schedule SP-g: Details of any income or property which is diverted during the previous year in favour of any specified person

(1) S. No

(2) Name of specified person in whose favor income or property diverted

(3) PAN of specified person

Details of Income or property that is diverted

(4) Nature of Income or property that is diverted

(5) Value of income or property that is diverted (In Rs.)

23.42 Most of the particulars required to be reported under this schedule are fact based and should be reported accordingly. In so far as adequacy/ reasonability is concerned, the same has been discussed in earlier paragraphs and may be referred accordingly while reporting.

23.43 In respect of clause 29(h) of Form No. 10BB/ clause 42(h) of Form No. 10B: Whether any funds of the auditee are, or continue to remain, invested for any period during the previous year, in any concern in which any specified person has a substantial interest

The auditor is required to state "Yes/ No" as to whether any funds of the auditee are, or continue to remain, invested for any period during the previous year, in any concern in which any specified person has a substantial interest. In Form No. 10B reporting in *Schedule SP-h* is required in case the answer is affirmative whereas in Form No. 10BB in that case only the amount is to be reported. This clause is arising out of the provisions of section 13(2)(h) read with section 13(3)(e) and Explanation 3 of section 13. As such the same may be referred to for the purpose of reporting under this clause.

23.44 For the purposes of reporting under this clause the auditor may examine books of account, minutes of Management or General body meeting, other relevant records of the institution, investment record and property record to ascertain whether any funds of the auditee are, or continue to remain, invested for any period during the previous year in any concern in which any specified person has a substantial interest, the same is to be reported under this clause.

23.45 For the purpose of reporting under this clause the Auditor may obtain a management representation in respect of such details and report the same under this sub-clause besides using the professional judgement.

Schedule h: Details of any funds that are, or continue to remain, invested in any concern during the previous year in which the specified person has a substantial interest

(1) S. No. Nature of concern in which funds are continue to remain invested

(2) Name of concern

Details of the Concern in which funds are, or continue to remain, invested

(3) Address of concern

(4) Amount that is or continues to remain invested in concern during the year (In Rs.)

(5) duration of investment during the previous year

(6) Nature of investment

(7) Income from investment during the year

(8) Name of specified person having substantial interest in concern

Details of substantial interest

(9) PAN of specified person

(10) Nature of substantial interest

(11) Nature of concern in which funds are continue to remain invested

23.46 Most of the particulars required to be reported under this schedule are fact based and should be reported accordingly.

23.47 For sub-clauses (a) to (h) of Clause 29/42 of Form No.10BB/10B:

- The primary responsibility for maintenance of data with respect to the adequacy or reasonableness of the quantum of the transaction lies with the auditee. Data maintained by the auditee must contain information which would make it comparable with the transactions carried out by the trust with specified persons. Such data could be either contain internal comparables or external comparables.
- Where auditee does not provide the data with respect to such transactions, a suitable observation should be given in Observations/ qualifications paragraph.
- The auditor can proceed to report only those transactions carried out with specified persons where the amount charged or paid is not adequate or not reasonable or more than adequate or more than reasonable, as the case maybe.
- In *Shree Poongalia Jain Swetamber Mandir Vs CIT 168 ITR 516, the Hon'ble Rajasthan High Court* held that the Income-tax Act, 1961 does not lay down any criterion for determination of the adequacy of interest paid on the money lent by the Trusts and is dependent on various factors.

24. Specified Violation

[Clause 30 of Form No. 10BB/ Clause 43 of Form No. 10B]

Whether the auditee has incurred any specified violation as referred to in Explanation 2 to the fifteenth proviso to clause (23C) of section 10 or Explanation to sub-section (4) of section 12AB and the amount of such violation

(a) Income of the auditee has been applied, other than for the objects of the trust or institution.

(b) Whether the auditee has income from profits and gains of business which is not incidental to the attainment of its objectives or

separate books of account are not maintained by auditee in respect of the business which is incidental to the attainment of its objectives.

(c) Whether the auditee, referred to in clause (a) of sub-section (1) of section 13, has applied any part of its income from the property held under a trust for private religious purposes, which does not enure for the benefit of the public.

(d) Whether the auditee, referred to in clause (b) of sub-section (1) of section 13, has applied any part of its income for the benefit of any particular religious community or caste.

(e) Whether any activity being carried out by the auditee is not genuine or is not being carried out in accordance with all or any of the conditions subject to which it was registered.

(f) Whether the auditee has not complied with the requirement of any other law, for the time being in force, and the order, direction or decree, by whatever name called, holding that such non-compliance has occurred, has either not been disputed or has attained finality.

'*Schedule other law violation'* to be filled for sub-clause f) above, in case of Form No. 10B

S.no.	Name of law under which non-compliance has occurred	Nature of non-compliance	Date of order, direction, or decree, holding that such non-compliance has occurred	Whether the order, direction, or decree, has been disputed before any court or appellate forum	If yes, whether dispute has attained finality	Has the dispute been finalized in favour of the auditee
(1)	(2)	(3)	(4)	(5)	(6)	(7)

24.1 In respect of the above sub-clauses of clause 30 of Form No.10BB, the auditor is required to state only "Yes/ No". If the answer is affirmative, the

amount is also to be reported. Similar reporting is required in the sub-clauses of clause 43 of Form No. 10B, except in sub-clause (f) where apart from the stating 'Yes/ No', "*Schedule other law violation*" is to be filled in case the answer is affirmative.

24.2 As per Explanation to 12AB(4) of the Act, "*Specified Violation"* means-

(a) where any income derived from property held under trust, wholly or in part for charitable or religious purposes, has been applied, other than for the objects of the trust or institution; or

(b) the trust or institution has income from profits and gains of business which is not incidental to the attainment of its objectives or separate books of account are not maintained by such trust or institution in respect of the business which is incidental to the attainment of its objectives; or

(c) the trust or institution has applied any part of its income from the property held under a trust for private religious purposes, which does not enure for the benefit of the public; or

(d) the trust or institution established for charitable purpose created or established after the commencement of this Act, has applied any part of its income for the benefit of any particular religious community or caste; or

(e) any activity being carried out by the trust or institution,—

(i) is not genuine; or

(ii) is not being carried out in accordance with all or any of the conditions subject to which it was registered; or

(f) the trust or institution has not complied with the requirement of any other law, as referred to in item (B) of sub-clause (i) of clause (b) of sub-section (1), and the order, direction or decree, by whatever name called, holding that such non-compliance has occurred, has either not been disputed or has attained finality [; or]

(g) the application referred to in clause (ac) of sub-section (1) of section 12A is not complete or it contains false or incorrect information.

24.3 As per Explanation (2) to fifteenth proviso of section 10(23C) of the Act, '*Specified Violation'* means-

(a) where any income of the fund or institution or trust or any university or other educational institution or any hospital or other medical institution has been applied other than for the objects for which it is established; or

(b) the fund or institution or trust or any university or other educational institution or any hospital or other medical institution has income from profits and gains of business, which is not incidental to the attainment of its objectives or separate books of account are not maintained by it in respect of the business which is incidental to the attainment of its objectives; or

(c) any activity of the fund or institution or trust or any university or other educational institution or any hospital or other medical institution,—

(A) is not genuine; or

(B) is not being carried out in accordance with all or any of the conditions subject to which it was notified or approved; or

(d) the fund or institution or trust or any university or other educational institution or any hospital or other medical institution has not complied with the requirement of any other law for the time being in force, and the order, direction or decree, by whatever name called, holding that such non-compliance has occurred, has either not been disputed or has [attained finality or;]

(e) the application referred to in the first proviso of this clause is not complete or it contains false or incorrect information.

24.4 **Details of order, direction, or decree, holding that such non-compliance has occurred** are required to be furnished in the Schedule "Other law violation".

24.5 In case of above specified violations, if the Principal Commissioner or Commissioner has noticed occurrence of one or more specified violations during any previous year, Principal Commissioner or Commissioner shall pass an order in writing, after giving a reasonable opportunity of being heard:

(i) cancelling the registration for such previous year and all subsequent previous year; or

(ii) refusing to cancel the registration- The Principal Commissioner or Commissioner shall pass before the expiry of six months from the end

of the quarter in which the first notice is issued by the Principal Commissioner or Commissioner calling for any document or information, or for making any inquiry, under clause (i) of sub-section (4) of Section 12AB

24.6 The auditor may check whether the auditee has received any notice or order from the Principal Commissioner or Commissioner on the occurrence of specified violation by the auditee under section 12AB(4) and the submission or appeal made by the auditee in response to such notice or order.

24.7 Where the auditor has observed any specified violation incurred by the auditee during the course of audit for the year under audit, the same shall be reported in the audit report along with the amount involved in such specified violation.

24.8 The auditor shall also examine the effect of incurrence of specified violation on the income-tax exemption status of the auditee for the year under audit and implications, if any, under section 115TD resulting tax on accredited income.

24.9 Clause 30(a-e) of Form No. 10BB/ Clause 43(a-e) of Form No. 10B - The reporting under these sub-clauses is for the purpose of noticing any violation of a registered trust / institution due to which such registration can be subject to cancellation by the Income Tax Department. The provisions of section 12AB(4) read with its Explanation (a) to (e) and similarly the provisions as per Explanation 2 to fifteenth proviso to section 10(23C) of the Act, are relevant for reporting under this clause. The auditor is required to give the answer in "*Yes/ No*". In case the response under any of these sub-clauses is affirmative, the same may result into adverse action as prescribed in section 12AB(4) read with Explanation to section 12AB(4) or Explanation 2 to fifteenth proviso to section 10(23C) of the Act.

24.10 In such a case, the auditor should seek clarification/ response from the management in respect of above sub-clauses and the same be reported in the observations/qualifications paragraph along with details of computation of amounts given in clauses (a) to (e) wherever applicable.

24.11 **Clause 30(f) of Form No. 10BB/ Clause 43(f) of Form No. 10B** requires auditor to state "*Yes/No*" as to whether the auditee has not complied with the requirement of any other law, for the time being in force, and the order, direction or decree, by whatever name called, holding that such non-compliance has occurred, has either not been disputed or has attained finality.

In case the same is affirmative, Schedule "*Other law violation*" is to be furnished in Form No.10B whereas in Form No. 10BB only the amount has to be reported in that case. This schedule is not required to be filled in Form No. 30(f) in case of Form No. 10BB.

Schedule Other Law violation

The Schedule requires the auditor to provide the following details:

(1) S.no.

(2) Name of law under which non-compliance has occurred

(3) Nature of non- compliance

(4) Date of order, direction, or decree, holding that such non-compliance has occurred

(5) Whether the order, direction, or decree, has been disputed before any court or appellate forum

(6) If yes, whether dispute has attained finality

(7) Has the dispute been finalized in favour of the auditee.

24.12 For the purpose of reporting under this clause, the auditor may obtain a management representation in respect of such details and report the same under this sub-clause besides using the professional judgement. In case, the auditor comes across any violation which has not been given by the management, the same may be reported in the observation/qualifications paragraph of the audit report.

25. Whether there is any claim of depreciation or otherwise has been made in terms of Explanation 1 to clause (23C) of section 10 or sub-section (6) of section 11 in respect of any asset, acquisition of which has been claimed as an application of income and the amount of such depreciation?

[Clause 31 of Form No. 10BB/ Clause 44 of Form No. 10B]

25.1 Clause 31 of Form No. 10BB / Clause 44 of Form No. 10B requires the auditor to state "Yes/No" as to whether there is any claim of depreciation or otherwise has been made in terms of Explanation 1 to section 10(23C) or section 11(6) in respect of any asset, acquisition of which has been claimed

as an application of income. In case the response is affirmative, the amount of such depreciation has to be reported.

25.2 As per section 11(6) and section 10(23C) where any income is required to be applied or accumulated or set apart for application, then, for such purposes the income shall be determined without any deduction or allowance by way of depreciation or otherwise in respect of any asset, acquisition of which has been claimed as an application of income under this section in the same or any other previous year.

25.3 The Auditor should ensure that the Auditee has not claimed double deduction in respect of purchase of any asset by claiming the cost of acquisition as application in the year of purchase and depreciation in the same or subsequent year(s).

25.4 The auditor should examine the current and past income-tax computation and income-tax return of the auditee, if provided, to check whether the auditee is claiming either depreciation on fixed assets or cost of fixed assets as application of income under section 10(23C) or 11(1) of the Act.

25.5 The auditor may also check whether the auditee has been using hybrid method of claiming depreciation or cost of asset for different classes of fixed assets. For example, the auditee may be claiming depreciation on all fixed asset classes excluding immovable property as application of income whereas he may be claiming cost of immovable property as application of income. To check the actual method of claiming depreciation or cost of fixed assets as application of income, the auditor shall obtain reconciliation of depreciation debited in the books of account with the depreciation, if any, claimed as application of income in the income-tax computation and shall obtain appropriate management representation in this regard.

25.6 The auditee may have acquired any fixed asset from out of Corpus funds referred to in Explanation 1 of the third proviso to section 10(23C) or section 11(1)(d) or out of loans / borrowings. If the auditee has claimed the cost of such fixed assets as application of income in the year in which the fixed asset is acquired out of corpus funds or loans/borrowings, the auditor shall report the same in his audit report as it is not a permissible claim of application of income in terms of clause (i) and (ii) of Explanation 2 of third proviso to section 10(23C) or Explanation 4 to section 11(1) as applicable.

25.7 The auditor shall also check whether the auditee has, invested or deposited back the Corpus or made repayment of loans / borrowings, out of income of the previous year, which were used in earlier previous year/s for acquisition of fixed asset, and has to claim the same as application of income during the previous year under audit, as allowed in terms of respective *proviso* to clause (i) and (ii) of Explanation 2 of third proviso to section 10(23C) or Explanation 4 to section 11(1) as applicable.

25.8 Such depositing back of corpus or repayment of loan/borrowing is to be made within five years from the end of previous year in which such application was made from corpus or loan/borrowing. If such depositing back of corpus or loan/borrowing is against the application out of corpus or loan/borrowing on or before 31-3-2021, then, any amount deposited back or loan/borrowing repaid during the previous year will not be treated as application of income.

26. Whether the auditee is required to deduct or collect tax as per the provisions of Chapter XVII-B or Chapter XVII-BB

[Clause 32 of Form No. 10BB/ Clause 49 of Form No. 10B]

26.1 Clause 32 of Form No. 10BB/ Clause 49 of Form No. 10B requires the auditor to state "Yes/No" as to whether the auditee is required to deduct or collect tax as per the provisions of Chapter XVII-B or Chapter XVII-BB. If the answer is affirmative the auditor is required to fill "*Schedule TDS/TCS"; "Schedule Statement of TDS/TCS"; "Interest on TDS/TCS" as applicable*.

26.2 It is essential to note that it is the primary responsibility of the assessee to prepare the information in such a manner that the auditor can verify the compliance as required in the clause. The auditor is required to verify that no items have been omitted in the information furnished to him and reasonable test checks would reveal whether or not the information furnished is correct. The extent of check undertaken would have to be indicated by the auditor in his working papers and audit notes. The auditor would be well advised to so design his audit program as would reveal the extent of checking and to ensure adequate documentation in support of the information being certified.

26.3 While reporting under this clause, the auditor may exercise his judgement in the light of the applicable laws and report accordingly about the applicability of the provisions of Chapter XVII-B or XVII-BB with regard to the auditee. The auditor may rely upon the judicial pronouncements while taking

any particular view. While answering the issue of applicability of the provisions of Chapter XVII-B and/or XVII-BB, a number of debatable issues may arise before the assessee as well as the auditor. Where it is not possible to say yes/no, the answer to the question may have to be qualified depending upon the facts and circumstances of each case. Having verified the applicability of the provisions of Chapter XVII-B and Chapter XVII-BB, the auditor should answer the question as "Yes" and thereafter provide further details. Where the auditor is of the opinion that provisions of Chapter XVII-B and Chapter XVII-BB are not applicable he should answer the question as "No". In case, answer is predominantly based on any judicial pronouncements, mentioning it in appropriate circumstances may be considered in the "*Observations/ Qualifications*" paragraph in the audit report.

26.4 Once the auditor gives his affirmation with regard to applicability of the provisions of Chapter XVII-B and/ or Chapter XVII-BB, he is required to furnish further details under this clause. The auditor should obtain a copy of the TDS/TCS statements filed by the assessee which shall form the basis of reporting under this clause, to the extent possible. Further, in view of the voluminous nature of the transactions, the auditor can apply test checks and compliance tests on the transactions reported in the TDS/TCS statements by the assessee for verifying the information required to be provided under this clause.

26.5 The auditor shall broadly apply the following audit procedures in this regard.

a. Identify various heads of expenses where there is a likelihood of TDS liability such as salaries, interest, royalties, contractors/sub-contractors, professional technical fees etc. or the heads of income where there is a likelihood of TCS liability.

b. Verify the total amount of the receipts or payments of the nature identified in (a) above.

c. Scrutinize those accounts to compute the amount on which TDS/TCS was liable to be deducted/collected.

d. Verify from the ledgers and TDS statements furnished, the amount on which TDS/TCS is actually deducted / collected.

e. Check and record the instances of short deduction/collection or non-deduction/collection of TDS/TCS in view of the applicable provisions

f. In case of payment to Non-residents, whether the deduction has been made as per the relevant provisions read along with applicable Double Taxation Avoidance Agreements (DTAA). The auditor may also reconcile these payments with the clauses where the payments are required to be reported for transactions outside India.

g. Check and record the instances where tax has been deducted/collected but has not been deposited to the Government.

h. Cross-verify the amount on which TDS has not been deducted with the disallowance u/s 40(a)(ia) of the Act reported at Sl. No. (ix) of Clause 23(vii)/31 of Form No.10BB/10B.

i. In case the assessee has not deducted whole or part of the tax, whether it has obtained certificate in Form No. 26A under Rule 31ACB of the Income-tax Rules,1962.

j. Verify the information furnished by the auditee in Schedules on TDS/TCS; Interest on TDS/TCS, as applicable.

k. Verify the following :

   i. TAN Number

   ii. TDS/TCS Statements filed by the auditee

   iii. Expense ledgers for applicability of TDS provisions and deduction of correct TDS

   iv. Income ledgers for applicability of TCS provisions

   v. Certificates of lower deduction/collection

   vi. Challans of payment of TDS

Schedule TDS/TCS

1. Tax Deduction and Collection Account Number (TAN)

2. Section

3. Nature of payment

4. Total amount of payment or receipt of the nature specified in column (3)

5. Total amount on which tax was required to be deducted or collected out of (4)

6. Total amount on which tax was deducted or collected at specified rate out of (5)

7. Amount of tax deducted or collected out of (6)

8. Total amount on which tax was deducted or collected at less than specified rate out of (7)

9. Amount of tax deducted or collected on (8)

10. Amount of tax deducted or collected but not deposited to the credit of the Central Government out of (6) and (8)

26.6 The Auditor, while determining the amount to be reported under this clause, has to check and verify the payments made by the assessee and should not only restrict to verification of expenses debited to Income & Expenditure account or Profit & Loss or the TDS/TCS statements filed and provided by the assessee.

26.7 Column (1) of this schedule requires reporting of each tax deduction and collection Account number with regard to which tax has been deducted or collected at source.

26.8 Column (2) requires the auditor to report various sections under which tax is required to be deducted or collected at source.

26.9 Column (3) requires furnishing of the details regarding the nature of payment.

26.10 Column (4) requires the auditor to furnish the details of the total amount of payment or receipt of the nature specified in column (3). The details in the said column may be drawn from the books of account and other relevant documents which include aggregate of payments/receipts on which tax is liable to be deducted as well as not liable to be deducted/collected. Auditor may maintain working papers giving reconciliation of amount as per books of account and amount on which TDS/TCS is required to be deducted/collected.

26.11 Column (5) casts an onerous responsibility on the auditor, wherein it is required to furnish the details of total amount on which the tax was required to be deducted or collected out of the amount mentioned in column (4) having regard to the nature of payments/ receipts under the relevant sections of Chapter XVII-B / XVII-BB. Since the reporting under column (4) is required to be made with regard to the nature of payments made or amount received, there may be a difference in the amounts reported under column (4) and

column (5). The reasons for difference may be applicability of certificates issued under section 195/197 or threshold limits provided in specific sections or difference of opinion with regard to applicability of a particular section and the like. The auditor may maintain relevant working papers to this effect.

26.12 In column (6) the auditor is required to furnish the total amount out of the amount deductible or collectible as mentioned in column (5) at which the tax was deducted or collected at the specified rate. The auditor has to consider the rates of deduction as per the law relevant to the previous year. Further, as per the provisions of sections 195/197, certificate can be issued for no deduction or lower deduction of tax at source. The auditor should refer to the relevant provisions, rules, circulars, notifications and such certificates obtained from the auditee to verify the cases where tax has been short deducted at source. In case the payer deducts/recipient collects tax at source at a rate lower than the specified rate on the basis of certificate issued under section 195 or 197, the lower rate or nil rate, as the case may be, will be considered as the specified rate for the purpose of reporting under this clause. In the case of payment to non-residents, the applicable rate of tax deduction at source is to be read along with the Double Taxation Avoidance Agreement.

26.13 Column (7) requires furnishing of total amount of tax deducted/ collected out of the amount furnished in column (6).

26.14 Similarly, column (8) requires the auditor to furnish the total amount out of the amount deductible or collectible as mentioned in column (5) at which the tax was deducted or collected at the rate less than the specified rate. The lesser deduction is required to be reported in this clause. This will include deduction at a lower rate than what is prescribed, application of wrong section for deduction of tax at source, etc. For example, the auditee deducts tax u/s 194C@2%, however, there is another view that tax is required to be deducted @10% u/s 194J, the same has to be reported under this column. In case there is difference of opinion with regard to rate of deduction or applicability of a particular section, the auditor may appropriately report the difference of opinion giving both the views in the “Observations/Qualifications” paragraphs of Audit Report.

26.15 Further, column (9) requires furnishing of total amount of tax deducted/collected out of the amount furnished in column (8). The auditor should also consider applicability of higher rate of TDS/TCS under certain circumstances like non-furnishing of PAN, non-filers of return as provided in section 206AA/206AB/206CC/206CCA.

26.16 Column (10) requires the auditor to furnish the details of the amount of tax deducted or collected but not deposited to the credit of the Central Government. As such the auditor should verify the cases where the tax has been deducted at source but not paid to the credit of the Central Government till the date of the audit.

26.17 The details in the column (6), (7), (8), (9) and (10) may be examined from the TDS/TCS statements furnished by the assessee to the Income-tax Department and be cross-verified from the books of account and other relevant documents. The auditor may take status of demand payable as per TDS CPC (popularly known as TRACES), if made available by the auditee, for the purpose of reporting under this clause.

Schedule Statement of TDS/TCS

1. **Tax deduction and collection account number (TAN)**
2. **Type of Form**
3. **Due date for furnishing**
4. **Date of furnishing, if furnished**
5. **Whether the statement of tax deducted or collected contains information about all transactions which are required to be reported**

26.18 Under this Schedule, the auditor has to ascertain and report as to whether the assessee is required to furnish the statement of tax deducted or tax collected at source within the prescribed time and answer 'yes' or 'no' depending on his examination. If the answer is 'yes', the auditor shall provide further details in a table contained in schedule only with regard to the statement required to be furnished by the assessee.

26.19 Under this schedule, the scope of the reporting requirements is to furnish information about the statement of tax deducted at source and tax collected at source required to be furnished by the assessee. In this schedule, the auditor is required to furnish a list of details/transactions which are not reported in the statement of tax deducted at source and statement of tax collected at source under column (5). Depending upon transactions that require tax deduction or collection, the auditor should ascertain which statements, the assessee was required to furnish for the financial year under audit. He should check which statements have been furnished by the assessee

for tax deducted as well as collected. The reporting requirement is notwithstanding the fact that the assessee has furnished the statements of tax deducted at source and tax collected at source or not.

26.20 In *first column*, TAN should be stated. Based on examination of transactions requiring tax deduction or collection, a list of type of each form the assessee was required to furnish should be stated in *second column*. *Third column* shall state due date for furnishing statement listed in the second column. *Fourth column* shall state date of furnishing the statement, if furnished. This information should be filled in on the basis of acknowledgements for furnishing of statements. *Fifth column* requires auditor to examine all the statements of tax deducted or collected and report whether all details/transactions required to be reported are furnished. If there is any deficiency in contents, the same is required to be reported against the relevant statement. If the information is voluminous, then the auditor should consider reporting significant deficiencies with appropriate remarks in "Observations/ qualifications' paragraph of audit report.

Schedule Interest on TDS/TCS

1. Tax deduction and collection account number (TAN)

2. Amount of interest under section 201(1A) or 206C(7) is payable

3. Amount paid out of column (2)

4. Date of payment

26.21 Under this schedule, the auditor is required to furnish detailed information in case the assessee is liable to pay interest under section 201(1A) or section 206C(7) of the Act. Section 201(1A) provides for payment of interest at a specified rate in case the tax has not been deducted wholly or partly or after deducting has not been paid to the credit of Central Government as required by the Act. Similarly, section 206C (7) provides for payment of interest at a specified rate in case the tax is not collected wholly or partly or if collected not paid to the credit of the Central Government as required by the Act. The reporting as to whether the assessee is liable to pay such interest, should be in consonance with the reporting under this schedule where the details of non-deduction are required to be reported by him.

26.22 Where the assessee is liable to pay interest u/s 201(1A) or 206C(7), the auditor should verify such amount from the books of account as on 31st March of the relevant previous year and also from the Statement generated by the

Department in Form No.26AS/AIS/TIS. In case the assessee had disputed the levy or calculation of interest under TRACES, or in Form No. 26AS, the auditor may mention the fact in the "*observations/qualifications*" paragraph provided in audit report.

26.23 At this juncture, it is important to take note of the amendment made by Finance Act, 2022 by inserting a second proviso to Section 201(1A). As per the said proviso, the interest under the provisions of Section 201(1A) shall be payable as per the order of the Assessing Officer where so passed. Hence, the auditor should consider all the orders passed by the Assessing Officer (if made available by the auditee) for the purposes of reporting under this Schedule. Similarly, Second proviso has been inserted to Section 206C(7) to clarify the mentioned issue relating to delays in collecting/depositing the collected tax at source. The auditor may require the auditee to furnish the details of all such orders and in case they are disputed by way of filing appeal before the appellate authorities, the view of the auditee may be obtained for the purpose of reporting under this clause in column (2) of this schedule. For such a view, suitable disclosures should be made in "*Observations/Qualifications*" paragraph of the audit report.

26.24 Under mercantile system of accounting, interest if not paid till 31st March and provision is not made, impact on true and fair view should be considered.

PART II
Clauses specific to Form No.10B

(Not in Form No.10BB)

Clauses specific to Form No.10B (Not in Form No.10BB)

The clauses which are different or substantially different in Form No.10B are covered in this section of the publication.

27. Registration Details *[Clause 9 of Form No.10B]*

Details of registration/provisional registration or approval/ provisional approval or notification of the auditee under the Income-tax Act

(*details of all the registration/provisional registration/approval/provisional approval/notification which are valid during the previous year should be provided, however where the auditee has got the registration/approval after provisional registration/approval the details of provisional registration/approval need not be provided)*

(1) Section under which registered/provisionally registered or approved/ provisionally approved/notified *(refer note **)*

(2) **Date of registration/provisional registration or approval/provisionally approval/ notification** *(dd/mm/yy)*

(3) Registration/ Approval/ Notification/Unique Registration No. (URN), if available

(4) Authority granting registration/provisional registration or approval/provisional approval or notification.

(5) Date from which registration / provisional registration /approval / provisional approval/notification is effective.

Note no. 9 of Form No.10B

In serial number 9, for the section under which registered or provisionally registered or approved or provisionally approved one of the following codes shall be selected (details of all the registration/provisional registration or approval or provisional approval or notification which are valid during the previous year should be provided, however where the auditee has got the registration or approval, after provisional registration or approval the details of provisional registration or approval need not be provided)

S. No	Section	Code
(1)	Clause (a) of sub-section (1) of section 12AB of the Act	1
(2)	Clause (b) of sub-section (1) of section 12AB of the Act	2

(3)	Clause (c) of sub-section (1) of section 12AB of the Act	3
(4)	Clause (i) of second proviso to clause (23C) of section 10 of the Act	4
(5)	Clause (ii) of second proviso to clause (23C) of section 10 of the Act	5
(6)	Clause (iii) of second proviso to clause (23C) of section 10 of the Act	6
(7)	Clause (ii) of sub-section (1) of Section 35 of the Act	7
(8)	Clause (iia) of sub-section (1) of Section 35 of the Act	8
(9)	Clause (iii) of sub-section (1) of Section 35 of the Act	9
(10)	Clause (i) of second proviso to sub-section (5) of section 80G of the Act	10
(11)	Clause (ii) of second proviso to sub-section (5) of section 80G of the Act	11
(12)	Clause (iii) of second proviso to sub-section (5) of section 80G of the Act	12
(13)	any other, please specify	13

27.1 According to section 12A of Income-tax Act, 1961, provisions of section 11 and section 12, regarding exemption of income, will not be applicable to an institution etc., unless an application for its registration is made as per section 12AB of the Act. The provisional registration so granted shall be valid for a period of 3 years and hence needs to be renewed at the end of the basis of mentioned timelines. The registration so renewed shall be valid only for 5 years and needs to be renewed at least six months prior to expiry of 5 years. Similarly, registration is required to be sought by entities in Clause (i) to (iii) of second proviso to section 10(23C), section 35(1)(ii)/(iia)/(iii), and Clause (i) to (iii) of 2nd proviso to section 80G(5) and others, if any.

27.2 Any trust or institution which requires or needs to get registration u/s 10(23C) or 12AB or 80G need to apply for provisional registration under section 12A(1)(ac)(vi)(A) in Form 10A, if it has not commenced its activities. The Principal Commissioner or Commissioner, if satisfied, has to pass an order granting registration for 3 years. The order granting or rejecting such application shall be passed within 1 month from the end of month in which such application was made.

27.3 Any trust or institution which is provisionally registered under section 10(23C) or under section 12AB has to apply for final registration under section 12A(1)(ac)(iii) in Form 10AB at least six months prior to expiry of the provisional registration or within 6 months of commencement of activities, whichever is earlier. The Principal Commissioner or Commissioner, if satisfied, has to pass an order granting registration for 5 years. The order granting or rejecting such application shall be passed within 6 months from the end of month in which such application was received after satisfying himself about the genuineness of activities and compliance of other laws, as are material for the purpose of achieving its objects.

27.4 It may be noted that due date for filing Form No. 10A/10AB was further extended to 30.06.2024 (Refer Circular No. 7/2024 dated 25.04.2024 - Appendix XVIII)

27.5 Under this clause, the auditor has to check whether the registration or provisional registration has been obtained by the auditee relevant to the year under audit and date from which registration is effective. Auditor should verify the code in respect of section under which registration/provisional registration is granted to the auditee. Where final registration has already been granted to the auditee, details of provisional registration are not required to be reported under this clause. The auditor should obtain from the management copies of all the registrations obtained as a part of his working papers.

27.6 As the clause 9 requires the details of valid registration, in case during verification it comes to the notice of the auditor that the registration has been cancelled or has not been approved (whether or not the assessee is in appeal), the fact may be disclosed in the “Observations/Qualifications” Paragraph of the audit report.

27.7 The other details required to be reported under this clause are self-explanatory and may be reported accordingly.

28. Objective

[Clause 11-12 of Form No.10B]

11. Objects of the auditee- *Refer Note$*

12. (i) Whether the auditee, being a trust or institution referred to in section 11 or 12, has adopted or undertaken modification of the objects which do not conform to the conditions of registration?

(ii) If yes, please furnish following information:

(A) date of such modification/ adoption (DD/MM/YYYY)

(B) Whether an application for registration has been made in the prescribed form and manner within the stipulated period of thirty days from the date of said adoption or modification, as per sub-clause (v) of clause (ac) of sub-section (1) of section 12A.

(C) If yes provide the following details regarding application for registration under sub-clause (v) of clause (ac) of sub-section (1) of section 12A:-

- **S. No**
- **Date of Application**
- **Status of registration in pursuance of application (Pending/Registration granted/ Registration cancelled)**
- **Date of Registration or cancellation based on such application**
- **URN of such registration**

Refer Note no. 7 of Form No.10B

$ In serial number 11, for the objects of the auditee, one or more of the following options shall be selected:

S.no	Object	Code
(1)	Religious	1
(2)	Relief of poor	2

(3)	Education	3
(4)	Medical relief	4
(5)	Yoga	5
(6)	Preservation of environment (including watersheds, forests and wildlife)	6
(7)	Preservation of monuments or places or objects of artistic or historic interest	7
(8)	Advancement of any other objects of general public utility	8

28.1 Clause 11 of Form No. 10B, requires the auditor to report the objects of the auditee. The auditor should enquire the objects and activities of the auditee and verify those with the Trust Deed or bye laws or such instrument, application for registration under Form No. 10A/10AB furnished by the auditee and also the earlier year's return of income, if made available.

28.2 As per Clause 12 of Form No.10B, the auditor is required to check whether the trust or institution has adopted or undertaken modification of the objects which do not conform to the conditions of registration. In case the answer is affirmative, further details like date of modification etc. are required to be furnished. As per the present Instructions to Form No. 10B, in case more than one modification is undertaken or adopted, details of latest modification is required to be provided.

28.3 The auditor is also required to check whether an application for fresh registration has also been made within stipulated period of 30 days as per section 12A(1)(ac)(v). If the response is affirmative, further details are required to be furnished like date of application, status, date of registration/ cancellation and URN of such registration.

28.4 For the purpose of reporting under this clause, the auditor may obtain a management representation in respect of modifications undertaken and verify the same with minutes of the meeting, filing with other statutory bodies, etc. and report accordingly. For the purpose of reporting under clause 12(ii)(B), the auditor should obtain the evidences in respect of filing the relevant form under the Act and based on same report therein.

28.5 The auditor may come across a situation whereby the modification undertaken has not been reported or the trust has not applied for registration in the prescribed form within the prescribed period of 30 days which may result

in denial of benefit of exemption under section 11 or 12 in view of provisions of section 12A(1)(ac)(v) which is reproduced hereunder –

> *12A(1) The provisions of section 11 and section 12 shall not apply in relation to the income of any trust or institution unless the following conditions are fulfilled, namely, -*
>
> *(ac) notwithstanding anything contained in clauses (a) to (ab), the person in receipt of the income has made an application in the prescribed form and manner to the Principal Commissioner or Commissioner for registration of the trust or institution, -*
>
> *(v) where the trust or institution has adopted or undertaken modifications of the objects which do not conform to the conditions of registration, within a period of thirty days from the date of the said adoption or modification;*
>
> *and such trust or institution is registered under section 12AB.*

The auditor in this case may have to exercise his professional judgement and accordingly give his observations/qualifications in his audit report, subject to which, application of income, deductions, exemptions are reported elsewhere in the audit report. In effect, the auditor may require to state that, the audit report has been issued subject to rigors of section 12A(1)(ac)(v) of the Act, which may result in denial of benefits of section 11 and 12 of the Act.

Sample observation in this regard is given below –

"*During the course of audit, we observe that [Trust Name] registered u/s 12AB has modified the object for which it was established from "Education" to "Relief of Poor" on 1.2.2024 . However, the application for registration has been made in Form No.10AB to the Principal Commissioner only on 11.4.2024, which is after the 30 day period. This non-compliance may result in the denial of benefits under sections 11 and 12 of the Income-tax Act, 1961 to the trust.*"

29. Advancement of any other objects of general public utility *[Clause 15-16 of Form No. 10B]*

15. Where, in any of the projects/institutions run by auditee, one of the charitable purposes is advancement of any other object of general public utility then,

(A) Whether any activity is being carried on by the auditee which is in the nature of trade, commerce or business referred to in

proviso to clause (15) of section 2?

(B) If yes, then percentage of receipt from such activity vis-à-vis total receipts

(C) Whether such activity in the nature of trade, commerce or business is undertaken in the course of actual carrying out of such advancement of any other object of general public utility

(D) Whether there is any activity of rendering any service in relation to any trade, commerce or business for any consideration as referred to in proviso to clause (15) of section 2?

(E) If yes, then percentage of receipt from such activity vis-à-vis total receipts

(F) Whether such activity of rendering service is undertaken in the course of actual carrying out of such advancement of any other object of general public utility.

16. If 'A' or 'D' in 15 is Yes, the aggregate annual receipts from such activities in respect of that project/institution

- **S.No**
- **Name of Project/ Institution**
- **Amount of aggregate annual receipts from activities referred in 15A and 15D (In Rs.)**

29.1 Section 2(15) of the Act defines "*charitable purpose*". Accordingly, *"charitable purpose*" includes relief of the poor, education, yoga, preservation of environment (including watersheds, forests and wildlife) and preservation of monuments or places or objects of artistic or historic interest, medical relief, and the advancement of any other object of general public utility

29.2 The proviso to section 2(15) provides that the advancement of any other object of general public utility shall not be a charitable purpose, if it involves the carrying on of any activity in the nature of trade, commerce or business, or any activity of rendering any service in relation to any trade, commerce or business, for a cess or fee or any other consideration, irrespective of the nature of use or application, or retention, of the income from such activity, unless—

(i) such activity is undertaken in the course of actual carrying out of such advancement of any other object of general public utility; and

(ii) the aggregate receipts from such activity or activities during the previous year, do not exceed twenty per cent of the total receipts, of the trust or institution undertaking such activity or activities, of that previous year.

29.3 In view of decision of Hon'ble Supreme Court in *Asstt. CIT (Exemptions) v. Ahmedabad Urban Development Authority [2022] 143 taxmann.com 278,* if the prices charged by such general public utility entities (GPU) substantially above cost, it can be inferred that the activity in question is a commercial one and would not be entitled to exemption unless it meets the quantitative limit of 20% of the gross receipts and the requirements of section 11(4A). If such services carry a nominal markup or are priced at cost, they would not be considered as being in the nature of trade, commerce or business.

29.4 The Finance Act, 2023 has exempted income of certain authorities, Board and trusts. Section 10(46A) applicable from AY 2024-25 states as under-

"any income arising to a body or authority or Board or Trust or Commission, not being a company, which—

(a) has been established or constituted by or under a Central Act or State Act with one or more of the following purposes, namely:--

(i) dealing with and satisfying the need for housing accommodation;

(ii) planning, development or improvement of cities, towns and villages;

(iii) regulating, or regulating and developing, any activity for the benefit of the general public; or

(iv) regulating any matter, for the benefit of the general public, arising out of the object for which it has been created; and

(b) is notified by the Central Government in the Official Gazette for the purposes of this clause."

29.5 The Hon'ble Supreme Court in the case of *CIT v Gujarat Maritime Board (2007) 295 ITR 561 (SC),* relying on the judgement in case of *Ahmedabad*

Rana Caste Association v CIT (1971) 82 ITR 704(SC), has observed that the expression "*advancement of any other object of general public utility*" is of the widest connotation. The word "*general*" in the said expression means pertaining to a whole class. Therefore, advancement of any object or benefit to the public or a section of the public as distinguished from benefit to an individual or a group of individuals would be a charitable purpose.

29.6 The expression "*if it involves any trade, commerce or business or any activity of rendering any service in relation to any trade, commerce or business"* is very widely worded so as to render entire income of organisation as not exempt based on commercial activity undertaken with receipts above the limit of 20% of gross receipts. Since the proviso to section 2(15) applies only to GPU activities the benefits of exemption sections 11 to 13A and 80G of the Act cannot be denied to institutions and organisations falling within the categories of medical relief, relief of the poor, education, yoga, wildlife and heritage conservation merely because they carry on an activity generating profit, so long as they fulfil the requirements of section 11(4A).

29.7 The second part, "*any activity of rendering any service in relation to any trade, commerce or business*" intends to expand the scope of the proviso to include services, which are rendered in relation to any trade, commerce or business. The proviso further stipulates that the activity must be "*for a cess or fee or any other consideration"*. The last part states that the proviso will apply even if the cess or fee or any other consideration is applied for a charitable activity/purpose. The proviso has to be given full effect to. Thus, even if cess, fee or consideration is used or utilized for charitable purposes, the proviso and the bar will apply.

29.8 An activity will not be regarded as charitable purpose/activity under the last limb, if cess, fee or consideration is received for carrying on any activity in nature of trade, commerce or business or for any activity of rendering of any service in relation to any trade, commerce or business, even if the consideration or the money received is used in furtherance of the charitable purposes/activities. In view of the same, the decisions that the application of money/profit is relevant for determining whether or not a person is carrying on charitable activity, are no longer relevant and apposite.

29.9 Even if the profits earned are used for charitable purposes, but fee, cess or consideration is charged by a person for carrying on any activity in the nature of trade, commerce or business or any activity of rendering of any

service in addition to any trade, commerce or business, it would be covered under the proviso and the bar/prohibition will apply.

29.10 The term "*trade", "commerce*" or "*business*" involves a profit element embedded therein.

29.11 Business - Section 2(13) of the Act gives inclusive definition of "business". It says "*business includes any trade, commerce or manufacture or any adventure or concern in the nature of trade, commerce or manufacture*." The expression "business" though extensively used in taxing statute, is a word of indefinite import and is used in the sense of an occupation which occupies the time, attention and labour of a person, normally with the object of making profit. To regard an activity as business, there must be a course of dealings, either actually continued or contemplated to be continued with a profit motive and not for sport or pleasure. Whether a person carries on business in a particular commodity would depend upon the volume, frequency, continuity and regularity of transactions of purchase and sale in relation to that commodity with profit motive.

29.12 Trade - The definition of business for income-tax purposes explicitly includes trade within its scope. However, it has not been defined. Apart from the fact that everyone carrying on trade is necessarily regarded as carrying on a business, the concept of trade for the purpose of taxation has come up for elucidation in a number of cases. The expression 'trade' is not defined in the Act. 'Trade' in its primary meaning is the exchanging of goods for goods or goods for money; in its secondary meaning it is repeated activity in the nature of business carried on with a profit motive, the activity being manual or mercantile, as distinguished from the liberal acts or learned professions or agriculture. The question whether trade is carried on by a person at a given place must be determined on a consideration of all the circumstances. No test or set of tests which is or are decisive for all cases can be evolved for determining whether a person carries on trade at a particular place.

29.13 Commerce - The definition of business includes 'commerce' within its scope and in view of both trade and commerce being used as signifying and includible in business, the distinction between trade and commerce is relevant. This distinction has been highlighted in *Gannon Dunkerley & Co. (Madras) Ltd. vs. State of Madras (1954) 5 STC 216 (Mad)* to state that "in ordinary parlance trade and commerce carry with them the idea of purchase and sale with a view to make a profit. If a person buys goods with a view to sell them for profit it is an ordinary case of trade. If the transactions are of a large scale it is called commerce. Further, a continuous repetition of such transactions constitutes a

business." Nobody can define the volume of business which would convert a trade into commerce. This view has been affirmed by the Supreme Court in the case of *State of Madras vs. Gannon Dunkerley (1958) 9 STC 353 (SC)*.

29.14 The term "trade", "commerce" and "business" within its ambit profit motive have also been explained in *Circular No.11/2008 dated 19.12.2008* given in **Appendix XIII**

29.15 It can be seen from the above that all the 3 facets "trade", "commerce" and "business" incorporate within its ambit profit motive.

29.16 Thus, for ascertaining whether an activity is in the nature of charitable activity if it is in the nature of "the advancement of any other object of general public utility", it has to pass through the test of the Proviso i.e.

a) Its activities should not be "*in the nature of trade, commerce or business or any activity of rendering any service in relation to any trade, commerce or business"* or

b) Its activities should not *"be for cess, fees, or any other consideration*"

29.17 Under clause 15 of Form No.10B, the auditor is required to report where, in any of the projects/institutions run by auditee, one of the charitable purposes is advancement of any other object of general public utility then

- Any activity in nature of trade, commerce or business carried on by the Trust (please provide project / institute name and total receipts from such activity)
- Percentage thereof to total receipt
- Whether it is in the course of actual carrying out of such advancement of any other object of general public utility
- Whether there is any service in relation to any trade commerce or business for consideration (please provide project / institute name and total receipts from such activity)
- Percentage thereof to total receipts

29.18 The details required in this clause are self-explanatory and should be reported accordingly. The affirmative reporting under the clause15(A) is for the purpose of noticing any violation of limb under which the trust/ institution is registered due to which the income of such trust/institution can be subjected to taxation by the Income Tax Department. In case in clause15(B), percentage

of receipt exceeds the threshold limit as provided in proviso to section 2(15), the auditor should seek clarification/ response from the management in respect of above clause and the same be reported in the observations/qualifications paragraph along with details of the aggregate annual receipts which are required to be reported in clause 16.

30. Business Undertaking *[Clause 17 of Form No.10B]*

(i) Whether the auditee has any business undertaking as referred to in sub-section (4) of section 11

(ii) If yes, then provide the following details of the business undertaking:

(a) Nature of Business Undertaking

(b) Business Code

(c) Whether separate books of account have been maintained for the business undertaking <*refer note*^>

(d) Income from the business undertaking for the previous year which is not to be included in the total income of the auditee as per sub-section (4) of section 11

(e) Income from the business undertaking for the previous year which is to be included in the total income of the auditee as per sub-section (4) of section 11

Refer note no. 9

^*In serial number 17 (ii)(c) and 18(ii)(c) upload the Balance Sheet, Profit and Loss Account and Audit Report in Form 3CA or 3CB as applicable (e-filing utility to provide upload facility) for the business undertaking or business incidental to objects.*

30.1 Clause 17(i) of Form No.10B requires the auditor to state in 'Yes/No' whether the auditee has any business undertaking as referred to in sub-section (4) of section 11.

30.2 As per section 11(4):

> *for the purposes of section 11 "property held under trust" includes a business undertaking so held, and where a claim is made that the income of any such undertaking shall not be included in the total income*

of the persons in receipt thereof, ***the Assessing Officer shall have power to determine the income of such undertaking in accordance with the provisions of this Act relating to assessment****; and where any income so determined is in excess of the income as shown in the accounts of the undertaking, such excess shall be deemed to be applied to purposes other than charitable or religious purposes.*

30.3 For the purposes of determining the response to clause 17(i) the auditor should obtain management representation from the auditee containing details of any business undertaking owned and run by it as the "*property of the trust*". If the answer is affirmative, the auditor is required to give further details in clause 17(ii) regarding the said business undertaking.

30.4 For the purposes of reporting under this clause, the auditor may verify the authenticity and correctness of the facts and figures mentioned in the management representation in light of the provisions of the Act applicable to assessment of such business undertaking.

30.5 While other sub-clauses of clause 17(ii) are self-explanatory, reporting under sub-clause (d) and (e) require specific attention of the auditor. The auditor should take management representation for the purpose of reporting under these sub-clauses, as the amount which is not to be included in the total income is also to be determined as per sub-clause (d) of clause 18(ii) besides the amount which is to be included in the total income of the auditee. This amount is to be reconciled with the amount quantified in clause 35(d) i.e. "*Income chargeable under the section 11(4)".*

30.6 The amount which is to be determined by the Assessing Officer over and above the income so computed of an undertaking referred to above, is outside the scope of the auditor.

30.7 As per *Clarification 3 of Circular: No. 5-P(LXX-6) of 1968, dated 19-6-1968* (Refer relevant extracts in **Appendix XIV**).

"In the case of a business undertaking, held under trust, its "income" will be the income as shown in the accounts of the undertaking. Under section 11(4), any income of the business undertaking determined by the ITO, in accordance with the provisions of the Act, which is in excess of the income as shown in its accounts, is to be deemed to have been applied to purposes other than charitable or religious, and hence it will be charged to tax under sub-section (3). As only the income disclosed in the account will be eligible for exemption under section 11(1), the

permitted accumulation of 25 per cent **(presently 15%)** *will also be calculated with reference to this income."*

30.8 The auditor may determine the applicability of this circular in the light of various existing provisions of the Act pertaining to the trusts/ institutions for the previous year for which the reporting is being done.

30.9 As per the Instructions to Form No. 10B in respect of this sub-clause, the auditor is mandatorily required to attach the report in Form No. 3CA/3CB if such business is covered under tax audit provisions along with Balance Sheet and profit and Loss account. It may be noted that this will be in addition to the Balance Sheet and Profit and Income and Expenditure Account prepared and to be submitted for the entire trust/institution.

30.10 The Auditor while uploading the above-mentioned annexures should be cautious about the correct place where these documents are to be uploaded.

31. Business Incidental to Objects

[Clause 18 No. of Form No. 10B]

(i) Whether the auditee has any income being profits and gains from any business as referred in seventh proviso to Clause (23C) of section 10 or sub-section (4A) of section 11, as the case may be- Yes/No

(ii) If yes, then provide the following details of such business:

(a) Nature of Business

(b) Business Code

(c) Whether separate books of account have been maintained for the business <*refer note*^>

(d) Whether the business is incidental to the attainment of the objects of the auditee 'Yes/No'

(e) **Profits and gains from the business during the previous year** (Amount)

Refer note no. 9

^*In serial number 17(ii)(c) and 18(ii)(c) upload the Balance Sheet, Profit and Loss Account and Audit Report in Form 3CA or 3CB as applicable (e-filing utility to provide upload facility) for the business undertaking or business incidental to objects.*

31.1 Clause 18(i) of Form No.10B requires the auditor to state "Yes/No" as to whether the auditee has any income being profits and gains from any business as referred in seventh proviso to section 10(23C) or section 11(4A), as the case may be.

31.2 There is no prohibition on a trust/institution carrying on a business. The income from such business shall also qualify for exemption provided the other conditions of sections 11 and 12 are fulfilled.

31.3 For the purposes of determining the response to clause 18(i), the auditor should obtain management representation from the auditee containing details of any business run by it. If the answer is affirmative, the auditor is required to give further details in clause 18(ii) regarding the said business.

31.4 Any income of a trust/institution being in the nature of profits and gains of business, shall not qualify for exemption unless the business is incidental to the attainment of its objects and separate books of account are maintained in respect of such business as per section 11(4A).

31.5 The Hon'ble Supreme Court in the case of *Asst. CIT vs. Thanthi Trust (2001) 247 ITR 785 (SC)* has held that all that is required for the business income of a trust or institution to be exempt from tax is that the business should be incidental to the attainment of objective of the trust or institution. In *Asstt. CIT (Exemptions) v. Ahmedabad Urban Development Authority [2022] 143 taxmann.com 278*, the Hon'ble Supreme Court held that for a business to be an incidental business, it should be carried on as a part of the objects or be related to the objects of the trust.

31.6 Under this clause, if the auditee is carrying out any business, details regarding the same, like nature of business, code etc., are to be provided.

31.7 As per the Instructions to Form No. 10B in respect of this sub-clause, the auditor is mandatorily required to attach the report in Form No. 3CA/3CB if such business is covered under tax audit provisions along with Balance Sheet and profit and Loss account. It may be noted that this will be in addition to the Balance Sheet and Profit and Income and Expenditure Account prepared and to be submitted for the entire trust/institution as well as that is required to be furnished under clause 17(ii) of Form No. 10B.

31.8 The Auditor, while uploading the above-mentioned annexures, should be cautious about the correct place where these documents are to be uploaded.

32. TDS on receipts *[Clause 19 Form No. 10B]*

19. Details of the receipts of the auditee on which tax has been deducted at source referred to in sections 194C or 194J or 194H or 194Q :

(1) S. No.

(2) Name of the deductor

(3) TAN of deductor

(4) Amount on which tax has been deducted at source (In Rs.)

(5) Amount of tax deducted at source

(6) Section under which tax has been deducted at source Category of income/receipt

(7) Trade, commerce or business (Rs.)

(8) Activity of rendering any service in relation to any trade, commerce or business (Rs.)

(9) Others (specify the nature) (Rs.)

(10) Income/receipt in column 7 or 8 which is from business incidental to the attainment of the objects of the auditee.

(11) Whether separate books of account have been maintained for activities income/receipt which is mentioned in column 10

32.1 Clause 19 requires the auditor to report the details of the receipts of the auditee on which tax has been deducted at source referred to in sections 194C (TDS on contractual payments), 194J (TDS on professional services), 194H (TDS on commission/ brokerage) and 194Q (TDS on purchase of goods).

32.2 While these details can be verified from Form No. 26AS and AIS of the auditee, the possibility of quoting wrong section, under which tax has been deducted by the deductor, cannot be ruled out as the same is beyond the control of the auditee. Accordingly, the auditor should request the auditee to provide a reconciliation of the amounts reported therein and the amounts which are reflected in the auditee's books of account along with the details of the nature of such income.

32.3 The reporting in respect of TDS deduction like the gross amount, the amount of TDS and the section under which tax has been deducted may be done accordingly by the auditor. Where the wrong section has been quoted by the deductor at the time of tax deduction, the said fact may be appropriately disclosed by the auditor.

32.4 These details of income/ receipts on which tax has been deducted at source are required to be reported under sub-clauses (7), (8) and (9). These receipts will include income/receipts which may be from business incidental to the attainment of the objects of the auditee and also otherwise.

32.5 The receipts which are from business incidental to the attainment of the objects of the auditee are to be reported separately under sub-clause (10). Also, the fact as to whether separate books of account are maintained in respect of such business is required to be verified and reported under sub-clause (11).

32.6 In case the tax has been deducted on receipts which are from business not incidental to the attainment of the objects of the auditee, the management representation be taken. The information so provided by the auditee may be reconciled with the reporting done under clause 17 *(Business Undertaking*) and clause 18 (*Business Incidental to Objects)* of Form No.10B.

32.7 It may be noted that other TDS sections like receipts covered under section 194A or 194I are not required to be reported here.

33. Whether the provisions of twenty second proviso to clause (23C) of section 10 or sub-section (10) of section 13 are applicable. *[Clause 20 of Form No.10B] Yes/No*

Clause 20 requires the auditor to state "Yes/No" as to whether the provisions of twenty second proviso to section 10(23C) or section 13(10) are applicable to the auditee. It may be noted that the said information is once again required to be reported under clause 39. In case the answer is affirmative, clause 39 requires further details to be reported. The said clause has accordingly been dealt with in detail in clause 39 and may be referred therefrom.

34. Other Income *[Clause 35 of Form No.10B]*

(a) Whether the auditee has any income chargeable under section 12(2) and the amount of such income.

(b) Income as per Explanation 3B to sub-section (1) of section 11 in case of violation of clause (a) or (b) or (c) or (d) of Explanation 3A to sub-section (1) of section 11 read with clause (b) of sub-section (2) of section 80G < *Fill Schedule Corpus*>

(c) Income as per Explanation 1B to the third proviso to clause (23C) of section 10 in case of violation of clauses (a) or (b) or (c) or (d) of Explanation 1A to the third proviso to clause (23C) of section 10 read with clause (b) of sub-section (2) of section 80G < *Fill Schedule Corpus*>

(d) Income chargeable under sub-section (4) of section 11

34.1 Clause 35 of Form No. 10B requires the auditor to report details of other income of the auditee under various sub-clauses discussed as under:

(a) Whether the auditee has any income chargeable under section 12(2) and the amount of such income:

34.2 Under this sub-clause, the auditor is required to state "Yes/No" as to whether the auditee has any income chargeable under section 12(2). In case the response is affirmative the amount of such income is also to be reported.

34.3 Under section 12(2) of the Act, value of any services, being **medical or educational services**, made available by any charitable or religious trust running a hospital or medical institution or an educational institution, to any **person referred to in section 13(3)**, shall be deemed to be income of such trust or institution derived from property held under trust wholly for charitable or religious purposes during the previous year in which such services are so provided and shall be chargeable to income-tax. The amount of income chargeable under section 12(2) is to be reported under clause 35(a) of Form No.10B.

34.4 It may be noted that the provisions of section 12(2) read with relevant provisions of section 13(3) and Rule 17AA(1)(d)(ix) have been discussed earlier in respect of reporting under clause 42 of Form No. 10B and may be referred therefrom.

34.5 The auditor may reconcile the information being provided in both these clauses ie clause 35(a) and clause 42(d) of Form No. 10B.

(b) Income as per Explanation 3B to sub-section (1) of section 11 in case of violation of clause (a) or (b) or (c) or (d) of Explanation 3A

to sub-section (1) of section 11 read with clause (b) of sub-section (2) of section 80G

34.6 Under this sub-clause, the auditor is required to report income as per Explanation 3B to section 11(1) in case of violation of clause (a) or (b) or (c) or (d) of Explanation 3A to section 11(1) read with section 80G(2)(b). Along with the amount, the "Schedule Corpus" is required to be filled.

34.7 As per *Explanation 3A* to section 11(1) of the Act, where the property held under a trust or institution includes any temple, mosque, gurdwara, church or other place notified under section 80G(2)(b), any sum received by such trust or institution as voluntary contribution for the purpose of renovation or repair of such temple, mosque, gurdwara, church or other place, may, at its option, be treated by such trust or institution as forming part of the corpus of the trust or the institution, subject to the condition that the trust or the institution,

(a) applies such corpus only for the purpose for which the voluntary contribution was made;

(b) does not apply such corpus for making contribution or donation to any person;

(c) maintains such corpus as separately identifiable; and

(d) invests or deposits such corpus in the forms and modes specified under sub-section (5) of section 11.

34.8 It may be noted that any trust or institution other than that notified under section 80G(2)(b) of the Act, cannot *suo moto* treat any voluntary contribution as forming part of corpus unless intended by the donor.

34.9 Explanation 3B provides that for the purposes of Explanation 3A, where any trust or institution has treated any sum received by it as forming part of the corpus, and subsequently any of the conditions as specified under Explanation 3A is violated, such sum shall be deemed to be the income of such trust or institution of the previous year during which the violation takes place.

34.10 The auditor is required to enquire about such contributions which have violated provisions of the Explanation 3B and report the same in Clause 35(b). For the purposes of this clause, the 'Schedule Corpus' is also required to be filled which has been discussed earlier in Part I of this publication.

(c) Income as per Explanation 1B to the third proviso to clause (23C) of section 10 in case of violation of clauses (a) or (b) or (c) or (d) of Explanation 1A to the third proviso to clause (23C) of section 10 read with clause (b) of sub-section (2) of section 80G:-

34.11 Under this sub-clause, the auditor is required to report income as per Explanation 1B to the third proviso to section 10(23C) in case of violation of clauses (a) or (b) or (c) or (d) of Explanation 1A to the third proviso to section 10(23C) read with section 80G(2)(b). Along with the amount, the "*Schedule Corpus*" is required to be filled.

34.12 For the purpose of this clause, procedure similar to clause 35(b) will be applicable to institutions covered u/s 10(23C).

(d) Income chargeable under sub-section (4) of section 11:

34.13 This sub-clause requires reporting income chargeable under section 11(4). It may be noted that a detailed discussion regarding reporting in respect of *"Business undertaking*" with reference to section 11(4) has been laid down in clause 17 above and may be referred to for the purposes of reporting under this sub-clause.

34.14 The amount reported under this clause is to be reconciled with the amount quantified in clause 17(ii)(e) i.e. *"Income from the business undertaking for the previous year which is to be included in the total income of the auditee as per section 11(4)"*

35. Capital Asset *[Clause 36 of Form No.10B]*

Details of capital asset transferred under sub-section (1A) of section 11

(1) Whether a capital asset being property held under trust wholly for charitable or religious purpose is transferred and the net consideration for which it is transferred?

(2) Whether deemed application is claimed as per clause (a) of sub-section (1A) of section 11 and the amount of such deemed application?

(3) Whether a capital asset being property held under trust in part only for charitable or religious purpose is transferred and the net consideration for which it is transferred?

(4) Whether deemed application is claimed as per clause (b) of sub-section (1A) of section 11 and the amount of such deemed application?

35.1 This clause requires the reporting of details regarding capital asset transferred under section 11(1A). In respect of various sub-clauses referred in clause 36, the auditor has to state "Yes/No". In case the response is affirmative the amount is also to be reported.

35.2 As per section 11(1A) :

(a) Where a capital asset, being property held under trust wholly for charitable or religious purposes, is transferred and the whole or any part of the net consideration is utilised for acquiring another capital asset to be so held, then, the capital gain arising from the transfer shall be deemed to have been applied to charitable or religious purposes to the extent specified hereunder, namely:—

(i) where the whole of the net consideration is utilised in acquiring the new capital asset, the whole of such capital gain;

(ii) where only a part of the net consideration is utilised for acquiring the new capital asset, so much of such capital gain as is equal to the amount, if any, by which the amount so utilised exceeds the cost of the transferred asset;

(b) where a capital asset, being property held under trust in part only for such purposes, is transferred and the whole or any part of the net consideration is utilised for acquiring another capital asset to be so held, then, the appropriate fraction of the capital gain arising from the transfer shall be deemed to have been applied to charitable or religious purposes to the extent specified hereunder, namely:—

(i) where the whole of the net consideration is utilised in acquiring the new capital asset, the whole of the appropriate fraction of such capital gain;

(ii) *in any other case, so much of the appropriate fraction of the capital gain as is equal to the amount, if any, by which the appropriate fraction of the amount utilised for acquiring the new asset exceeds the appropriate fraction of the cost of the* transferred asset.

35.3 The auditor shall verify the details of any capital asset transferred by the auditee for the purpose of reporting under this clause.

35.4 It may be noted that any asset which is not a capital asset as per section 2(14) of the Act is to be excluded from being reported under this clause. (Example- rural agriculture land is not a capital asset).

35.5 In case any such asset has been transferred wholly or in part, the auditor has to report details of net consideration for which it is transferred in sub-clauses (1) and (3) respectively. Further, if the deemed application is claimed as per the provisions of section 11(1)(a)/(b) respectively, the amount of deemed application has to be reported under sub-clauses (2) and (4) respectively.

36. Details of application resulting in payment or credit in excess of Rs. 50 lakh during previous year to a single person out of Clause 37 *[Clause 38 of Form No.10B]*

(1) S.no.

(2) Name of person

(3) PAN

(4) Amount of application (Rs.)

(5) Mode of Application

- **Electronic modes**
- **Other than Electronic modes**
- **Total**

(6) TDS

- **Whether any TDS has been deducted (Yes/No)**
- **Section under which TDS has been deducted**
- **Amount of TDS**

36.1 This clause requires reporting of various details of application resulting in payment or credit in excess of Rs. 50 lakh during previous year to a single person out of details reported in Clause 37.

36.2 Reporting under clause 37 has been discussed in *Part I* of the

publication containing the common clauses of Form No. 10BB and Form No.10B i.e. *Application of income out of the different sources during the previous year [Clause 37 of Form No. 10B respectively*]. Under this clause, any payment or credit made to a single person in excess of Rs. 50 lakhs is required to be reported including Name, PAN, TDS, electronic or other than electronic modes which are self-explanatory.

36.3 The auditor should seek these details from the auditee and report the same in Form No.10B. The reporting under this clause may be reconciled with reporting under clause *37 of Form no. 10B.* Also, the reporting in respect of TDS be reconciled with reporting done in "Schedule TDS/TCS" in Part I of this publication.

36.4 It may be noted that the details of application resulting in payment in excess of Rs.50 Lakhs during the previous year to any person is also required to be reported under clause 31(ii) of Form No.10B and thus may be reconciled with it.

37. Section 13(10) and 22nd proviso to section 10(23C)

[Clause 39 of Form No.10B]

(i) Whether provisions of twenty second proviso to clause (23C) of section 10 or sub-section (10) of section 13 are applicable?

(ii) If yes in (i) specify the reason why the provisions of twenty second proviso to clause (23C) of section 10 or sub-section (10) of section 13 are applicable?

- **(a) Provision of proviso to clause (15) of section 2 is applicable**
- **(b) condition specified in clause (a) of tenth proviso to clause (23C) of section 10 or sub-clause (i) of clause (b) of sub-section (1) of section 12A have been violated**
- **(c) condition specified in clause (b) of tenth proviso to clause (23C) of section 10 or sub-clause (ii) of clause (b) of sub-section (1) of section 12A have been violated**
- **(d) condition specified in twentieth proviso to clause (23C) of section 10 or sub-clause (ii) of clause (ba) of sub-section (1) of section 12A have been violated**

(iii) If yes in (i), please provide computation of income chargeable under twenty second proviso to clause (23C) of section 10 or sub-section (10) of section 13

(a) Income for the previous year

(b) Total Expenditure incurred in India, for the objects of the auditee,

(c) Expenditure to be disallowed

(i) Expenditure from the corpus standing to the credit of the trust or institution as on the end of the financial year immediately preceding the previous year relevant to the assessment year for which income is being computed

(ii) Expenditure from any loan or borrowing

(iii) Depreciation in respect of an asset, acquisition of which has been claimed as application of income, in the same or any other previous year; and

(iv) Expenditure in the form of contribution or donation to any person.

(v) Capital expenditure

(vi) Amount disallowable under Explanation to sub-section (10) of section 13 or Explanation to twenty second proviso to clause (23C) of section 10 read with sub-clause (ia) of clause (a) of section 40< fill schedule TDS disallowable >

(vii) Amount disallowable under Explanation to sub-section (10) of section 13 or Explanation to twenty second proviso to clause (23C) of section 10 read with sub-sections 3 or 3A of section 40A< fill schedule 40A(3)/ Schedule 40A(3A)>

(viii) Any other disallowance

(ix) Total expenditure to be disallowed (i)+(ii)+(iii)+(iv)+(v)+(vi)+(vii))+(viii))

(d) Income chargeable to tax under twenty-second proviso to clause (23C) of section 10 or sub-section (10) of section 13 [a – b + c (ix)}]

37.1 Clause 39 of Form No.10B requires the auditor to provide details when provisions of twenty second proviso to section 10(23C) or section 13(10) are applicable on the auditee.

37.2 Different provisions mandate denial or restriction of exemption to the trusts or institutions under both the regimes – Section 11 and 10(23C). Some of the provisions under which exemption is not available due to violation are as follows:

(a) Having aggregate receipts from trade, commerce or business in the course of carrying out any other object of General Public Utility and where such receipt is in excess of 20% of the total receipts as provided under first proviso to section 2(15). The said condition is applicable in case of trust or institution referred to in section 10(23C)(iv) or (v*)[as per eighteenth proviso to section 10(23C)]* or any trust or institution established wholly for charitable purposes*[as per section 13(8) of the Act]*.

(b) Not getting the books of account audited on or before the specified date as referred to in section 44AB and furnished by that date (i.e., one month before the due date of furnishing of return of income under section 139(1) of the Act).

(c) Not furnishing the return of income within time allowed under Section 139(1) or (4) in accordance with Section 139(4A) or (4C).

37.3 The Finance Act, 2022 has inserted sub-section (10) in section 13 and twentieth proviso to section 10(23C) which provides that in such circumstances its income chargeable to tax shall be computed after allowing deduction for the expenditure (other than capital expenditure) incurred in India, for the objects of the trust or institution, subject to fulfilment of the following conditions, namely :

(a) such expenditure is not from the corpus standing to the credit of such trust or institution as on the end of the financial year immediately preceding the previous year relevant to the assessment year for which the income is being computed;

(b) such expenditure is not from any loan or borrowing;

(c) claim of depreciation is not in respect of an asset, acquisition of which has been claimed as application of income in the same or any other previous year; and

(d) such expenditure is not in the form of any contribution or donation to any person.

37.4 For the purposes of determining the amount of expenditure under section 13(10) or as per twenty second proviso to section 10(23C), the provisions of section 40(a)(ia) and section 40A(3)/(3A), shall, mutatis mutandis, apply as they apply in computing the income chargeable under the head *"Profits and gains of business or profession".*

37.5 Clause 39(ii)(d) of Form No. 10B requires reporting of compliance of condition specified under section 12A(1)(ba)(ii) also, whereas there is no such sub-clause (ii) under section 12A(1)(ba). This is due to drafting error in notified Form No. 10B and in utility provided by the Income Tax Department. The auditor is to report on the condition specified under section 12A(1)(ba) only.

37.6 The reporting to be done under various sub-clauses above are self-explanatory and are to be reported accordingly. The Schedules required to be filled under the various sub-clauses of this clause have also been dealt with in Part I of the publication and may be referred therefrom for the purpose of reporting.

37.7 On the date of the signing of the Audit Report in Form 10B, the auditor would be able to specify reason mentioned in clause 39(ii) (a)/(b),(c) but not under (d), since the time limit for filing of the income-tax return under section 139(1) or 139(4) has not yet expired. The said fact may be brought out in the observation para of audit report.

38. Expenditure Incurred for Religious Purposes

[Clause 40 of Form No.10B]

In case auditee is approved under second proviso to sub-section (5) of section 80G, please provide the following details

(a) Whether any amount of expenditure incurred during the previous year which is of a religious nature and the amount of such expenditure

(b) Total income of auditee during the previous year

(c) Percentage of expenditure which is of religious nature to the total income [Amount in (a)/(b)]

38.1 This clause requires reporting of details regarding expenditure incurred for religious purposes in case auditee is approved under second proviso to section 80G(5).

38.2 Section 80G(5) provides that this section applies to donations to any institution or fund referred to in Section 80G(2)(a)(iv) only if it is established in India for a charitable purpose and if it fulfils certain conditions which inter alia include - 80G(5)(ii) - the instrument under which the institution or fund is constituted does not, or the rules governing the institution or fund do not, contain any provision for the transfer or application at any time of the whole or any part of the income or assets of the institution or fund for any purpose other than a charitable purpose.

38.3 Further, Explanation 3 states that "charitable purpose" does not include any purpose the whole or substantially the whole of which is of a religious nature.

38.4 Notwithstanding anything contained in clause (ii) of sub-section (5) and Explanation 3, an institution or fund which incurs expenditure, during any previous year, which is of a religious nature for an amount not exceeding five per cent of its total income in that previous year shall be deemed to be an institution or fund to which the provisions of this section apply.

38.5 In this clause the auditor is required to report the amount in case any amount of expenditure incurred during the previous year which is of a religious nature. For the purpose of reporting under this clause the auditor may obtain management representation from the auditee.

38.6 Further, the auditor is also required to report the total income of the auditee during the previous year in clause 40(b). Clause 40(c) requires reporting of percentage of expenditure which is of religious nature to the total income [Amount in (a)/(b)]. This may be an auto-populated field.

38.7 It may be noted that this reporting requirement arises only where the trust is registered under section 80G(5).

39. In view of provisions of nineteenth proviso to clause (23C) of section 10 or sub-section (7) of section 11, please specify whether the trust or institution has claimed deduction under section 10 [other than clause (1), clause (23C) and clause (46) thereof] during the previous year and the amount of such claim.

[Clause 45 of Form No. 10B]

39.1 Under clause 45 of Form No. 10B the auditor has to state "Yes/ No" as to whether the trust or institution has claimed deduction under section 10 [other than clause (1), clause (23C) and clause (46) thereof] during the previous year in view of provisions of nineteenth proviso to section 10(23C) or section 11(7).

39.2 Section 11(7) of the Act reads as under:

> *"(7) Where a trust or an institution has been granted registration under section 12AA or section 12AB or has obtained registration at any time under section 12A as it stood before its amendment by the Finance (No. 2) Act, 1996 (33 of 1996) and the said registration is in force for any previous year, then, nothing contained in section 10 other than clause (1), clause (23C), clause (23EC), clause (46) or clause (46A) thereof shall operate to exclude any income derived from the property held under trust from the total income of the person in receipt thereof for that previous year:*
>
> *Provided that such registration shall become inoperative from the date on which the trust or institution is approved under clause (23C) of section 10 or is notified under clause (23EC), clause (46) or (46A) of the said section, as the case may be, or the date on which this proviso has come into force, whichever is later:*
>
> *Provided further that the trust or institution, whose registration has become inoperative under the first proviso, may apply to get its registration operative under section 12AA or section 12AB subject to the condition that on doing so, the approval under clause (23C) of section 10 or notification under clause (23EC) or clause (46) or clause (46A) of the said section, as the case may be, to such trust or institution shall cease to have any effect from the date on which the said registration becomes operative and thereafter, it shall not be entitled to exemption under the respective clauses."*

39.3 In view of the above provision, any trust or institution cannot claim exemption under section 10 except section 10(1) i.e. is agricultural income.

39.4 The auditor is required to obtain the computation of the auditee, last year's returns and other documents to check if the auditee is registered under section 12A, 12AA, 12AB and the said registration is in force.

39.5 The auditor is required to report such amount other than amount covered under section 10(1) in Clause 45 of Form No. 10B.

40. Whether the auditee has taken or accepted any loan or deposit or any specified sum, exceeding the limit specified in section 269SS during the previous year? *[Clause 46 of Form No.10B]*

40.1 Clause 46 requires the auditor to state "Yes/ No" as to whether the auditee has taken or accepted any loan or deposit or any specified sum, exceeding the limit specified in section 269SS during the previous year. In case the answer is affirmative, the auditor is required to fill "*Schedule 269SS"*

40.2 Section 269SS prescribes the mode of taking or accepting certain loans or deposits or specified sums. As per this section, no person shall take or accept from any other person any loan or deposit or specified sums otherwise than by an account payee cheque or account payee bank draft or use of electronic clearing system through a bank account or through such other electronic mode as may be prescribed (hereinafter referred to as approved banking channels) if,-

(a) the amount of such loan or deposit or specified sum or the aggregate amount of such loan and deposit and specified sum; or

(b) on the date of taking or accepting such loan or deposit or specified sum, any loan or deposit or specified sum taken or accepted earlier by such person from the depositor is remaining unpaid (whether repayment has fallen due or not), the amount or the aggregate amount remaining unpaid; or

(c) the amount or the aggregate amount, referred to in clause (a) together with the amount or the aggregate amount referred to in clause (b)

is twenty thousand rupees or more. An exception is provided for Primary Agricultural Credit Societies ("PACS") and Primary Co-operative Agricultural

and Rural Development Bank ("PCARD") by raising the amount to Rs 2,00,000 applicable w.e.f. AY 2023-24.

40.3 The CBDT, vide notification no. 8/2020/F. No. 370142/14/2019-TPL dated 29th January 2020, has prescribed the other electronic modes under Rule 6ABBA with effect from 1st September 2019. Under the said Rule the following shall be the other electronic modes for the purposes of Section 269SS:

(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.

As per Circular no. 6 of 2023, dated. 24.05.2023 **(Refer Appendix XI)**, it is hereby clarified that for the purposes of Form No. 10B and Form No. 10BB electronic modes referred above 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.

40.4 As per the first proviso to section 269SS, the provisions of section 269SS shall not apply to any loan or deposit taken or accepted from, or any loan or deposit taken or accepted by,

(a) Government;

(b) any banking company, post office savings bank or co-operative bank;

(c) any corporation established by a Central, State or Provincial Act;

(d) any Government company as defined in section 2(45) of the Companies Act, 2013;

(e) such other institution, association or body or class of institutions, associations or bodies which the Central Government may, for reasons to be recorded in writing, notify in this behalf in the Official Gazette.

40.5 Schedule 26SS pertaining to Clause 46 of Form No.10B seeks details of each loan or deposit or any specified sum taken or accepted, exceeding the limit specified in section 269SS during the previous year.

40.6 For the purposes of section 269SS, "loan or deposit" means loan or deposit of money (Explanation (iii) to section 269SS).

40.7 While reporting under this clause, the auditor may keep in mind the following typical situations:

(i) When there is a mixed account, the transactions relating to loans and deposits should be segregated from other accounts and the transactions relating to loans and deposits should be stated under this clause.

(ii) Opening credit balance of loan taken in earlier years is not specifically required to be disclosed. However, while giving figures of maximum amount outstanding at any time during the year or while giving information about acceptance and repayment of loan/deposit, the opening balances in the loan accounts will have to be taken into consideration.

(iii) Even if the loans are taken free of interest, the information will still have to be given.

(iv) Security deposits against contracts, etc. will be covered by the definition of 'deposit' and therefore, such information will have to be given. However, the amount retained by the contractee against performance of contract will not be covered as loans/deposits for reporting as amount is not received.

(v) Loans and deposits taken or accepted by means of transfer entries in the books of account constitute acceptance of deposits or loans otherwise than by account payee cheques. Hence, such entries have to be reported under this clause.

40.8 Apart from "loan or deposit", particulars of any "specified sum" taken or accepted in relation to transfer of an immovable property, whether or not the transfer takes place is also to be reported. Such specified sum may be any sum of money receivable whether by way of advance or otherwise. Explanation (iv) to Section 269SS defines "specified sum" as any sum of money receivable, whether as advance or otherwise, in relation to transfer of an immovable property, whether or not the transfer takes place. Reporting of specified sum taken or accepted is required under the circumstances specified above.

40.9 The Schedule to be filled under this clause requires various particulars in respect of each loan or deposit or specified sum including the Permanent account number or Aadhaar number of the lender or depositor, if available.

40.10 The auditor should obtain the above details from the assessee in respect of each reportable loan or deposit and verify the same from the records and evidence available with the assessee.

40.11 If the total of all loans/deposits/specified sum either severally or in aggregate from a person is Rs.20,000/- or more but each individual item is less than Rs.20,000/-, the information will still be required to be given in respect of all such entries starting from the entry when the balance reaches Rs.20,000/- or more and until the balance goes down below Rs.20,000/. As such the auditor should verify all loans/deposits taken or accepted where balance has reached Rs.20,000 or more during the year for the purpose of reporting under this clause.

40.12 There will be practical difficulties in verifying the loan or deposit or specified sum taken or accepted by account payee cheque or an account payee bank draft. In such cases, the auditor should verify the transactions with reference to such evidence which may be available. In the absence of satisfactory evidence, for answering, as to whether bank cheque or bank draft was 'account payee', the auditors should make a suggested comment in his report. The suggested comment is as follows:

> *"It is not possible for me/us to verify whether loans or deposits or specified sum have been taken or accepted otherwise than by an account payee cheque or account payee bank draft, as the necessary evidence is not in the possession of the assessee".*

40.13 The particulars required to be reported in the "Schedule 269SS" are self-explanatory and should be reported accordingly. The details required to be filled in Schedule 269SS are given below.

Schedule 269SS: Details of loan or deposit or any specified sum taken, exceeding the limit specified in section 269SS during the previous year

(1) S. No

(2) Name of the lender or depositor

(3) PAN or aadhar, if available

(4) Address

(5) Loan or deposit or any specified sum

(6) Amount of loan or deposit taken or accepted

(7) Whether the loan or deposit was squared up during the previous year? Yes/No

(8) Maximum amount outstanding in the account at any time during the previous year

(9) By cheque or Bank draft or use of electronic clearing system through a bank account or any other mode

(10) Whether account payee if by cheque or Bank draft?

41. Whether the auditee has received an amount exceeding the limit specified in section 269ST, from a person in a day; or in respect of a single transaction; or in respect of transactions relating to one event or occasion from a person during the previous year?

[Clause 47 of Form No.10B]

41.1 Clause 47 of Form No.10B requires the auditor to state "Yes/No" as to whether the auditee has received an amount exceeding the limit specified in section 269ST, from a person in a day; or in respect of a single transaction; or in respect of transactions relating to one event or occasion from a person during the previous year. In case the answer is affirmative, "*Schedule 269ST*" has to be filled.

41.2 Section 269ST provides that no person shall receive sum of Rs. 2 lakh or more -

a) in aggregate from a person in a day; or

b) in respect of a single transaction; or

c) in respect of transactions relating to one event or occasion from a person

otherwise than by an account payee cheque or an account payee demand draft or by use of electronic clearing system through a bank account or through such other electronic mode as may be prescribed. Contravention of section 269ST attracts penalty under section 271DA.

41.3 The CBDT has vide notification no. 8/2020/F. No. 370142/14/2019-TPL dated 29th January 2020 prescribed the other electronic modes under Rule 6ABBA w.e.f. 1st September 2019 given earlier in the publication.

41.4 Section 269ST does not distinguish between receipt on capital account and revenue account. Once the receipt or the payment, as the case may be, exceeds the limit specified in section 269ST, the particulars of such transactions will have to be reported under these clauses.

41.5 Similarly, the auditor will have to exercise judgement in deciding whether receipts though pertaining to more than one transaction pertain to a single event or occasion.

41.6 If such receipts are otherwise than by account payee cheque or an account payee draft or by use of electronic clearing system through a bank account, then the auditor will have to verify the mode of the receipt or payment, as the case may be.

41.7 The particulars required to be reported in the "Schedule 269ST" are self-explanatory and should be reported accordingly. The details required to be filled in Schedule 269T are given below:

Schedule 269ST: Details of amount received exceeding the limit specified in section 269ST, from a person in a day; or in respect of a single transaction; or in respect of transactions relating to one event or occasion from a person during the previous year?

(1) S. No

(2) Details of Payee and amount of payment

- **Name**
- **PAN, if available**
- **Address**
- **Amount of payment**

[Note: The above is Schedule 269ST as Substituted by the Income-tax (Eleventh Amendment.) Rules, 2023 vide notification no. 45/2023 dated 23.06.2023 ***(Appendix XV)****]*

42. Whether the auditee has repaid any amount being loan or deposit or any specified advance exceeding the limit specified in section 269T, during the previous year? *[Clause 48 of Form No. 10B]*

42.1 Clause 48 of Form No.10B requires the auditor to state "Yes/No" as to whether the auditee has repaid any amount being loan or deposit or any specified advance exceeding the limit specified in section 269T, during the previous year. In case the response is affirmative, the details are to be provided in Schedule 269T.

42.2 Section 269T provides that no branch of a banking company or a cooperative bank and no other company or co-operative society and no firm or other person shall repay any loan or deposit made with it or any specified advance received by it otherwise than by an account payee cheque or account payee bank draft drawn in the name of the person who has made the loan or deposit or paid the specified advance, or by use of electronic clearing system through a bank account or through such other electronic mode as may be prescribed if,

(a) the amount of the loan or deposit or specified advance together with the interest, if any, payable thereon, or

(b) the aggregate amount of the loans or deposits held by such person with the branch of the banking company or co-operative bank or, as the case may be, the other company or co-operative society or the firm, or other person either in his own name or jointly with any other person on the date of such repayment together with the interest, if any, payable on such loans or deposits, or

(c) the aggregate amount of the specified advances received by such person either in his own name or jointly with any other person on the date of such repayment together with the interest, if any, payable on such specified advances,

is twenty thousand rupees or more. An exception is provided for Primary Agricultural Credit Societies ("PACS") and Primary Co-Operative Agricultural and Rural Development Bank ("PCARD") by raising the amount to Rs 2,00,000 applicable w.e.f. A.Y. 2023-24.

42.3 This clause seeks information in respect of all the repayments made by the assessee of loan or deposit or any specified advance in an amount exceeding the limit specified in section 269T made during the previous year. Section 269T is attracted upon repayment of the loan or deposit or specified advance made by a person, where the aggregate amount of such loans or deposits held by such person or specified advances received by such person either in his own name or jointly with any other person on the date of such repayment together with interest, if any, payable on such loan or deposit or specified advance is Rs. 20,000 or more and is made otherwise than by an account payee cheque or account payee bank draft drawn in the name of the person who has made the loan or deposit or paid the specified advance, or by use of electronic clearing system through a bank account or through such other electronic mode as may be prescribed.

42.4 The CBDT has vide notification no. 8/2020/F. No. 370142/14/2019-TPL dated 29th January 2020 prescribed the other electronic modes under Rule 6ABBA w.e.f. 1st September 2019 which has been explained earlier.

42.5 Explanation (iii) to Section 269T contains definition of the term "*loan or deposit"* for the purposes of section 269T. Accordingly, "loan or deposit" means any deposit of money which is repayable after notice or repayable after a period and, in the case of a person other than a company, includes loan or deposit of any nature. Further, explanation (iv) defines "*specified advance*" means any sum of money in the nature of advance, by whatever name called, in relation to transfer of an immovable property, whether or not the transfer takes place. As such, all repayments made to any person where the loan or deposit or specified advance received along with interest payable thereon is Rs. 20,000 or more are to be reported under this sub-clause, even though the amount of repayment may be less than Rs. 20,000. The auditor should verify such repayments and report accordingly.

42.6 The second proviso to section 269T inserted by the Finance Act, 2003 w.e.f. 1.6.2002 excludes repayments of loans taken from Government, Government company, Banking company, Corporation established by a Central, State or Provincial Act etc. from the scope of the above section and, therefore, the auditor need not report such repayments in his report.

42.7 In the case of company assessee, loan or deposit is defined to mean deposit repayable after notice or loan or deposit repayable after a period. Therefore, in case of a company, loan or deposit repayable on demand will not

be considered for the purpose of this section as loan or deposit. However, in the case of non-company assessee, loan or deposit is defined to mean loan or deposit of any nature. This distinction will have to be kept in mind while giving information under this sub-clause.

42.8 Loan or deposits discharged by means of transfer entries in the books of account constitute repayment of loan or deposits otherwise than by account payee cheque or account payee bank draft. Hence, such entries have to be reported under this clause. The auditor has to take into account the technological advancements in the field of banking and information technology where loans have been repaid other than through an account payee cheque of bank draft which are capable of being tracked such as bank transactions made electronically through the internet or through mail transfer or telegraphic transfer. These types of payments, though not made by account payee cheques in the conventional manner, are capable of being tracked. The Finance (No.2) Act, 2014 has acknowledged the fact and allowed the "use of electronic clearing system through a bank account" as a permissible mode for the purposes of section 269T. The other modes of permitted electronic means of transaction have been discussed earlier in this publication and may be referred to therefrom.

42.9 Practically, especially in case the repayments are voluminous, it may not be possible to verify each repayment, reflected in the bank statement, as to whether the acceptance of deposits or loans or specified advance has been made through cheque, bank draft or not. It is thus desirable that the auditor should obtain suitable certificate from the assessee to the effect that the repayments referred to in this sub-clause were originally received by cheque or bank draft or electronic clearing system through a bank account, as the case may be. Where the reporting has been done on the basis of the certificate of the assessee, the same shall be reported as an observation in Observation/qualification para of Form No.10B, as the case may be. The auditor should make a suggested comment in his report. The suggested comment is as follows:

> *"It is not possible for me/us to verify whether loans or deposits or specified advance repaid have been taken or accepted otherwise than by an account payee cheque or account payee bank draft or use of electronic clearing system through a bank account, as the necessary evidence is not in the possession of the assessee".*

Schedule 269T: Details of repayment of any amount being loan or deposit or any specified advance exceeding the limit specified in section 269T, during the previous year?

(1) S. No

(2) Details of Payee

- **Name**
- **PAN, if available**
- **Address**

(3) Details of Transaction

- **Loan or deposit or any specified advance**
- **Amount**
- **Please specify mode of receipt [by cheque or Bank draft or use of electronic clearing system through a bank account or any other]**
- **Whether Account payee, if by cheque or bank draft?**
- **Whether Squared up?**
- **Maximum amount outstanding**

(4) Mode of Repayment

- **By cheque or Bank draft or use of electronic clearing system through a bank account or nay other mode**
- **Whether account payee if by cheque or bank draft?**

42.10 The particulars required to be reported in the “Schedule 269ST" are self-explanatory and should be reported accordingly.

43. Signature and Stamp/Seal of the signatory

43.1 Audit report under section 12A/10(23C) has to be signed by the person competent to sign Form No. 10BB or Form No. 10B as the case may be. As per the notified form (s) the auditor has also to give his full name, address, membership number, firm registration number, wherever applicable, place and date. Where audit report is issued in soft copy, the auditor is to affix his Digital Signature.

43.2 The Auditor should issue such signed copy of audit report in Form No. 10BB or 10B and annexure containing Statement of prescribed particulars to the assessee.

44. Furnishing of Audit Report

44.1 Every charitable or religious trust or institution claiming income not included in total income under section 11 or 12 or any fund or institution or trust or any university or other educational institution or any hospital or other medical institution claiming income not includible in total income under sub-clauses (iv)/(v)/(vi)/(via) of section 10(23C) needs to get its books of account audited mandatorily under the Income-tax Act,1961. Rule 16CC and Rule 17B of the Income-tax Rules, 1962 as amended by the Income Tax Amendment (3rd Amendment) Rules, 2023 governed the provisions related to the audit of trusts mentioned above.

44.2 Form No. 10BB or Form No. 10B, as the case may be, along with the prescribed particulars in the annexures is to be uploaded on the website of the Income Tax Department and should be digitally signed by the Auditor. The assessee is required to accept the audit report. The provisions of the Information Technology Act, 2000 assume importance in this regard. It is important to note that these forms do not state that they have to be signed digitally or electronically. The forms are required to be uploaded with digital signatures. It should be kept in mind by the Auditor that the time and date of signature is automatically captured whenever the electronic signature is affixed and this date should tally with the manual date, if any, written in the hard copy of the Form No 10BB or 10B, as the case may be.

44.3 In case of Joint Auditor(s), the present Income-tax filing options do not provide for modalities of uploading of report by all the joint auditors and in such a situation, it will be appropriate that the hard copy of the report duly signed in the manner above is given to the assessee client and a consolidated report is uploaded by one of the Auditors with a disclosure in this regard from the Joint Auditor(s).

44.4 At present, there is no specific place to mention paragraphs required by SA 700 (Revised), no mechanism to compulsorily insert UDIN prior to uploading the forms on the Income-tax website, and thus UDIN should be written in the hard copy of Form No.10BB /10B and thereafter the copy as stated above should be given to the auditee.

44.5 While due care has been taken in drafting of this **Guidance Note,** there may be issues which still remain to be addressed, especially, with regard to re-notified Forms and the requirements of the utility which will be taken up with appropriate authorities from time to time.

Appendix I

'FORM No. 10BB

[See rule 16CC and 17B]

Audit report under clause (b) of the tenth proviso to clause (23C) of section 10 and sub-clause (ii) of clause (b) of sub-section (1) of section 12A of the Income-tax Act, 1961, in the case of a fund or trust or institution or any university or other educational institution or any hospital or other medical institution which is required to be furnished under clause (b) of the tenth proviso to clause (23C) of section 10 or a trust or institution which is required to be furnished under sub-clause (ii) of clause (b) of section 12A

* I/We have examined the balance sheet of [name of the fund or trust or institution or any university or other educational institution or any hospital or other medical institution] as at and the Income and Expenditure account or Profit and Loss account for the year ended on that date are in agreement with the books of account maintained by the said fund or trust or institution or university or other educational institution or hospital or other medical institution.

* I/We have obtained all the information and explanations to the best of *my/our knowledge and belief which are necessary for the purposes of the audit.

In * my/our opinion, proper books of account have been maintained at the registered office of the above named fund or trust or institution or university or other educational institution or hospital or other medical institution at the address mentioned at row 11 of the Annexure:

In *my/our opinion and to the best of *my/our information and according to explanations given to *me/us, the particulars given in the Annexure are true and correct subject to following observations or qualifications, if any—

(a) ……..

(b) ……..

(c) ……..

In * my/our opinion and to the best of * my/our information, and according to information given to * me/us, the said accounts give a true and fair view—

(i) in the case of the balance sheet, of the state of affairs of the above named * fund or trust or institution or university or other educational institution or hospital or other medical institution as on; and

(ii) in the case of the Income and Expenditure account or Profit and Loss account, of the income and application/ profit or loss of its accounting year ending on ……..

subject to the following observations/qualifications—

(a) ……..

(b) ……..

(c) ……..

The prescribed particulars are annexed hereto.

Place :

Date :

Signed Accountant †

Name Membership Number

Address

Notes :

1. *Strike out whichever is not applicable. of the Chartered Accountants Act, 1949 (38 of 1949).
2. †This report has to be given by - a chartered accountant within the meaning
3. Where any of the matters stated in this report is answered in the negative, or with a qualification, the report shall state the reasons for the same.

ANNEXURE

Statement of particulars

Basic Details	1	PAN of the auditee	A B C D E 1 2 3 4 F
	2	Name of the auditee	
	3	Assessment Year	
	4	Previous Year	d d m m y y d d m m y y
Legal	5	Registered address of the auditee	
	6	Other addresses, if applicable	< refer note*>
	7	Type of the auditee	Trust ☐ Society ☐ Company ☐ Others ☐
	8	Whether the auditee is established under an instrument?	Yes/No
Management	9	(a) Details of all the Author (s)/ Founder (s)/ Settlor (s)/Trustee (s)/ Members of society/Members of the Governing Council/ Director (s)/ shareholders holding 5% or more of shareholding / Office Bearer (s) of the auditee at any time during the previous year	

Name of person	Relation <refer note#>	Percentage of shareholding case in of share-holder	Unique Identification Number	Id Code <refer note##>	Address	Whether there is any change in relation during previous year of audit Yes/No	If yes, specify the change
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)

(b) In case if any of the persons [as mentioned in row 9(a)] is not an individual, then provide the following details of the natural persons who are beneficial owners (5% or more) of such person during the previous year

Sl.No.	Name	Unique Identification Number	ID code <refer note##>	Address	Non- individual person [as mentioned in serial number no 9(a)] in which beneficial ownership held	Percentage of beneficial ownership	Whether there is any change in relation during previous year of audit Yes/No	If yes, specify the change
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)

Commencement of activities	10	(i)	Where the auditee has been granted provisional registration or provisional approval, whether activities have commenced during the previous year	Yes/No
		(ii)	If yes in 10 (i), date of commencement of activities	d d m m y y
		(iii)	If the answer to 10(i) is yes, whether application for registration under section sub-clause (iv) of clause (ac) of sub-section (1) of section 12A or approval under clause (iii) of the first proviso to clause (23C) of section 10 has been filed?	Yes/No
		(iv)	If yes in 10(iii) above, the date of application for registration or approval	d d m m y y
Details of Place where books of accounts and other documents have	11	(i)	Whether the books of account and other documents have been kept and maintained in the form and manner and at such place as prescribed under rule 17AA by the auditee?	Yes/No
		(ii)	If Yes in (i) above, whether books of account maintained are maintained at registered office?	Yes/No
		(iii)	If No in (ii) above, provide the following details regarding any place other than the registered place where the books of account are maintained	
			(a) Address of such place where the books are maintained	
			(b) Date of decision by management to keep account at such place	dd/mm/yyyy
			(c) Date of intimation to Assessing Officer that accounts are kept at such place under proviso to sub-rule (3) of rule 17AA	dd/mm/yyyy
Voluntary contributions	12		Whether auditee has filed Form No. 10BD for the previous year < If No then skip to serial number 14 >	Yes/No
	13		Sum total of donations reported in Form No. 10BD furnished by the auditee for the previous year	Amount in Rs.
	14		Donations not reported in Form No 10BD/ Not required to fill Form No. 10BD	Amount in Rs.
	15		Total voluntary contributions received by the auditee during the previous year [13+14)]	Amount in Rs.
	16		Total Foreign Contribution out of the total voluntary contributions stated in 15	Amount in Rs.
	17		Voluntary Contribution forming part of corpus (which are included in 15)	Amount in Rs.
	18		Anonymous donations taxable @30% under section 115BBC	Amount in Rs.
	19		Application outside India for which approval as per the proviso to clause (c) of sub-section (1) of section 11 has been obtained	Amount in Rs.
	20		Voluntary contributions required to be applied by the auditee during the previous year [15-(17+18+19)]	Amount in Rs.
	21		Income other than voluntary contributions derived from property held under the trust referred to in section 11 or income of fund or institution or trust or any university or other educational institution or any hospital or other medical institution other than the contribution reported in serial number 15	Amount in Rs.
	22.		Income required to be applied in India by the auditee during the previous year [20+21]	Amount in Rs.

Application of Income	23.	Application of income (excluding application not eligible and reported under serial number 27)		
	(i)	Total amount applied for charitable or religious purposes in India during the previous year	Amount in Rs.	
	(ii)	Amount which was not actually paid during the previous year [if included in (i)]	Amount in Rs.	
	(iii)	Amount actually paid during the previous year which accrued during any earlier previous year but not claimed as application of income in earlier previous year	Amount in Rs.	
	(iv)	Total amount to be allowed as application [23(i)- 23(ii) +23(iii)]	Amount in Rs.	
	(v)	Amount invested or deposited back in corpus which was applied during any preceding previous year and not claimed as application during that previous year	Amount in Rs. < >	
	(vi)	Repayment of loan or borrowing during the previous year which was earlier applied and not claimed as application during that previous year	Amount in Rs.	
	Amount to be disallowed from application			
	(vii)	Amount disallowable under thirteenth proviso to clause (23C) of section 10 or Explanation 3 to sub-section (1) of section 11 read with sub-clause (ia) of clause (a) of section 40	Amount in Rs. < Fill schedule TDS Disallowed>	
	(viii)	Amount disallowable under thirteenth proviso to section 10(23C) or Explanation 3 to sub-section (1) of section 11 read with sub-section (3) or (3A) of section 40A	Amount in Rs. < Fill schedule40A(3)/schedule 40A(3A)>	
	(ix)	Donation to any fund or institution or trust or any university or other educational institution or any hospital or other medical institution referred to in sub - clauses (iv), (v), (vi) or (via) of clause (23C) of section 10 of the Act or any trust or institution referred to in sections 11 or 12 of the Act towards corpus	Amount in Rs.	
	(x)	Donation to Any fund or institution or trust or any university or other educational institution or any hospital or other medical institution referred to in sub - clauses (iv), (v), (vi) or (via) of clause (23C) of section 10 of the Act or any trust or institution referred to in sections 11 or 12 of the Act not having same objects	Amount in Rs.	
	(xi)	Donation to any person other than any fund or institution or trust or any university or other educational institution or any hospital or other medical institution referred to in sub - clauses (iv), (v), (vi) or (via) of clause (23C) of section 10 of the Act or any trust or institution referred to in sections 11 or 12 of the Act	Amount in Rs.	
	(xii)	Application outside India for which approval under the proviso to clause (c) of sub-section (1) of section 11 has not been obtained	Amount in Rs.	
	(xiii)	Application outside India for which approval under the proviso to clause (c) of sub-section (1) of section 11 has been obtained	Amount in Rs.	
	(xiv)	Applied for any purpose beyond the objects of the trust or institution	Amount in Rs.	
	(xv)	Any other disallowance	Amount in Rs.	

		(xvi)	Total allowable application [{23(iv)+23(v)+23(vi) – {23(vii) to 23(xv)}]					Amount in Rs.
		(xvii)	Amount deemed to have been applied during the previous year under clause (2) of Explanation 1 to sub-section (1) of section 11					Amount in Rs.
		(xviii)	Income accumulated under the provisions of Explanation 3 to the third proviso to clause (23C) of section 10 or sub-section (2) of section 11					Amount in Rs.
		(xix)	Income accumulated or set apart for application to charitable or religious purposes or stated objects of trust or institution to the extent it does not exceed 15 % of the income					Amount in Rs.
	24.		Taxable income 22- [23(xvi) to 23(xix)]					Amount in Rs.
	25.		Income taxable under section 115BBI					Amount in Rs.
	26.		Anonymous donation which is chargeable to tax @ 30 % under section 115BBC					Amount in Rs.
Application of income out of different sources	27.		Application of income out of the following sources during the previous year					Amount in Rs.
		(A)	Income accumulated under the third proviso to clause (23C) of section 10 or under sub-section (2) of section 11 during any earlier previous year					Total Amount (Rs.)
		(B)	Income deemed to be applied in any preceding year under clause (2) of *Explanation* 1 to sub-section (1) of section 11 during any earlier previous year					Total Amount (Rs.)
		(C)	Income of earlier previous years up to 15% accumulated or set apart					Total Amount (Rs.)
		(D)	Corpus					Total Amount (Rs.)
		(E)	Borrowed fund					Total Amount (Rs.)
		(F)	Any other (please specify)					Total Amount (Rs.)
Person referred to in 13(3)	28.		Details of specified person** as referred to in sub-section (3) of section 13					
			Code of person referred to in sub-section (3) of section 13 <Refer Note^^>	Name of such person	PAN of such person	Aadhar number of such person, if allotted	Address of such person	If code 2 selected in column (1) specify the amount of contribution made to the auditee
	29.		Details of income/property referred to in section 13 (2)					
	(a)		Whether any part of the income or property of the auditee is, or continues to be, lent to any specified person for any period during the previous year without either adequate security or adequate interest or both				Yes/No	If yes amount in Rs.
	(b)		Whether any land, building or other property of the auditee is, or continues to be, made available for the use of any specified person, for any period during the previous year without charging adequate rent or other compensation				Yes/No	If yes amount in Rs.

	(c)	Whether any amount is paid by way of salary, allowance or otherwise during the previous year to any specified person out of the resources of the auditee for services rendered by that person to such auditee and the amount so paid is in excess of what may be reasonably paid for such services	Yes/No	If yes amount in Rs.
	(d)	Whether the services of the auditee are made available to any specified person during the previous year without adequate remuneration or other compensation	Yes/No	If yes amount in Rs.
	(e)	Whether any share, security or other property is purchased by or on behalf of the auditee from any specified person during the previous year for consideration which is more than adequate	Yes/No	If yes amount in Rs.
	(f)	Whether any share, security or other property is sold by or on behalf of the auditee to any specified person during the previous year for consideration which is less than adequate	Yes/No	If yes amount in Rs.
	(g)	Whether any income or property of the auditee is diverted during the previous year in favour of any specified person	Yes/No	If yes amount in Rs.
	(h)	Whether any funds of the auditee are, or continue to remain, invested for any period during the previous year, in any concern in which any specified person has a substantial interest	Yes/ No	If yes amount in Rs.
	30.	Whether the auditee has incurred any specified violation as referred to in Explanation 2 to the fifteenth proviso to clause (23C) of section 10 or Explanation to sub-section (4) of section 12AB and the amount of such violation	Yes/No	Amount in Rs.
		(a) Income of the auditee has been applied, other than for the objects of the trust or institution.	Yes/No	Amount in Rs.
		(b) Whether the auditee has income from profits and gains of business which is not incidental to the attainment of its objectives or separate books of account are not maintained by auditee in respect of the business which is incidental to the attainment of its objectives.	Yes/No	Amount in Rs.
		(c) Whether the auditee, referred to in clause (a) of sub-section (1) of section 13, has applied any part of its income from the property held under a trust for private religious purposes, which does not enure for the benefit of the public.	Yes/No	Amount in Rs.
		(d) Whether the auditee, referred to in clause (b) of sub-section (1) of section 13, has applied any part of its income for the benefit of any particular religious community or caste.	Yes/No	Amount in Rs.
		(e) Whether any activity being carried out by the auditee is not genuine or is not being carried out in accordance with all or any of the conditions subject to which it was registered.	Yes/No	Amount in Rs.
		(f) Whether the auditee has not complied with the requirement of any other law, for the time being in force, and the order, direction or decree, by whatever name called, holding that such non- compliance has occurred, has either not been disputed or has attained finality.	Yes/No	
	31.	Whether there is any claim of depreciation or otherwise has been made in terms of Explanation 1 to clause (23C) of section 10 or sub-section (6) of section 11 in respect of any asset, acquisition of which has been claimed as an application of income and the amount of such depreciation?	Yes/No	If yes specify the amount
	32.	Whether the auditee is required to deduct or collect tax as per the provisions of Chapter XVII-B or Chapter XVII-BB	(If yes, fill Schedule TDS/TCS/ Interest on TDS/TCS as applicable)	

Schedules to fill as may be applicable < refer to instructions> Form 10BB					
Schedule TDS disallowable: Details of amounts inadmissible and amount disallowable under thirteenth proviso to clause (23C) of section 10 or sub-section (1) of section 11 read with sub-clause (ia) of clause (a) of section 40:					
(a) Details of payment on which tax is not deducted					
Date of Payment dd/mm/yyyy	Amount of payment (in Rs.)	Nature of payment	Name of payee	PAN or Aadhar of payee, if available	Address of payee
(1)	(2)	(3)	(4)	(5)	(6)

(b) Details of payment on which tax has been deducted but has not been paid on or before the due date specified in sub- section (1) of section 139							
Date of Payment dd/mm/ yyyy	Amount of payment (in Rs.)	Nature of payment	Name of Payee	PAN or Aadhar of payee, if available	Address of payee	Amount of tax deducted	Amount out of (7) deposited, if any
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)

Schedule 40A(3): Details of amount is disallowable under thirteenth proviso to section 10(23C) or Explanation 3 to sub-section (1) of section 11 read with sub-section (3) of section 40A						
S. No.	Date of payment	Amount of payment (In Rs)	Nature of payment (In Rs)	Details of payee		
				Name	PAN or Aadhar, if available	Address

Schedule 40A(3A): Details of Amount disallowable under thirteenth proviso to section 10(23C) or sub-section (1) of section 11 read with sub-section (3A) of section 40A						
S. No.	Date of payment	Amount	Nature	Details of payee		
				Name	PAN or Aadhar, if available	Address

Schedule TDS/TCS									
Tax deduction and collection account number (TAN)	Section	Nature of payment	Total amount of payment or receipt of he nature specified in column (3)	Total amount on which tax was required to be deducted or collected out of (4)	Total amount on which tax was deducted or collected at specified rate out of (5)	Amount of tax deducted or collected out of (6)	Total amount on which tax was deducted or collected at less than specified rate out of (7)	Amount of tax deducted or collected on (8)	Amount of tax deducted or collected but not deposited to the credit of the Central Government out of (6) and (8)
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)

Schedule Statement of TDS or TCS				
Tax deduction and collection account number (TAN)	Type of Form	Due date for furnishing	Date of furnishing, if furnished	Whether the statement of tax deducted or collected contains information about all transactions which are required to be reported
(1)	(2)	(3)	(4)	(5)

Schedule Interest on TDS/TCS			
Tax deduction and collection account number (TAN)	Amount of interest under section 201(1A) or 206C(7) is payable	Amount paid out of column (2).	Date of payment of amount
(1)	(2)	(3)	(4)

Notes to Form 10BB

1. Any fund or institution or trust or any university or other educational institution or any hospital or other medical institution referred to in sub - clauses (iv), (v), (vi) or (via) of clause (23C) of section 10 of the Act or any trust or institution referred to in sections 11 or 12 of the Act shall be referred as "auditee" in this form;

2. **Any person referred to in sub-section (3) of section 13 shall be referred as specified person in this form;

3. *In serial number 6, provide the address which has been decided by the management by way of a resolution and which has been intimated to the jurisdictional Assessing Officer in writing within seven days of such resolution as per the proviso to sub- rule (3) of rule 17AA;

4. #In serial number 9(a), in column (2) for relation one or more of the following codes shall be selected

S. No	Section	Code
(1)	Author	1
(2)	Founder	2
(3)	Settlor	3
(4)	Trustee	4
(5)	Members of society	5
(6)	Members of the Governing Council	6
(7)	Director	7
(8)	Shareholders holding 5% or more of shareholding	8
(9)	Office Bearer (s)	9
(10)	Others	10

5. ##In serial number 9(a), in column (5), and in serial number 9(b), in column (4) for unique identification number and if code, the following should be filled:

   (c) If PAN or Aadhar number is available, the same should be mandatorily filled and the following ID code shall be filled:

Type of Identification	Code
PAN	1
Aadhar Number	2

   (d) If neither PAN or Aadhar is available, one of the following should be filled:

Type of Identification	Code
Taxpayer Identification Number of the country where the person resides;	3
Passport number;	4
Elector's photo identity number	5
Driving License number	6
Ration card number	7

6. In serial number 28, select one or more of the following codes for specified person:

S. no	Nature of person	Code
(1)	the author of the trust or the founder of the institution;	1
(2)	any person who has made a substantial contribution to the trust or institution, that is to say, any person whose total contribution up to the end of the relevant previous year exceeds fifty thousand rupees;	2

(3)	where such author, founder or person is a Hindu undivided family, a member of the family;	3
(4)	any trustee of the trust or manager (by whatever name called) of the institution;	4
(5)	any relative of any such author, founder, person, member, trustee or manager as aforesaid;	5
(6)	any concern in which any of the persons referred above have a substantial interest.	6

[Notification No. 7/2023 [F. No.370142/47/2023-TPL]

Note. – The principal rules were published in the Gazette of India, Extraordinary , Part-II, Section 3, Sub-section (ii) vide notification number S.O. 969(E), dated the 26th March, 1962 and was last amended vide notification number G.S.R. 95 (E), dated 14th February, 2023.

[1][FORM No. 10B

[See rules 16CC and 17B]

Audit report under clause (b) of the tenth proviso to clause (*23C*) of section 10 and sub-clause (*ii*) of clause (*b*) of sub- section (1) of section 12A of the Income-tax Act, 1961, in the case of a fund or trust or institution or any university or other educational institution or any hospital or other medical institution.

* I/We have examined the balance sheet of [name of the fund or trust or institution or any university or other educational institution or any hospital or other medical institution] as at ..... and the Income and Expenditure account or Profit and Loss account for the year ended on that date are in agreement with the books of account maintained by the said fund or trust or institution or university or other educational institution or hospital or other medical institution.

* I/We have obtained all the information and explanations to the best of *my/our knowledge and belief which are necessary for the purposes of the audit.

In * my/our opinion, proper books of account have been maintained at the registered office of the above named fund or trust or institution or university or other educational institution or hospital or other medical institution at the address mentioned at serial number 14 of the Annexure :

In *my/our opinion and to the best of *my/our information and according to explanations given to *me/us, the particulars given in the Annexure are true and correct subject to following observations or qualifications—

(a) .....

(b) .....

(c) .....

In * my/our opinion and to the best of * my/our information, and according to information given to * me/us, the said accounts give a true and fair view—

(i) in the case of the balance sheet, of the state of affairs of the above named * fund or trust or institution or university or other educational institution or hospital or other medical institution as on _____ ;and

(ii) in the case of the Income and Expenditure account or Profit and Loss account, of the income and application or profit or loss of its accounting year ending on .....

[1] Substituted by the IT Amdt. (Third Amdt.) Rules, 2023, w.e.f. **1-4-2023**.

subject to the following observations/qualifications—

(a) ……..

(b) ……..

(c) ……..

The prescribed particulars are annexed hereto.

Place .

Date .

Notes :

Signed Accountant †

Name Membership Number

Address

1. *Strike out whichever is not applicable.
2. †This report has to be given by - a chartered accountant within the meaning of the Chartered Accountants Act, 1949 (38 of 1949).
3. Where any of the matters stated in this report is answered in the negative, or with a qualification, the report shall state the reasons for the same.

ANNEXURE
Statement of particulars

Basic Details	1.	PAN of the auditee		A	B	C	D	E	1	2	3	4	F		
	2.	Name of the auditee													
	3.	Assessment Year													
	4.	Previous Year		d	d	m	m	y	y	y	y				
			To												
				d	d	m	m	y	y	y	y				
	5.	Registered Address of the auditee													
	6	Other addresses, if applicable	< refer note*>												
	7	Type of the auditee	Trust ☐ Society ☐ Company ☐ Others ☐												
	8.	Whether the auditee is established under an instrument?	Yes/No												

Registration Details	9.	Details of registration/provisional registration or approval/ provisional approval or notification of the auditee under the Income-tax Act (details of all the registration/provisional registration/approval/provisional approval/notification which are valid during the previous year should be provided, however where the auditee has got the registration/approval after provisional registration/approval the details of provisional registration/approval need not be provided)				
		Section under which registered/provisionally registered or approved/ provisionally approved/notified (refer note **)	Date of registration/provisional registration or approval/ provisionally approval/ notification	Registration/Approval/ Notification/ Unique Registration No. (URN), if available	Authority granting registration/provisional registration or approval/provisional approval or notification	Date from which registration//provisional registration/approval/provisional approval/notification is effective
			(dd/mm/yyyy)			(dd/mm/yyyy)
		(1)	(2)	(3)	(4)	(5)

Management	10.	(a) Details of all the Author (s)/ Founder (s)/ Settlor (s)/Trustee (s)/ Members of society/Members of the Governing Council/ Director (s)/ shareholders holding 5% or more of shareholding / Office Bearer (s) of the auditee at any time during the previous year							
		Name of person	Relation < refer note#>	Percentage of shareholding in case of shareholder	Unique Identification Number	Id Code <refer note##>	Address	Whether there is any change in relation during previous year of audit Yes/No	If yes, specify the change
		(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)

		(b) In case if any of the persons [as mentioned in row 10(a)] is not an individual, then provide the following details of the natural persons who are beneficial owners (5% or more) of such person at any time during the previous year								
	Sl. No.	Name	Unique Identification Number	ID code < refer note##>	Address	Non-individual person [as mentioned in row no 10(a)] in which beneficial ownership held	Percentage of beneficial ownership	Whether there is any change during previous year of audit Yes/No	If yes, specify the change
	(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
Objects	11.	Objects of the auditee					Refer Note$		
	12.	(i) Whether the auditee, being a trust or institution referred to in section 11 or 12, has adopted or undertaken modification of the objects which do not conform to the conditions of registration?					Yes/No		
		(ii) If yes, please furnish following information:-							
		(A) date of such modification/ adoption (DD/MM/YYYY)							
		(B) Whether an application for registration has been made in the prescribed form and manner within the stipulated period of thirty days from the date of said adoption or modification, as per sub-clause (v) of clause (ac) of sub-section (1) of section 12A.					Yes/No		
		(C) If yes provide the following details regarding application for registration under sub-clause (v) of clause (ac) of sub-section (1) of section 12A							
		S. No	Date of Application	Status of registration in pursuance of application		Date of Registration or cancellation based on such application		URN of such registration	
				(Pending/Registration granted/Registration cancelled)		(dd/mm/yyyy)			
Commencement of activities	13.	(i) Where the auditee has been granted provisional registration or provisional approval, whether activities have commenced during the previous year						Yes/No	
		(ii) If yes in 13 (i) , date of commencement of activities						d d m m y y y y	
		(iii) If the answer to 13(i) is yes, whether application for registration under sub-clause (iii) of clause (ac) of sub-section (1) of section 12A or application for approval under clause (iii) of the first proviso to clause (23C) of section 10 has been filed?						Yes/No	
		(iv) If yes in 13(iii) above, provide the following details regarding application for registration under section sub-clause (iii) of clause (ac) of sub- section (1) of section 12A or application for approval under clause (iii) of the first proviso to clause (23C) of section							
		S. No	Date of Application	Status of registration in pursuance to application (Pending/ Registration granted/Registration cancelled)		Date of Registration /Cancellation based on such application (dd/mm/yyyy)		URN of such registration	

Advancement of General Public Utility	14.	(i)	Whether the books of account and other documents have been kept and maintained in the form and manner and at such place as prescribed under rule 17AA by the auditee									Yes/No	
		(ii)	Provide the following details of the books of account and other documents										
		S. No	Nature Books of Account <Refer Note$$>	Whether maintained by the auditee (Yes/No)	Whether maintained in a computer system, (Yes/No)	Whether maintained at registered office (Yes/No)	If maintained at any place other than the registered place						Whether the books of account have been audited (Yes/No)
								Address of such Place	Date of decision by manage ment to keep account at such place	Date of intimation to Assessing Officer that books of accounts are kept at such place under proviso to sub- rule (3) of rule 17AA			
		(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)			
	15.	Where, in any of the projects/institutions run by auditee, one of the charitable purposes is advancement of any other object of general public utility then, -											
		(A)	Whether any activity is being carried on by the auditee which is in the nature of trade, commerce or business referred to in proviso to clause (15) of section 2?									Yes/No	
		(B)	If yes, then percentage of receipt from such activity vis-à-vis total receipts									%	
		(C)	Whether such activity in the nature of trade, commerce or business is undertaken in the course of actual carrying out of such advancement of any other object of general public utility									Yes/No	
		(D)	Whether there is any activity of rendering any service in relation to any trade, commerce or business for any consideration as referred to in proviso to clause (15) of section 2?									Yes/No	
		(E)	If yes, then percentage of receipt from such activity vis-à-vis total receipts									%	
		(F)	Whether such activity of rendering service is undertaken in the course of actual carrying out of such advancement of any other object of general public utility									Yes/No	
	16.	If 'A' or 'D' in 15 is Yes, the aggregate annual receipts from such activities in respect of that project/institution											

Details of Plac
other documen

			S.No	Name of Project/ Institution	Amount of aggregate annual receipts from activities referred in 15A and 15D (In Rs.)								
			Total										
Business Undertaking	17.	(i)	Whether the auditee has any business undertaking as referred to in sub-section (4) of section 11										Yes/No
		(ii)	If yes, then provide the following details of the business undertaking:										
			(a)	Nature of Business Undertaking									
			(b)	Business Code									
			(c)	Whether separate books of account have been maintained for the business undertaking <refer note^>									Yes/No
			(d)	Income from the business undertaking for the previous year which is not to be included in the total income of the auditee as per sub-section (4) of section 11									Amount in Rs.
			(e)	Income from the business undertaking for the previous year which is to be included in the total income of the auditee as per sub-section (4) of section 11									Amount in Rs.
Business Incidental to Objects	18.	(i)	Whether the auditee has any income being profits and gains from any business as referred in seventh proviso to Clause (23C) of section 10 or sub-section (4A) of section 11, as the case may be										Yes/No
		(ii)	If yes, then provide the following details of such business:										Yes/No
			(a)	Nature of Business									
			(b)	Business Code									
			(c)	Whether separate books of account have been maintained for the business <refer note^>									Yes/No
			(d)	Whether the business is incidental to the attainment of the objects of the auditee									Yes/No
			(e)	Profits and gains from the business during the previous year									Amount in Rs.
TDS on receipts	19.	Details of the receipts of the auditee on which tax has been deducted at source referred to in section 194C or 194J or 194H or 194Q :											
		S. No.	Name of the deductor	TAN of deductor	Amount on which tax has been deducted at source (In Rs.)	Amount of tax deducted at source	Section under which tax has been deducted at source	Category of income/receipt				Income/receipt in column 7 or 8 which is from business incidental to the attainment of the objects of the auditee.	Whether separate books of account have been maintained for activities income/receipt which is mentioned in column 10
								Trade, commerce or business (Rs.)	Activity of rendering any service in relation to any trade, commerce or business	Others (specify the nature) (Rs.)			

														(In Rs.)	(Yes/No)
	(1)	(2)	(3)	(4)	(5)	(6)	(7)			(8)	(9)			(10)	(11)
	20.	Whether the provisions of twenty second proviso to clause (23C) of section 10 or sub-section (10) of section 13 are applicable.													Yes/No
	21.	Whether auditee has filed Form No. 10BD for the previous year < If No then skip to row 23 >													Yes/No
	22.	Total Sum of donations reported in Form No. 10BD furnished by the auditee for the previous year													(Amount in Rs.)
	23.	Donations not reported in Form No. 10BD /Not required to fill Form No. 10BD													
Voluntary contributions		(i)	Donations received by fund or trust or institution of the auditee which is approved under clause (b) of sub-section (2) of section 80G												Amount in Rs.
		(ii)	Donations received by fund or trust or institution of the auditee which qualifies for deduction under section 80G (other than those donations qualifying under clause (b) of sub-section (2) of section 80G or sub-clause (iv) of clause (a) of sub-section (2) of section 80G)												Amount in Rs.
		(iii)	Donations received by fund or trust or institution of the auditee approved under sub-clause (iv) of clause (a) of sub-section (2) of section 80G and which are not eligible under sub-section (5) of section 80G					(a)	Cash donations exceeding Rs. 2000						Amount in Rs.
								(b)	Donations received from other charitable trusts and institution or from any fund or institution or trust or any university or other educational institutions or any hospital or other medical institution not eligible for deduction						Amount in Rs.
								(c)	Others < Specify the nature>						Amount in Rs.
								(d)	Total (a)+(b)+(c)						Amount in Rs.
		(iv)	Donations which could not be reported in Form No 10BD due to non-availability of identification of donor as required under Form No. 10BD												Amount in Rs.
		(v)	Donations received in kind												Amount in Rs.
		(vi)	Anonymous Donations referred to in section 115BBC												
			(a)	Amount of anonymous donation not taxable under section 115BBC on account of applicability of clause (i) of sub-section (1) of section 115BBC											Amount in Rs.
			(b)	Amount of anonymous donation not taxable under section 115BBC on account of applicability of clause (a) of sub-section (2) of section 115BBC											Amount in Rs.
			(c)	Amount of anonymous donation not taxable under section 115BBC on account of applicability of clause (b) of sub-section (2) of section 115BBC											Amount in Rs.
			(d)	Other anonymous donations taxable @ 30 % under section 115BBC											Amount in Rs.
			(e)	Total (a+b+c+d)											Amount in Rs.
		(vii)	Any other voluntary contribution not part of Form No. 10BD							<Please specify the nature>					Amount in Rs.
		(viii)	Total donation not reported in Form No. 10BD [23(i)+23(ii)+23(iii)(d) +23(iv)+23(v)+23(vi)(e)+23(vii)]												Amount in Rs.

	24.	Total voluntary contributions received by the auditee during the previous year [22+23(viii)]						Amount in Rs.	
	25.	Total foreign contribution out of the total voluntary contributions stated in 24						Amount in Rs.	
	26.	Voluntary Contribution forming part of corpus (which are included in 24)						Amount in Rs.	
		(A)	Corpus representing donations received for the renovation or repair of places notified under clause (b) of sub-section (2) of section 80G eligible for exemption under Explanation 1A to the third proviso to clause (23C) of section 10 or Explanation 3A to sub-section (1) of section 11					Amount in Rs. < Fill Schedule Corpus>	
		(B)	Corpus donations as referred to in clause (d) of sub-section (1) of section 11 or Explanation 1 to the third proviso to section 10 (23C) eligible for exemption and invested in modes specified under sub-section (5) of section 11					Amount in Rs. < Fill Schedule Corpus>	
	27.	Voluntary Contributions required to be applied by the auditee during the previous year [24-[23(vi)(d)+26A+ 26B)]						Amount in Rs.	
Income to be applied	28.	Income other than voluntary contributions derived from property held under trust referred to in section 11 or income of fund or institution or trust or any university or other educational institution or any hospital or other medical institution (other than the contribution reported in serial number 24)						Amount in Rs.	
	29.	Income applied outside India which is eligible under clause (c) of sub-section (1) of section 11						Amount in Rs. < Fill Schedule Int App>	
	30.	Income required to be applied in India by the auditee during the previous year [27+28-29]						Amount in Rs.	
Application of Income	31.	Application of Income (excluding application not eligible and reported under serial number 37)							
		(i)	Total amount applied for charitable or religious purposes in India during the previous year				+Electronic (In Rs)	Other than Electronic (In Rs.)	
			(a)	Contribution or donation to any other person during the previous year					
				Object wise application other than the application provided in (a)					
					(I)	Religious		Amount in Rs.	
					(II)	Relief of poor		Amount in Rs.	
					(III)	Education		Amount in Rs.	
					(IV)	Medical relief		Amount in Rs.	
					(V)	Yoga		Amount in Rs.	
			(b)	(VI)	Preservation of environment (including watersheds, forests and wildlife)			Amount in Rs.	
				(VII)	Preservation of monuments or places or objects of artistic or historic interest			Amount in Rs.	
				(VIII)	Advancement of any other objects of general public utility			Amount in Rs.	
				(IX)	Application which cannot be specifically categorised under (I) to (VIII)			Amount in Rs.	
				(X)	Total			Amount in Rs.	

		(c)	Total application [(a) + (b)/(X)]							Amount in Rs.	
	(ii)	Details of application out of (i) (a) and (i) (b) resulting in payment in excess of Rs. 50 lakh during the previous year to any person									
	S.No.	Name of person to whom amount paid or credited	PAN of such person	Amount of application (Rs)	Mode of application					Whether any TDS has been deducted Yes/No	
					+Electronic modes (Rs.)	Other than Electronic modes (Rs.)	Total				
	(iii)	Amount which was not actually paid during the previous year [if included in (i)(c)]								Amount in Rs.	
	(iv)	Amount actually paid during the previous year which accrued during any earlier previous year but not claimed as application of income in earlier previous year								Amount in Rs.	
	(v)	Total amount to be allowed as application [31(i)(c)- 31(iii) +31(iv)]								Amount in Rs.	
	(vi)	Bifurcation of application in 31(v) into Revenue or Capital								Amount in Rs.	
		(a)	Revenue							Amount in Rs.	
		(b)	Capital							Amount in Rs.	
	(vii)	Amount invested or deposited back in corpus which was applied during any preceding previous year and not claimed as application during that previous year.								Amount in Rs. < fill Schedule Corpus>	
	(viii)	Repayment of loan or borrowing during the previous year which was earlier applied and not claimed as application during that previous year during that previous year.								Amount in Rs. < fill Schedule LB>	
	Amount to be disallowed from application										
	(ix)	Amount disallowable under thirteenth proviso to clause (23C) of section 10 or Explanation 3 to sub- section (1) of section 11 read with sub-clause (ia) of clause (a) of section 40								Amount in Rs. < fill schedule TDS>	
	(x)	Amount disallowable under thirteenth proviso to section 10(23C) or Explanation 3 to sub-section (1) of section 11 read with sub-section (3) or (3A) of section 40A								Amount in Rs. < fill schedule 40A(3)/ schedule 40A(3A)>	
	(xi)	Donation to any fund or institution or trust or any university or other educational institution or any hospital or other medical institution referred to in sub - clauses (iv), (v), (vi) or (via) of clause (23C) of section 10 of the Act or any trust or institution referred to in section 11 or 12 of the Act towards Corpus								Amount in Rs.	
	(xii)	Donation to 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), (v), (vi) or (via) of clause (23C) of section 10 of the Act or any trust or institution referred to in section 11 or 12 of the Act not having same objects .								Amount in Rs.	

		(xiii)	Donation to any person other than 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), (v), (vi) or (via) of clause (23C) of section 10 of the Act or any trust or institution referred to in sections 11 or 12 of the Act	Amount in Rs.	
		(xiv)	Application outside India for which approval under proviso to clause (c) of sub-section (1) of section 11 has not been obtained	Amount in Rs.	
		(xv)	Application outside India for which approval under proviso to clause (c) of sub-section (1) of section 11 has been obtained	Amount in Rs.	
		(xvi)	Applied for any purpose beyond the objects of the auditee	Amount in Rs.	
		(xvii)	Any other disallowance (Please specify)	Amount in Rs.	
		(xviii)	Total allowable application [{31(v)+31(vii)+31(viii) – {31(ix) to 31(xvii) }]	Amount in Rs.	
		(xix)	Amount deemed to have been applied during the previous year under clause (2) of Explanation 1 to sub - section (1) of section 11	Amount in Rs. < fill Schedule DI>	
		(xx)	Income accumulated as per the provisions of Explanation 3 to the third proviso to clause (23C) of section 10 or sub-section (2) of section 11	Amount in Rs. < fill Schedule AC>	
		(xxi)	Income accumulated or set apart for application to charitable or religious purposes or stated objects of trust or institution to the extent it does not exceed 15 % of the income	Amount in Rs.	
	32.	Taxable Income [30- {31(xviii) to 31(xxi)}]			
Section 115BBI	33.	Income taxable under section 115BBI			
		(a)	Whether the auditee has any deemed income referred to in sub-section (1B) of section 11 which is chargeable to tax @ 30 % under section 115BBI and the amount of such deemed income?	Yes/No If yes fill Schedule DI	
		(b)	Whether the auditee has any deemed income referred to in Explanation 4 to third proviso to clause (23C) of section 10 or sub-section (3) of section 11 which is chargeable to tax @ 30 % under section 115BBI and the amount of such deemed income?	Yes/No If yes fill Schedule AC	
			(i) Whether income accumulated is applied for the purposes other than charitable or religious purposes or ceases to be accumulated or set apart for application thereto	Yes/No	
			(ii) Whether such income accumulated ceases to remain invested or deposited in any of the forms or modes specified in sub-section (5) of section 11	Yes/No	
			(iii) Whether such income accumulated is not utilised for the purpose for which it is so accumulated or set apart during the period referred to in clause (a) of Explanation 3 to third proviso to clause (23C) of section 10 or clause (a) of sub-section (2) of section 11	Yes/No	
			(iv) Whether such income accumulated is credited or paid to any trust or institution registered under section 12AA or section 12AB or to any fund or institution or trust or any university or other educational institution or any hospital or other medical institution (v) or sub-clause (iv) or sub-clause (v) or sub-clause (vi) or sub-clause (via) of clause (23C) of section 10	Yes/No	
		(c)	(i) Whether the auditee has any income which is income not to be excluded from the total income under twenty first proviso to clause (23C) of section 10 or clause (c) of sub-section (1) of section 13 which is chargeable to tax @ 30 % under section 115BBI and the amount of such income	Yes/No	

		(ii)	Whether the auditee has any income which is not to be excluded from the total income under clause (b) of third proviso to clause (23C) of section 10 or clause (d) of sub-section (1) of section 13 which is chargeable to tax @ 30 % under section 115BBI and the amount of such income			Yes/No
		(d)	Whether the auditee has any income accumulated or set apart in excess of fifteen per cent. of the income where such accumulation is not allowed under any specific provision of the Act and which is chargeable to tax @ 30 % under section 115BBI and the amount of such income?			Yes/No
		(e)	Whether the auditee has made any application out of India which is not excluded from total income under clause (c) of sub-section (1) of section 11			Yes/No < If yes fill schedule Int App>
	34.		Anonymous donation which is chargeable to tax @ 30 % under section 115BBC			
Other Income	35.		**Other Income**			
		(a)	Whether the auditee has any income chargeable under section 12(2) and the amount of such income			Yes/No
		(b)	Income as per Explanation 3B to sub-section (1) of section 11 in case of violation of clause (a) or (b) or (c) or (d) of Explanation 3A to sub-section (1) of section 11 read with clause (b) of sub-section (2) of section 80G			Amount in Rs.
		(c)	Income as per *Explanation* 1B to the third proviso to clause (23C) of section 10 in case of violation of clauses (a) or (b) or (c) or (d) of *Explanation* 1A to the third proviso to clause (23C) of section 10 read with clause (b) of sub-section (2) of section 80G			Amount in Rs < Fill Schedule Corpus>
		(d)	Income chargeable under sub-section (4) of section 11			Amount in Rs.
Capital Asset	36.		Details of capital asset transferred under sub-section (1A) of section 11			
		(1)	Whether a capital asset being property held under trust wholly for charitable or religious purpose is transferred and the net consideration for which it is transferred?		Yes/No	Amount in Rs.
		(2)	Whether deemed application is claimed as per clause (a) of sub-section (1A) of section 11 and the amount of such deemed application?		Yes/No	Amount in Rs.
		(3)	Whether a capital asset being property held under trust in part only for charitable or religious purpose is transferred and the net consideration for which it is transferred?		Yes/No	Amount in Rs.
		(4)	Whether deemed application is claimed as per clause (b) of sub-section (1A) of section 11 and the amount of such deemed application?		Yes/No	Amount in Rs.
Application of income out od different sources	37.		Application of income out of the following sources during the previous year			
		(A)	Income accumulated under third proviso to clause (23C) of section 10 or under sub-section (2) of section 11 during any earlier previous year	+Electronic modes (Rs.)	Other than Electronic modes (Rs.)	Total Amount (Rs.) < Fill schedule AC>
		(B)	Income deemed to be applied in any preceding year under clause (2) of Explanation 1 to sub-section (1) of section 11 during any earlier previous year	+Electronic modes (Rs.)	Other than Electronic modes (Rs.)	Total Amount (Rs.) < Fill schedule DI>
		(C)	Income of earlier previous years up to 15% accumulated or set apart	+Electronic modes (Rs.)	Other than Electronic modes (Rs.)	Total Amount (Rs.)
		(D)	Corpus	+Electronic modes (Rs.)	Other than Electronic modes (Rs.)	Total Amount (Rs.) < Fill Schedule Corpus>
		(E)	Borrowed fund	+Electronic modes (Rs.)	Other than Electronic modes (Rs.)	Total Amount (Rs.) < Fill Schedule LB>

		(F)	Any other (Please specify)				+Electronic modes (Rs.)	Other than Electronic modes (Rs.)					Total Amount (Rs.) < Fill Schedule LB>		
	38.	Details of application resulting in payment or credit in excess of Rs. 50 lakh during previous year to a single person out of 37													
		S.no	Name of person	PAN	Amount of application (Rs.)		Mode of Application			TDS					
							+Electronic modes	Other than Electronic modes	Total	Whether any TDS has been deducted (Yes/No)	Section under which TDS has been deducted	Amou nt of TDS			
13(10) and 22nd proviso to section 10(23C)	39.	(i)	Whether provisions of twenty second proviso to clause (23C) of section 10 or sub-section (10) of section 13 are applicable?										Yes/No		
		(ii)	If yes in (i) specify the reason why the provisions of twenty second proviso to clause (23C) of section 10 or sub -section (10) of section 13 are applicable?												
			(a)	Provision of proviso to clause (15) of section 2 is applicable									Yes/No		
			(b)	condition specified in clause (a) of tenth proviso to clause (23C) of section 10 or sub-clause (i) of clause (b) of sub-section (1) of section 12A have been violated									Yes/No		
			(c)	condition specified in clause (b) of tenth proviso to clause (23C) of section 10 or sub-clause (ii) of clause (b) of sub-section (1) of section 12A have been violated									Yes/No		
			(d)	condition specified in twentieth proviso to clause (23C) of section 10 or sub-clause (ii) of clause (ba) of sub-section (1) of section 12A have been violated									Yes/No		
		(iii)	If yes in (i), please provide computation of income chargeable under twenty second proviso to clause (23C) of section 10 or sub-section (10) of section 13												
			(a)	Income for the previous year									Amount in Rs.		
			(b)	Total Expenditure incurred in India, for the objects of the auditee,									Amount in Rs.		
			(c)	Expenditure to be disallowed											
				(i)	Expenditure from the corpus standing to the credit of the trust or institution as on the end of the financial year immediately preceding the previous year relevant to the assessment year for which income is being computed								Amount in Rs.		
				(ii)	Expenditure from any loan or borrowing								Amount in Rs.		
				(iii)	Depreciation in respect of an asset, acquisition of which has been claimed as application of income, in the same or any other previous year; and								Amount in Rs.		
				(iv)	Expenditure in the form of contribution or donation to any person.								Amount in Rs.		
				(v)	Capital expenditure								Amount in Rs.		
				(vi)	Amount disallowable under Explanation to sub-section (10) of section 13 or Explanation to twenty second								Amount in Rs.< fill schedule		

					proviso to clause (23C) of section 10 read with sub-clause (ia) of clause (a) of section 40				TDS disallowable >	
				(vii)	Amount disallowable under Explanation to sub-section (10) of section 13 or Explanation to twenty second proviso to clause (23C) of section 10 read with sub-section 3 or 3A of section 40A				Amount in Rs.< fill schedule 40A(3)/Schedul e 40A(3A)>	
				(viii)	Any other disallowance				Amount in Rs.	
				(ix)	Total expenditure to be disallowed (i)+(ii)+(iii)+(iv)+(v)+(vi)+(vii)+(viii)				Amount in Rs.	
			(d)		Income chargeable to tax under twenty-second proviso to clause (23C) of section 10 or sub-section (10) of section 13 [a – b+c((ix))]				Amount in Rs.	
Expenditure Incurred for Religious	40.	In case auditee is approved under second proviso to sub-section (5) of section 80G, please provide the following details								
		(a)	Whether any amount of expenditure incurred during the previous year which is of a religious nature and the amount of such expenditure					Yes/No	If yes specify amount in Rs.	
		(b)	Total income of auditee during the previous year						Amount in Rs.	
		(c)	Percentage of expenditure which is of religious nature to the total income [Amount in (a)/(b)]						%	
Person referred to in 13(3)	41.	Details of specified person* as referred to in sub-section (3) of section 13								
		Code of Person referred to in sub-section (3) of section 13 <Refer Note^^>		Name of such person		PAN of such person	Aadhar number of such person, if allotted	Address of such person	If code 2 selected in column (1) specify the amount of contribution made to the auditee	
	42.	**Details of transactions referred to in section 13 (2)**								
	(a)	Whether any part of the income or property of the auditee is, or continues to be, lent to any specified person for any period during the previous year without either adequate security or adequate interest or both							Yes/No < If yes, fill Schedule SP-a>	
	(b)	Whether any land, building or other property of the auditee is, or continues to be, made available for the use of any specified person, for any period during the previous year without charging adequate rent or other compensation;							Yes/No < If yes, fill Schedule SP-b >	
	(c)	Whether any amount is paid by way of salary, allowance or otherwise during the previous year to any specified person out of the resources of the trust or institution for services rendered by that person to such auditee and the amount so paid is in excess of what may be reasonably paid for such services;							Yes/No < If yes, fill Schedule SP-c >	
	(d)	Whether the services of the auditee are made available to any specified person during the previous year without adequate remuneration or other compensation;							Yes/No < If yes, fill Schedule SP-d >	
	(e)	Whether any share, security or other property is purchased by or on behalf of the auditee from any specified person during the previous year for consideration which is more than adequate;							Yes/No < If yes, fill Schedule SP-e1/e2>	
	(f)	Whether any share, security or other property is sold by or on behalf of the auditee to any specified person during the previous year for consideration which is less than adequate;							Yes/No < If yes, fill Schedule SP-f1/f2>	
	(g)	Whether any income or property of the auditee is diverted during the previous year in favour of any specified person							Yes/No < If yes, fill Schedule SP-g >	

	(h)	Whether any funds of the auditee are, or continue to remain, invested for any period during the previous year, in any concern in which any specified person has a substantial interest.				Yes/No < If yes, fill Schedule SP-h >
Specified Violation	43.	**Specified Violation**				
		Whether the auditee has incurred any specified violation as referred to in Explanation 2 to the fifteenth proviso to clause (23C) of section 10 or Explanation to sub-section (4) of section 12AB and the amount of such violation		Yes/No	Amount in Rs.	
		(a)	Income of the auditee has been applied, other than for the objects of the trust or institution.	Yes/No	Amount in Rs.	
		(b)	Whether the auditee has income from profits and gains of business which is not incidental to the attainment of its objectives or separate books of account are not maintained by auditee in respect of the business which is incidental to the attainment of its objectives.	Yes/No	Amount in Rs.	
		(c)	Whether the auditee, referred to in clause (a) of sub-section (1) of section 13, has applied any part of its income from the property held under a trust for private religious purposes, which does not enure for the benefit of the public.	Yes/No	Amount in Rs.	
		(d)	Whether the auditee, referred to in clause (b) of sub-section (1) of section 13, has applied any part of its income for the benefit of any particular religious community or caste.	Yes/No	Amount in Rs.	
		(e)	Whether any activity being carried out by the auditee is not genuine or is not being carried out in accordance with all or any of the conditions subject to which it was registered.	Yes/No	Amount in Rs.	
		(f)	Whether the auditee has not complied with the requirement of any other law, for the time being in force, and the order, direction or decree, by whatever name called, holding that such non- compliance has occurred, has either not been disputed or has attained finality.	Yes/No	< If yes, fill schedule other law violation>	
	44.	Whether there is any claim of depreciation or otherwise has been made in terms of Explanation 1 to clause (23C) of section 10 or sub-section (6) of section 11 in respect of any asset, acquisition of which has been claimed as an application of income and the amount of such depreciation?		Yes/No	If yes specify the amount	
	45.	In view of provisions of nineteenth proviso to clause (23C) of section 10 or sub-section (7) of section 11, please specify whether the trust or institution has claimed deduction under section 10 [other than clause (1), clause (23C) and clause (46) thereof] during the previous year and the amount of such claim?		Yes/No	Amount in Rs.	
	46.	Whether the auditee has taken or accepted any loan or deposit or any specified sum, exceeding the limit specified in section 269SS during the previous year?		Yes/No	Amount in Rs. (If yes, fill Schedule 269SS)	
	47.	Whether the auditee has received an amount exceeding the limit specified in section 269ST, from a person in a day; or in respect of a single transaction; or in respect of transactions relating to one event or occasion from a person during the previous year?		Yes/No	Amount in Rs. (If yes, fill Schedule 269ST)	
	48.	Whether the auditee has repaid any amount being loan or deposit or any specified advance exceeding the limit specified in section 269T, during the previous year?		Yes/No	Amount in Rs. (If yes, fill Schedule 269T)	
	49.	Whether the auditee is required to deduct or collect tax as per the provisions of Chapter XVII-B or Chapter XVII-BB?		Yes/No	(If yes, fill Schedule TDS/TCS/ Statement of TDS/TCS/ Interest on TDS/TCS as applicable)	

Schedules to fill as may be applicable < refer to instructions> Form 10B

Schedule Corpus: Details of Corpus

Type of corpus donation	Opening balance at the beginning of the previous year (Corpus not applied till the beginning of the previous year) (1)	Received/Treated as corpus during the previous year (2)	Applied during the previous year (3)	Amount invested or deposited back in to corpus (which was earlier applied and not claimed as application if such application fulfilled the conditions) (4)	Total amount invested or deposited back in to corpus (5)	Financial year in which (4) was applied earlier (6)	Closing balance (7) [(1+2 +5)-3]	Invested in modes specified in section 11(5) (8)	Amount taxed in previous assessment year (9)	Invested in modes other than specified in section 11(5) as on last day of the previous year (10)	If corpus donation is of type (i) then whether it fulfills the following conditions			
											Amount applied out of corpus for the purpose other than for which the voluntary contribution was made	Contribution or donation to any person;	Maintained as not separately identifiable	invested or deposited in the forms and modes other those specified under sub-section (5) of section 11.
(i) Representing donations received for the renovation or repair of places notified under 80G(2) (b) on or after 01.04.2020											Yes/ No	Yes/ No	Yes/ No	Yes/ No
(ii) – Other than (i) above received on or after 01.04.2021														
(iii) Other than (i) and (ii) above														

Schedule FC: Details of foreign contribution

Nature of foreign contribution received during the previous year	Amount of foreign contribution received during the previous years (In Rs.)	Details of the total application from such contribution during the previous Year Amount in Rs.
(i) Corpus		
(ii) Non- corpus		
Total		

Schedule LB: Details of Loan and Borrowing

Opening balance as on 1st April of the previous year	Loan and borrowings taken for applications towards objectives during the previous year	Applied for the objects of the trust or institution during the previous year	Amount of repayment of loan or borrowing during the previous year (which was earlier applied and not claimed as application if such application fulfilled the conditions as required)	Financial year in which (4) was applied earlier	Total repayment of loan or borrowing during the previous year (In Rs.)	Closing Balance as on 31st March (1+2-6=7)
(1)	(2)	(3)	(4)	(5)	(6)	(7)

Schedule Int App: Details of income applied outside India

S.No.	Name of the person to whom remittance is made	Taxpayer Identification Number if available	Amount of remittance out of India which is reported in Form No. 15CA (In Rs.)	Amount of remittance outside India other than (4) (In Rs.)	Charitable or religious purpose for which application is made	Country of application	Whether applied for promoting international welfare in which India is interested and is and not to be included in total income of the auditee?	If approval for application outside India has been taken		
								Approval number	General/ special	Date of approval
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)

Schedule DI: Details of deemed application under Explanation 1 to sub-section (1) of section 11 and deemed income under sub-section (1B) of section 11										
Year in which income is deemed to be applied (F.Y.)	Date of furnishing Form 9A (dd/mm/yyyy)	Amount deemed to be applied during the previous year referred to in column 1	Reason of deeming application income has not been received during that year any other reason	Out of the deemed application claimed earlier, amount required to be applied	Amount taxed in any earlier assessment year out of the amount referred to in column (5) (Fill schedule DA)	Out of the deemed application clamied, amount required to be applied during the financial year pertaining to current assessment year	Amount of deemed application claimed in earlier years, applied during the financial year relating to current AY	Amount which could not be applied and deemed to be income under section 11(1B) during the previous year	Balance Amount of deemed application
(1)	(2)	(3)	(4)	(5)	(6)	(7) =(5)-(6)	(8)	(7)-(8) = (9)	(5)-(7)=(10)
Dropdowns to be provided			*Dropdowns to be provided*						

Schedule DA: Details of accumulated income taxed in earlier assessment years as per sub-section (1B) of section 11					
	Assessment year in which the amount referred to in column (4) of schedule DI was taxed Dropdowns to be provided last five previous years beginning from the previous year preceding the current previous year				
Year of accumulation (F.Y.)	Yyyy – yyyy	Yyyy – yyyy	Yyyy – yyyy	Yyyy – yyyy	Yyyy – yyyy
Dropdowns to be provided for last five previous years beginning from the current previous year Yyyy – yyyy					
Total					

Schedule AC: The details of accumulation

S. No.	Year of accumulation (F.Y.)	Date of furnishing Form 10 dd/m m/yyy y	Amount accumulated in the year of accumulation	Purpose of accumulation	Amount applied for charitable or religious/ purposes up to the beginning of the previous year	Balance to be app lied (3)-(5)	Amount taxed in any earlier assessment (Fill sched ule ACA)	Balance avail able for application (6)-(7)	Amounts applied for charitable or religious purpose during the previous year out of previous years' accumulation	Amount applied for purposes other than the purpose for which such accumulation was made (if applicable)	Amount credited or paid to any trust or institution registered under section 12AB or approved under sub-clauses (iv)or(v)or (vi)or(via) of clause (23C) of section 10 (if applicable)	Balance amount avail able for application (8) – (9) – (10) – (11)	Amount invested or deposited in the mod es specified in section 11(5) out of (12)	Amount invested or deposited in the modes other than specified in section 11(5) out of (12) (if applicable)	Amount which is not utilised during the period of accumulation (if applicable)	Amount deemed to be income within the meaning of sub-section (3) of section 11 (if applicable) (10)+ (11)+ (14)+ (15)
	(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)	(13)	(14)	(15)	(16)
	Provide drop-down for the last seven financial years															
	Total															

Schedule ACA: Details of accumulated income taxed in earlier assessment years under sub-section (3) of section 11

Year of accumulation (F.Y.)	Assessment year in which this amount was taxed *Dropdowns to be provided last five previous years beginning from the previous year preceding the current previous year*			
	Yyyy – yyyy	Yyyy – yyyy	Yyyy – yyyy	Yyyy – yyyy
Dropdowns to be provided for last five previous years beginning from the current previous year Yyyy – yyyy				
Total				

Schedule SP-a: Whether any part of income or property of the auditee is lent, or continues to be lent, to the specified person during the previous year?									
S. No.	Name of specified person	PAN of specified person	Details		Details of Security			Details of interest	
			Nature of income or property which is lent	Amount for which income or property is, or continues to be, lent to specified person for any period during the previous year	Nature of security	Value of security	Value of adequate security	Actual rate of interest that is charged	Adequate rate of Interest
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)

Schedule SP-b: Details of land, building or other property of the auditee which is, or continues to be, made available during the previous year for use of the specified person, during the previous year :											
S. No.	Name of specified person	PAN of specified person	Details of asset		Duration for which asset is, or continues to be, made available for the use of specified person during the previous year,		Details of rent for the previous year		Details of other compensation for the previous year		
			Nature of asset	Address	From dd/mm/yy yy	To dd/mm/yyy y	Amount of rent	Adequate rent	Nature	Amount of compensation	Adequate compensation
(1)	(2)	(3)	(4) < land/ building/ other property >	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)

Schedule SP-c: Details of salary, allowance or otherwise which is paid to the specified person out of the resources of the auditee for services rendered by him during the previous year						
S. No.	Name of specified person	PAN of specified person	Nature of services rendered by specified person	Details of payment for the previous year		
				Nature of payment	Amount of payment (in Rs)	Reasonable amount for services
(1)	(2)	(3)	(4)	(5)	(6)	(7)
				< Salary/ Allowance/ Otherwise (please specify)>		

Schedule SP-d: Details of the services of the auditee are made available to the specified person during the previous year?									
S. No.	Name of specified person	PAN of specified person	Details of services		Details of remuneration for the previous year		Details of compensation for the previous year		
			Nature of services made available	Value of services made available (In Rs.)	Actual amount of remuneration for the service	Adequate remuneration for the service	Nature of compensation for the service	Actual amount of compensation for the service	Adequate compensation
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)

Schedule SP- e 1 : Details of any share, security is purchased by or on behalf of the auditee from the specified person during the previous year?													
S. No.	Name of specified person	PAN of specified person	Nature of property purchased	Details of Shares or Security					Details of other property being movable				
				Name of the company/ concern of which the shares are purchase d	Number of shares purchase d during the previous year	Price of each share/securit y	Total consideratio n paid share or security	Adequate consideratio n for shares or security	Nature of property	Number of property purchase d	Price of property	Total consideratio n paid for property during the previous year	Adequate Consideratio n
			< Share/ Security/ Other Property>										
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)	(13)	(14)

Schedule SP- e 2 : Details in case of other property being immovable:								
S. No.	Name of specified person	PAN of specified person	Type of asset	Address of property	Area (in Sq ft)	Stamp duty value	Details of Consideration	
							Amount of consideration paid for asset	Adequate consideration for asset
			< *Land/ Residential/ Commercial Property etc)*>					

Schedule SP- f 1: Details of any share, security sold by or on behalf of the trust or institution to a specified person during the previous year?													
S. No.	Name of specified person	PAN of specified person	Nature of property sold	Details of Shares or Security					Details of Other Property being Movable				
				Name of the Company or Concern of which the shares are sold	Number of shares sold during the previous year	Price of each share or security	Total consideration share/security	Adequate consideration for share or security	Nature of movable property	Number of movable properties sold	Price of movable property	Total consideration for property during the previous year	Adequate consideration
			<Share/ Security/ Other Property >										
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)	(13)	(14)

Schedule SP- f 2: Details in case of other property being immovable:								
S. No.	Name of specified person	PAN of specified person	Type of asset	Address of property	Area (in Sq ft)	Stamp Duty Value	Details of Consideration	
							Amount of consideration for asset	Adequate consideration for asset
			<Land/Residential/ Commercial Property etc>					

Schedule SP-g: Details of any income or property which is is diverted during the previous year in favour of any specified person				
S No	Name of specified person in whose favor income or property diverted	PAN of specified person	Details of Income or property that is diverted	
			Nature of Income or property that is diverted	Value of income or property that is diverted (In Rs.)
(1)	(2)	(3)	(4)	(5)

Schedule h : Details of any funds that are, or continue to remain, invested in any concern during the previous year in which the specified per son has a substantial interest											
S No		Details of the Concern in which funds are, or continue to remain, invested							Details of substantial interest		
Nature of concern in which funds are continue to remain invested	Name of concern	Address of concern	Amount that is or continues to remain invested in concern during the year (In Rs.)	duration of investment during the previous year		Nature of investment	Income from investment during the year	Name of specified person having substantial interest in concern	PAN of specified person	Nature of substantial interest	Nature of concern in which funds are continue to remain invested
				From dd/mm/yyyy	To dd/mm/yyyy						
	<Company/ Others>										

Schedule other law violation							
S.no	Name of law under which non-compliance has occurred	Nature of non-compliance	Date of order, direction or decree, holding that such non-compliance has occurred		Whether the order, direction or decree, has been disputed before any court or appellate forum	If yes, whether dispute has attained finality	Has the dispute been finalised in favour of the auditee
(1)	(2)	(3)	(4)		(5)	(6)	(7)

Schedule TDS disallowable: Details of amounts inadmissible amount disallowable under thirteenth proviso to clause (23C) of se ction 10 or sub- section (1) of section 11 read with sub-clause (ia) of clause (a) of section 40:							
(a) Details of payment on which tax is not deducted							
Date of payment dd/mm/yyyy	Amount of payment (in Rs.)	Nature of payment	Name of Payee	PAN or Aadhaar of payee, if available	Address of Payee		
(1)	(2)	(3)	(4)	(5)	(6)		
(b) Details of payment on which tax has been deducted but has not been paid on or before the due date specified in sub- section (1) of section 139							
Date of Payment Dd/mm/yyyy	Amount of payment (in Rs.)	Nature of payment	Name of Payee	PAN or Aadhaar of payee, if available	Address of Payee	Amount of tax deducted	Amount out of (7) deposited, if any
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)

Schedule 40A(3): Details of amount is disallowable under thirteenth proviso to section 10(23C) or Explanation 3 to sub-section (1) of section 11 read with sub-section (3) of section 40A						
S. No.	Date of payment	Amount of payment (In Rs.)	Nature of payment (In Rs.)	Details of payee		
				Name	PAN or aadhaar, if available	Address

Schedule 40A(3A): Details of Amount disallowable under thirteenth proviso to section 10(23C)/sub-section (1) of section 11 read with sub- section (3A) of section 40A						
S. No.	Date of payment	Amount	Nature	Details of payee		
				Name	PAN or Aadhaar, if available	Address

Schedule 269SS: Details of loan or deposit or any specified sum taken, exceeding the limit specified in section 269SS during the previous year									
S.No	Name of the lender or depositor	PAN or aadhaar, if available	Address	Loan or deposit or any specified sum	Amount of loan or deposit taken or accepted	Whether the loan or deposit was squared up during the previous year? Yes/No	Maximum amount outstanding in the account at any time during the previous year	By cheque or Bank draft or use of electronic clearing system through a bank account or any other mode	Whether account payee if by cheque or Bank draft?

[2][***Schedule 269ST: Details of amount received exceeding the limit specified in section 269ST, from a person in a day; or in respect of a single transaction; or in respect of transactions relating to one event or occasion from a person during the previous year***				
Details of Payer and amount of payment				
S. No.	*Name*	*PAN, if available*	*Address*	*Amount of payment*]

1. Substitted by the IT (Eleventh Amdt.) Rules, 2023, w.e.f. **23-6-2023**.

Schedule 269T: Details of repayment of any amount being loan or deposit or any specified advance exceeding the limit specifie d in section 269T, during the previous year?											
	Details of Payee			Details of Transaction						Mode of Repayment	
S.No	Name	PAN, if available	Address	Loan or deposit or any specified advance	Amount	Please specify mode of receipt [by cheque or Bank draft or use of electronic clearing system through a bank account or any other]	Whether Account payee, if by cheque or bank draft?	Whether Squared up?	Maximum amount outstanding	By cheque or Bank draft or use of electronic clearing system through a bank account or nay other mode	Whether account payee if by cheque or bank draft?

Schedule TDS/TCS									
Tax Deduction and Collection Account Number (TAN)	Section	Nature of payment	Total amount of payment or receipt of the nature specified in column (3)	Total amount on which tax was required to be deducted or collected out of (4)	Total amount on which tax was deducted or collected at specified rate out of	Amount of tax deducted or collected out of (6)	Total amount on which tax was deducted or collected at less than specified rate out of (7)	Amount of tax deducted or collected on (8)	Amount of tax deducted or collected but not deposited to the credit of the Central Government out of (6) and (8)
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)

Schedule Statement of TDS/TCS				
Tax deduction and collection account number (TAN)	Type of Form	Due date for furnishing	Date of furnishing, if furnished	Whether the statement of tax deducted or collected contains information about all transactions which are required to be reported
(1)	(2)	(3)	(4)	(5)

Schedule Interest on TDS/TCS			
Tax deduction and collection account number (TAN)	Amount of interest under section 201(1A) or 206C(7) is payable	Amount paid out of column (2)	Date of payment Dd/mm/yyyy
(1)	(2)	(3)	(4)

Notes to Form 10B

(1) 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*), (*v*), (*vi*) or (*vii*) of clause (23C) of section 10 of the Act or any trust or institution referred to in section 11 or 12 of the Act shall be referred as "auditee" in this form;

(2) Any person referred to in sub-section (3) of section 13 shall be referred as specified person in this form;

(3) *In serial number 6, provide the address which has been decided by the management by way of a resolution and which has been intimated to the jurisdictional Assessing Officer in writing within seven days of such resolution as per the proviso to sub-rule (3) of rule 17AA;

(4) **In serial number 9, for the section under which registered or provisionally registered or approved or provisionally approved one of the following codes shall be selected (details of all the registration/provisional registration or approval or provisional approval or notification which are valid during the previous year should be provided, however where the auditee has got the registration or approval, after provisional registration or approval the details of provisional registration or approval need not be provided):

S. No	Section	Code
(1)	Clause (a) of sub-section (1) of section 12AB of the Act	1
(2)	Clause (b) of sub-section (1) of section 12AB of the Act	2
(3)	Clause (c) of sub-section (1) of section 12AB of the Act	3
(4)	Clause (i) of second proviso to clause (23C) of section 10 of the Act	4
(5)	Clause (ii) of second proviso to clause (23C) of section 10 of the Act	5
(6)	Clause (iii) of second proviso to clause (23C) of section 10 of the Act	6
(7)	Clause (ii) of sub-section (1) of Section 35 of the Act	7
(8)	Clause (iia) of sub-section (1) of Section 35 of the Act	8
(9)	Clause (iii) of sub-section (1) of Section 35 of the Act	9
(10)	Clause (i) of second proviso to sub-section (5) of section 80G of the Act	10
(11)	Clause (ii) of second proviso to sub-section (5) of section 80G of the Act	11
(12)	Clause (iii) of second proviso to sub-section (5) of section 80G of the Act	12
(13)	any other, please specify	13

(5) #In row 10(a), in column (2) for relation one or more of the following codes shall be selected

S. No	Section	Code
(1)	Author	1
(2)	Founder	2
(3)	Settlor	3
(4)	Trustee	4
(5)	Members of society	5
(6)	Members of the Governing Council	6
(7)	Director	7
(8)	Shareholders holding of 5% or more of shareholding	8
(9)	Office Bearer s	9
(10)	Others	10

(6) ##In serial number 10(a), in column (5), and in serial number 10(b), in column (4) for ID code, the following should be filled:

(a) If PAN or Aadhaar number is available, the same should be mandatorily filled and the following ID code shall be filled:

Type of identification	**Code**
PAN	1
Aadhaar number	2

(b) If neither PAN or Aadhaar is available, one of the following should be filled:

Type of identification	Code
Taxpayer identification Number of the country where the person resides;	3
Passport number;	4

Elector's photo identity number	5
Driving License number	6
Ration card number	7

(7) $ In serial number 11, for the objects of the auditee, one or more of the following options shall be selected:

S.no	Object	Code
(1)	Religious	1
(2)	Relief of poor	2
(3)	Education	3
(4)	Medical relief	4
(5)	Yoga	5
(6)	Preservation of environment (including watersheds, forests and wildlife)	6
(7)	Preservation of monuments or places or objects of artistic or historic interest	7
(8)	Advancement of any other objects of general public utility	8

(8) $$ In serial number 14(*ii*), in column (2) one or more of the codes shall be selected:

S.No	Nature of books of account or other document as provided in rule 17AA	Code
(1)	Cash book	1
(2)	Ledger	2
(3)	Journal	3
(4)	Copies of bills, whether machine numbered or otherwise serially numbered, wherever such bills are issued by the assessee, and copies or counterfoils of machine numbered or otherwise serially numbered receipts issued by the assessee	4
(5)	Original bills wherever issued to the person and receipts in respect of payments made by the person	5
(6)	Any other book that may be required to be maintained in order to give a true and fair view of the state of the affairs of the person and explain the transactions effected	6
(7)	Books of account, as referred in Serial Nos. 1 to 6, for business undertaking referred in sub-section (4) of section 11 of the Act	7
(8)	Books of account, as referred in Serial Nos. 1 to 6,, for business carried on by the assessee other than the business undertaking referred to in sub-section (4) of section 11 of the Act	8
(9)	Record of all the projects and institutions run by the person containing details of their name, address and objectives	9
(10)	Record of income of the person during the previous year as per rule 17AA(1)(d)(ii)	10
(11)	Record of application of income etc. out of income during the previous year as per rule 17AA(1)(d)(iii)	11
(12)	Record of application of income out of the income of any previous year preceding the current previous year as per rule 17AA(1)(d)(iv)	12
(13)	Record of voluntary contribution made with a specific direction that they shall form part of the corpus, as per rule 17AA(1)(d)(v) ;	13
(14)	Record of contribution received for the purpose of renovation or repair of temple, mosque, gurdwara, church or other place notified under clause (b) of sub-section (2) of section 80G which is being treated as corpus, as per rule 17AA(1)(d)(vi)	14
(15)	Record of loan and borrowings as per rule 17AA(1)(d)(vii)	15
(16)	Record of properties as per rule 17AA(1)(d)(viii);	16
(17)	Record of specified persons as per rule 17AA(1)(d)(ix);	17
(18)	Any other documents containing any other relevant information as per rule 17AA(1)(d)(x).	18

(9) ^In serial numbers 17 (*ii*)(*c*) and 18(*ii*)(*c*) upload the Balance Sheet, Profit and Loss Account and Audit Report in Form 3CA or 3CB as applicable (e-filing utility to provide upload facility) for the business undertaking or business incidental to objects.

(10) + Electronic modes shall be the following modes referred in rule 6AABA 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;

(11) ^^In serial number 41, select one or more of the following codes for specified person:

S.No	Nature of person	Code
(1)	the author of the trust or the founder of the institution;	1
(2)	any person who has made a substantial contribution to the trust or institution, that is to say, any person whose total contribution up to the end of the relevant previous year exceeds fifty thousand rupees;	2
(3)	where such author, founder or person is a Hindu undivided family, a member of the family;	3
(4)	any trustee of the trust or manager (by whatever name called) of the institution;	4
(5)	any relative of any such author, founder, person, member, trustee or manager as aforesaid;	5
(6)	any concern in which any of the persons referred above have a substantial interest.	6

(12) Particulars in Schedule 269ST need not be given in the case of receipt by or payment to a Government company, a banking Company, a post office savings bank, a cooperative bank or in the case of transactions referred to in section 269SS or in the case of persons referred to in Notification No. S.O. 2065(E) dated the 3rd July, 2017;

Appendix II

Clarification Regarding Authority Attached to Documents Issued by the Institute :-

1. With the formation of the Accounting Standards Board and the Auditing and Assurance Standards Board, 'Accounting Standards' and 'Standards on Auditing' are being issued. The Institute has from time to time, issued 'Guidance Notes' on a number of matters.

2. Members have sought guidance regarding the level of authority attached to the various documents issued by the Institute and the degree of compliance required in respect thereof. This note is being issued to provide this guidance.

3. Guidance Notes, though recommendatory in nature, are issued to assist professional accountants in implementing the Engagement Standards and the Standards on Quality Control issued under the authority of the Council. Guidance Notes are also issued to provide guidance on other generic or industry specific audit issues, not necessarily arising out of a Standard. Professional accountants should be aware of and consider Guidance Notes applicable to the engagement. A professional accountant who does not consider and apply the guidance included in a relevant Guidance Note should take reasonable and adequate care in performing the alternate procedures adopted by him to deal with the objectives and basic principles set out in the Guidance Note. In such situations, a professional accountant should also document the rationale in performing the alternate procedures. Similarly, while discharging his attest function, a member should examine whether the recommendations in a Guidance Note relating to an accounting matter have been followed or not. If the same have not been followed, the member should consider whether keeping in view the circumstances of the case, a disclosure in his report is necessary in accordance with Engagement Standards.

4. The 'Accounting Standards' and 'Standards on Auditing' issued by the Accounting Standards Board and the Auditing and Assurance Standards Board, respectively, establish standards which have to be complied with to ensure that financial statements are prepared in accordance with generally accepted accounting standards and that auditors carry out their audits in accordance with the generally accepted auditing practices. They become mandatory on the dates specified either in the respective document or by notification issued by the Council.

Appendix III

F.No.197/135/2020-ITA-1
Government of India
Ministry of Finance Department of Revenue
Central Board of Direct Taxes

Circular No. 19/2020

New Delhi, the 3rd November, 2020

Sub: Condonation of delay under section 119(2)(b) of the Income-tax Act, 1961 in filing of Form No. 10BB for Assessment Year 2016-17 and subsequent years - Reg.

Under the provisions of section I0(23C) of Income-tax Act, 1961 (hereafter 'Act') where the total income, of the fund or trust or institution 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), without giving effect to the provisions of the said sub-clauses, exceeds the maximum amount which is not chargeable to tax in any previous year, such trust or institution or any university or other educational institution or any hospital or other medical institution shall get its accounts audited in respect of that year by an accountant as defined in the Explanation below sub-section (2) of section 288 before the specified date referred to in section 44AB and furnish by that date, the report of such audit in the prescribed form duly signed and verified by such accountant and setting forth such particulars as may be prescribed.

2. *As* per Rule 16CC of the Income-tax Rules, 1962 (hereafter 'Rules') the audit report of the accounts of such a fund or trust or institution or any university or other educational institution or any hospital or other medical institution is to be furnished in Form No. 10BB. As per *Rule* 12(2) of the Rules, such audit report is to be furnished electronically. The failure to furnish such report in the prescribed form along with the return results in disentitlement of such entity from claiming exemption under section 10(23C) of the Act.

3. Representations have been received by the Board/field authorities stating that Form No. 10BB could not be filed along with the return of income

for AY 2016-17 and AY 2017-18. It has been requested that the delay in filing of Form No 10BB may be condoned.

4. Accordingly, with a view to expedite the disposal of applications filed by such entities for condoning the delay and in exercise of the powers conferred under section 119(2) (b) of the Act, the Central Board of Direct Taxes hereby directs that:

(i) In all the cases of belated applications in filing of Form No. 10BB for years prior to A.Y.2018-19, the Commissioners of Income-tax are authorized to admit such applications for condonation of delay u/s 119(2)(b) of the Act. The Commissioner will while entertaining such applications regarding filing Form No. 10BB shall satisfy themselves that the applicant was prevented by reasonable cause from filing such application within the stipulated time. Further, all such applications shall be disposed of by 31.03.2021.

(ii) where there is delay of upto 365 days in filing Form No. 10BB for A.Y. 2018-19 or for any subsequent Assessment Years, the Commissioners of Income-tax are hereby authorized to admit such belated applications of condonation of delay under section 119(2) of the Income-tax Act, 1961 and decide on merits.

5. The Commissioners of Income-tax shall, while entertaining such belated applications in filing Form No. 10BB, satisfy themselves that the applicant was prevented by reasonable cause from filing such application within the stipulated time.

(Prajna Paramita)
Director (ITA-I)

Copy to:

1. PS to FM/OSD to FM/ PS to MoS (R) / OSD to MoS (R)
2. PPS to Secretary(Revenue)
3. The Chairperson, Members and all other officers in CBDT of the rank of Under Secretary and above.
4. All Pr. Chief Commissioners/ Pr. Director General of Income-tax/ Chief Commissioner of Income-tax (Exemptions) - with a request to circulate amongst all officers in their regions/ charges.

5. CIT (M&TP), CBDT and Official spokesperson of CBDT.
6. The Additional Director General (PR & PP), New Delhi).
7. ITCC Division of CBDT
8. Data Base Cell -for placing it on www.irsofficersonline.gov.in
9. DIT (S)-4/ Web manager for placing it on www.incometaxindia.gov.in
10. The Guard File.

(Prajna Paramita)
Director (ITA-I)

Appendix IV

Circular No. 15/2022

F.No. 197/98/2022-ITA-1
Government of India
Ministry of Finance
Department of Revenue
Central Board of Direct Taxes

New Delhi the 19th July, 2022

Sub: Condonation of delay under Section 119(2)(b) of the Income-tax Act, 1961 in filing of Form No. 10BB for Assessment Year 2018-19 and subsequent years – Reg.

In exercise of the powers conferred under section 119(2) of the Income-tax Act, 1961 (hereinafter referred to as 'Act'), the Central Board of Direct Taxes (CBDT) by Circular No. 19.2020 dated 3rd November, 2020 issued by F.No. 197/135/2020-ITA-1 has directed that:

(i) In all the cases of applications for condonation of delay in filing of Form No. 10BB for years prior to A.Y. 2018-19, the Commissioners of Income-tax are authorized to admit applications for condonation of delay u/s 119(2)(b) of the Act. The Commissioner while entertaining such applications regarding filing Form No. 10BB shall satisfy themselves that the applicant was prevented by reasonable cause from filing such Form within the stipulated time.

(ii) Where there is delay of upto 365 days in filing Form No. 10BB for Assessment Year 2018-19 or for any subsequent Assessment Years, the Commissioners of Income-tax are authorized to admit such applications of condonation of delay under section 119(2) of the Act and decide on merits.

2. Further to the powers delegated to the field authorities as discussed above, the CBDT hereby directs that where there is delay of beyond 365 days upto three years in filing Form No. 10BB for Assessment Year 2018-19 or for any subsequent Assessment Years, the Pr. Chief Commissioners of Income-tax/Chief Commissioners of Income-tax are authorized to admit such

applications of condonation of delay under section 119(2) of the Act and decide on merits.

3. The Pr. Chief Commissioner/Chief Commissioner or Commissioners of Income-tax, as the case may be, while entertaining such applications for condonation of delay in filing Form No. 10BB, shall satisfy themselves that the applicant was prevented by reasonable cause from filing such Form within the stipulated time.

4. Further, the Pr. Chief Commissioner/Chief Commissioner of Income-tax, as the case may be, shall preferably dispose the application within three months of receipt of the application.

[Sourabh Jain]
Under Secretary (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. Pr. Chief Controller of Accounts, New Delhi.
6. All Joint Secretaries/CsIT, CBDT
7. Web Manager, O/o Pr.DGIT (Systems) with request to upload on the departmental website of incometaxindia@gov.in.
8. Commissioner of Income-tax (Media & TP) and official Spokesperson, CBDT, New Delhi.
9. Secretary General, IRS Association/Secretary General, ITGOA/ All-India Income Tax SC & ST Employees' Welfare Association/Income Tax Employees Federation (ITFF).
10. JCIT, Data-Base Cell for uploading on irsofficersonline.org.

Under Secretary (ITA-I)

Appendix V

Mandatory Communication - Relevant Extracts of provisions from the Volume-II of Code of Ethics (Revised 2020)

(12th Edition, Volume-II of Code of Ethics, 2020; Pages 64 to 71)

2.14.1.8 *A Chartered Accountant in practice shall be deemed to be guilty of professional misconduct, if he :-*

Clause (8): *accepts a position as auditor previously held by another chartered accountant or a certified auditor who has been issued certificate under the Restricted Certificate Rules, 1932 without first communicating with him in writing;*

2.14.1.8 (i) It must be pointed out that professional courtesy alone is not the major reason for requiring a member to communicate with the existing accountant who is a member of the Institute or a certified auditor. The underlying objective is that the member may have an opportunity to know the reasons for the change in order to be able to safeguard his own interest, the legitimate interest of the public and the independence of the existing accountant. It is not intended, in any way, to prevent or obstruct the change. When making the enquiry from the retiring auditor, the one proposed to be appointed or already appointed should primarily find out whether there are any professional or other reasons why he should not accept the appointment.

2.14.1.8 (ii) It is important to remember that every client has an inherent right to choose his accountant; also that he may, subject to compliance with the statutory requirements in the case of limited Companies, make a change whenever he chooses, whether or not the reasons which had impelled him to do so are good and valid. The change normally occurs where there has been a change of venue of business and a local accountant is preferred or where the partner who has been dealing with the clients affairs retires or dies; or where temperaments clash or the client has some good reasons to feel dissatisfied. In such cases, the retiring auditor should always accept the situation with good grace.

Grounds for non-Acceptance of Audit

2.14.1.8 (iii) The existence of a dispute as regards the fees may be root cause of an auditor being changed. This would not constitute valid professional reasons on account of which an audit should not be accepted by the member to whom it is offered. However, in the case of an undisputed audit fees for carrying out the statutory audit under the Companies Act, 2013 or various other statutes having not been paid, the incoming auditor should not accept the appointment unless such fees are paid. In respect of other dues, the incoming auditor should in appropriate circumstances use his influence in favour of his predecessor to have the dispute as regards the fees settled. The professional reasons for not accepting an audit would be:

(a) Non-compliance of the provisions of Sections 139 and 140 of the Companies Act, 2013 as mentioned in Clause (9) of the Part - I of First Schedule to The Chartered Accountants Act, 1949 ; and

(b) Non-payment of undisputed Audit Fees by auditees other than in case of Sick Units for carrying out the Statutory Audit under the Companies Act, 2013 or various other statutes; and

(c) Issuance of a qualified report.

2.14.1.8 (iv) In the first two cases, an auditor who accepts the audit would be guilty of professional misconduct. In this connection, attention of members is invited to the Council General Guidelines, 2008 appearing in Chapter-4. In the said Guidelines, Council has explained that the *provision for audit fee in accounts signed by both the auditee and the auditor along with other expenses, if any, incurred by the auditor in connection with the audit*, *shall* be considered as *"undisputed audit fee"* and *"sick unit"* shall mean *a unit registered for not less than five years, which has at the end of any financial year accumulated losses equal to or exceeding its entire net worth.*

Recourse in case of Qualified Audit Report

2.14.1.8 (v) In the last case, however, he may accept the audit if he is satisfied

that the attitude of the retiring auditor was not proper and justified. If, on the other hand, he feels that the retiring auditor had qualified the report for good and valid reasons, he should refuse to accept the audit. There is no rule, written or unwritten, which would prevent an auditor from accepting the appointment offered to him in these circumstances. However, before accepting the audit, he should ascertain the full facts of the case. For nothing will bring the profession to disrepute so much as the knowledge amongst the public that if an auditor is found to be "inconvenient" by the client, he could readily be replaced by another who would not displease the client and this point cannot be too over-emphasised.

Fees pending due to non-availability of Previous Auditor

2.14.1.8 (vi) Where the Previous Auditor is not available for accepting payment of undisputed audit fees, and it is not otherwise possible to transfer the payment to him electronically, the Incoming Auditor may advise the client to purchase Demand Draft of the amount equivalent to undisputed Audit Fees of retiring auditor, and may accept the Audit assignment after verifying the same. It will be the duty of the Incoming auditor to ensure the payment of undisputed Audit Fees of the retiring auditor at the earliest possibility.

Course of action in case of change of Auditorship

2.14.1.8 (vii) What should be the correct procedure to adopt when a prospective client tells you that he wants to change his auditor and wants you to take up his work? There being two persons involved, the Company and the old auditor, the former should be asked whether the retiring auditor had been informed of the intention to change. If the answer is in the affirmative, then a communication should be addressed to the retiring auditor. If, however, it is learnt that the old auditor has not been informed, and the client is not willing to make the first move, it would be necessary to ask him the reason for the proposed change. If there is no valid reason for a change, it would be healthy practice not to accept the audit. If he decides to accept the audit he should address a communication to the retiring auditor.

As stated earlier, the object of the incoming auditor, in communicating with the retiring auditor is to ascertain from him whether there are any circumstances which warrant him not to accept the appointment. For example, whether the previous auditor has been changed on account of having qualified his report or he had expressed a wish not to continue on account of something inherently wrong with the administration of the business. The retiring auditor may even give out information regarding the condition of the accounts of the client or the reason that impelled him to qualify his report. In all these cases it would be essential for the incoming auditor to carefully consider the facts before deciding whether or not he should accept the audit, and should he do so, he must also take into account the information while discharging his duties and responsibilities.

Duty of Retiring Auditor

2.14.1.8(viii) On the request of the Incoming Auditor to the retiring auditor for providing known information regarding any facts or other information of which, in the opinion of the retiring auditor, the Incoming auditor needs to be aware before deciding whether to accept the engagement, the retiring auditor shall provide the information diligently.

Sometimes, the retiring auditor fails without justifiable cause except a feeling of hurt because of the change , to respond to the communication of the Incoming auditor. So that it may not create a deadlock, the incoming auditor appointed can act, after waiting for a reasonable time for a reply.

Certificate of Posting not a conclusive proof of communication

2.14.1.8 (ix) The Council has taken the view that a mere posting of a letter under certificate of posting is not sufficient to establish communication with the retiring auditor unless there is some evidence to show that the letter has in fact reached the person communicated with. A Chartered Accountant who relies solely upon a letter posted under certificate of posting therefore does so at his own risk.

The view taken by the Council has been confirmed in a decision by the Rajasthan High Court in J.S. Bhati vs. The Council of the Institute of the Chartered Accountants of India and another.

(Pages 72-79 of Vol. V of Disciplinary Cases published by the Institute - Judgement delivered on 29th August, 1975). The following observations of the Court are relevant in this context:-

"Mere obtaining a certificate of posting in my opinion does not fulfill the requirements of clause (8) of Schedule I as the presumption under Section 114 of the Evidence Act that the letter in due course reached the addressee cannot replace that positive degree of proof of the delivery of the letter to the addressee which the letters of the law in this case require. The expression 'in communication with' when read in the light of the instructions contained in the booklet 'Code of Conduct' cannot be interpreted in any other manner but to mean that there should be positive evidence of the fact that the communication addressed to the outgoing auditor by the incoming auditor reached his hands. Certificate of posting of a letter cannot, in the circumstances, be taken as positive evidence of its delivery to the addressee."

Positive Evidence of Delivery required

2.14.1.8 (x) Members should therefore communicate with a retiring auditor in such a manner as to retain in their hands positive evidence of the delivery of the communication to the addressee. In the opinion of the Council, the following would in the normal course provide such evidence:-

(a) Communication by a letter sent through "Registered Acknowledgement due", or

(b) By hand against a written acknowledgement, or

(c) Acknowledgement of the communication from retiring auditor's vide email address registered with the Institute or his last known official email address , or

(d) Unique Identification Number (UDIN) generated on UDIN portal (subject to separate guidelines to be issued by the Council in this regard)

Premises found Locked

2.14.1.8 (xi) The communication received back by the Incoming Auditor with "Office found Locked" written on the Acknowledgement Due shall be deemed as having been delivered to the retiring auditor.

Firm not found at the given Registered address

2.14.1.8 (xii) If the Communication sent by the Incoming auditor is received back with remarks "No such office exists at this address", and the address of communication is the same as registered with the Institute on the date of dispatch, the letter will be deemed to be delivered, unless the retiring auditor proves that it was not really served and that he was not responsible for such non-service.

As a matter of professional courtesy and professional obligation it is necessary for the new auditor appointed to act jointly with the earlier auditor and to communicate with such earlier auditor.

Special Audit under Income Tax Act, 1961

2.14.1.8(xiii) It would be a healthy practice if a Tax Auditor appointed for conducting special audit under the Income Tax Act,1961 communicates with the member who has conducted the Statutory Audit.

The Council has also laid down the detailed guidelines on the subject as under:-

Communication required for all kinds of audit

2.14.1.8(xiv) The requirement for communicating with the previous auditor being a Chartered Accountant in practice would apply to all types of Audit viz., Statutory Audit, Tax Audit, GST Audit, Internal Audit, Concurrent Audit or any other kind of audit.

Communication in case of Assignments done by other professionals

2.14.1.8(xv) A Communication is mandatorily required for all types of Audit/Report where the previous auditor is a Chartered Accountant. In case of assignments done by other professionals not being Chartered Accountants, it would also be a healthy practice to communicate.

Lack of time in acceptance of Government Audits

2.14.1.8(xvi) Although the mandatory requirement of communication with previous auditor being Chartered Accountant applies, in uniform manner, to audits of both government and Non-Government entities, yet in the case of audit of government Companies/ banks or their branches, if the appointment is made well in time to

enable the obligation cast under this clause to be fulfilled, such obligation must be complied with before accepting the audit. However, in case the time schedule given for the assignment is such that there is no time to wait for the reply from the outgoing auditor, the incoming auditor may give a conditional acceptance of the appointment and commence the work which needs to be attended to immediately after he has sent the communication to the previous auditor in accordance with this clause. In his acceptance letter, he should make clear to the client that his acceptance of appointment is subject to professional objections, if any, from the previous auditors and that he will decide about his final acceptance after taking into account the information received from the previous auditor.

Meaning of Terms

2.14.1.8(xvii) Various doubts have been raised by the members about the terms "audit", "previous auditor", "Certificate" and "report", normally while interpreting the aforesaid Clause (8). These terms need to be clarified.

- The definition of "Audit" is given in the Framework for Assurance Engagements (the Framework) issued by the Institute which is as under:

  "For assurance engagements relating to historical financial information in particular, such engagements which provide reasonable assurance are called audits".

  The Framework also describes the objective of reasonable assurance engagements which is as under:

  The objective of a reasonable assurance engagement is a reduction in assurance engagement risk to an acceptably low level in the circumstances of the engagement as the basis for a positive form of expression of the practitioner's conclusion.

- The term "previous auditor" means the immediately preceding auditor who held same or similar assignment comprising same/similar scope of work. For example, a Chartered Accountant in practice appointed for an assignment of physical verification of inventory of raw

materials, spares, stores and finished goods, before acceptance of appointment, must communicate with the previous auditor being a Chartered Accountant in practice who was holding the appointment of physical verification of inventory of raw materials, stores, finished goods and fixed assets. The mandatory communication with the previous auditor being a Chartered Accountant is required even in a case where the previous auditor happens to be an auditor for a year other than the immediately preceding year.

"Auditor's Report" mentioned in SA 700 states the objective of the Report as forming an opinion on the financial statements based on an evaluation of the conclusions drawn from the audit evidence obtained. As explained in the Institute's publication viz., 'Guidance Note on Reports and Certificates for Special Purposes' (which governs reports other than those which are issued in audits or reviews) states that the word 'certificate' as described in the laws and regulations or even in the contracts that an entity might have entered into can normally be associated with reasonable assurance. A practitioner is expected to provide either a reasonable assurance (about whether the subject matter of examination is materially misstated) or a limited assurance (stating that nothing has come to the practitioner's attention that causes the practitioner to believe that the subject matter is materially misstated). A practitioner is not expected to reduce the engagement risk to zero. Therefore, whenever a practitioner is required to give a "certificate" or a "report" for special purpose, the practitioner needs to undertake a careful evaluation of the scope of the engagement, i.e., whether the practitioner would be able to provide reasonable assurance or limited assurance on the subject matter.

Appendix VI

Council Guidelines No.1-CA(7)/02/2008, dated 8th August,2008

(As amended from time to time)

GUIDELINES FOR THE MEMBERS OF ICAI

(Issued under the provisions of The Chartered Accountants Act, 1949)

Chapter I
Preliminary

1.0 Short title, commencement, etc.

(a) These Guidelines have been issued by the Council of the Institute of Chartered Accountants of India under the provisions of The Chartered Accountants Act, 1949, as amended by The Chartered Accountants (Amendment) Act 2006, in supersession of the Notifications issued by the Council under erstwhile Clause (ii) of Part II of the Second Schedule to the Chartered Accountants Act, 1949.

(b) These Guidelines be called the 'Council General Guidelines, 2008'.

1.1 Definitions.

1.1.1 For the purpose of these Guidelines:

(a) 'Act' means the Chartered Accountants Act, 1949.

(b) "Chartered accountant" means a person who is a member of the Institute.

(c) "Council" means the Council of the Institute constituted under section 9 of the Act.

(d) "Institute" means the Institute of Chartered Accountants of India constituted under the Act.

1.1.2 All other words and expressions used but not defined herein have the same meaning as assigned to them within the Chartered Accountants Act, 1949 and the Rules, Regulations and Guidelines made there under.

1.2 Applicability of the Guidelines

These guidelines shall be applicable to all the Members of the Institute whether in practice or not wherever the context so requires.

Chapter II
Conduct of a Member being an employee

2.0 A member of the Institute who is an employee shall exercise due diligence and shall not be grossly negligent in the conduct of his duties.

Chapter V
Maintenance of books of accounts

5.0 A member of the Institute in practice or the firm of Chartered Accountants of which he is a partner, shall maintain and keep in respect of his / its professional practice, proper books of account including the following:-

(i) a Cash Book;

(ii) a Ledger.

Chapter VI

Tax Audit assignments under Section 44 AB of the Income-tax Act, 1961

6.0 A member of the Institute in practice shall not accept, relating to an assessment year, more than the "specified number of tax audit assignments" under Section 44AB of the Income-tax Act, 1961.

Provided that in the case of a firm of Chartered Accountants in practice, the "specified number of tax audit assignments" shall be construed as the specified number of tax audit assignments for every partner of the firm.

Provided further that where any partner of the firm is also a partner of any other firm or firms of Chartered Accountants in practice, the number of tax audit assignments which may be taken for all the firms together in relation to such partner shall not exceed the "specified number of tax audit assignments" in the aggregate.

Provided further that where any partner of a firm of Chartered Accountants in practice accepts one or more tax audit assignments in his individual capacity, the total number of such assignments which may

be accepted by him shall not exceed the "specified number of tax audit assignments" in the aggregate.

Provided also that the audits conducted under Section 44AD, 44ADA and 44AE of the Income-tax Act, 1961 shall not be taken into account for the purpose of reckoning the "specified number of tax audit assignments".

6.1 Explanation:

For the above purpose, "the specified number of tax audit assignments" means -

(a) in the case of a Chartered Accountant in practice or a proprietary firm of Chartered Accountant, 60 tax audit assignments, relating to an assessment year, whether in respect of corporate or non-corporate assesses.

(b) in the case of firm of Chartered Accountants in practice, 60 tax audit assignments per partner in the firm, relating to an assessment year, whether in respect of corporate or non-corporate assesses.

6.1.1 In computing the "specified number of tax audit assignments" each year's audit would be taken as a separate assignment.

6.1.2 In computing the "specified number of tax audit assignments", the number of such assignments, which he or any partner of his firm has accepted whether singly or in combination with any other Chartered Accountant in practice or firm of such Chartered Accountants, shall be taken into account.

6.1.3 The audit of the head office and branch offices of a concern shall be regarded as one tax audit assignment.

6.1.4 The audit of one or more branches of the same concern by one Chartered Accountant in practice shall be construed as only one tax audit assignment.

6.1.5 A Chartered Accountant being a part time practicing partner of a firm shall not be taken into account for the purpose of reckoning the tax audit assignments of the firm.

6.1.6 A Chartered Accountant in practice shall maintain a record of the tax audit assignments accepted by him relating to each assessment year in the format as may be prescribed by the Council.

6.1.7 The limit on number of tax audit assignments per partner in a CA Firm may be distributed between the partners in any manner whatsoever. However, it should be in accordance with the Standard on Quality Control (SQC) 1: Quality Control for Firms that Perform Audits and Reviews of Historical Financial Information, and Other Assurance and Related Services Engagements.

Chapter VII

"Appointment of an Auditor in case of non-payment of undisputed fees"

7.0 A member of the Institute in practice shall not accept the appointment as auditor of an entity in case the undisputed audit fee of another Chartered Accountant for carrying out the statutory audit under the Companies Act, 2013 or various other statutes has not been paid:

Provided that in the case of sick unit, the above prohibition of acceptance shall not apply.

7.1 Explanation 1:

For this purpose, the provision for audit fee in accounts signed by both - the auditee and the auditor *along with other expenses, if any, incurred by the auditor in connection with the audit*, shall be considered as "undisputed audit fees"

7.2 Explanation 2:

For this purpose, "sick unit" shall mean *a unit registered for not less than five years, which has at the end of any financial year accumulated losses equal to or exceeding its entire net worth.*

Chapter VIII
Specified number of audit assignments

8.0 A member of the Institute in practice shall not hold at any time appointment of more than the "specified number of audit assignments" of Companies under Section 141 of the Companies Act 2013.

Provided that in the case of a firm of Chartered Accountants in practice, the "specified number of audit assignments" shall be construed as the specific number of audit assignments for every partner of the firm.

Provided further that where any partner of the firm of Chartered Accountants in practice is also a partner of any other firm or firms of Chartered Accountants in practice, the number of audit assignments which may be taken for all the firms together in relation to such partner shall not exceed the "specified number of audit assignments" in the aggregate.

Provided further where any partner of a firm or firms of Chartered Accountants in practice accepts one or more audit of Companies in his individual capacity, or in the name of his proprietary firm, the total number of such assignments which may be accepted by all firms in relation to such Chartered Accountant and by him shall not exceed the "specified number of audit assignments" in the aggregate.

8.1 Explanation:

For the above purpose, the "specified number of audit assignments" means –

(a) in the case of a Chartered Accountant in practice or a proprietary firm of Chartered Accountant, 30 audit assignments whether in respect of private Companies or other Companies, *with the exception of one person Companies and dormant companies.*

(b) in the case of Chartered Accountants in practice, 30 audit assignments per partner in the firm, whether in respect of private Companies or other Companies, *with the exception of One person Companies and dormant companies*[2]*.*

8.2 In computing the "specified number of audit assignments"-

(a) the number of audit of such Companies, which he or any partner of his firm has accepted whether singly or in combination with any other Chartered Accountant in practice or firm of such Chartered Accountants, shall be taken into account.

[2] As incorporated pursuant to decision of Council at its 388th Meeting held on 6th and 7th Feb., 2020.

(b) the audit of the head office and branch offices of a Company by one Chartered Accountant or firm of such Chartered Accountants in practice shall be regarded as one audit assignment.

(c) the audit of one or more branches of the same Company by one Chartered Accountant in practice or by firm of Chartered Accountants in practice in which he is a partner shall be construed as one audit assignment only.

(d) the number of partners of a firm on the date of acceptance of audit assignment shall be taken into account.

8.3 A Chartered Accountant in practice, whether in full-time or part-time employment elsewhere, shall not be counted for the purpose of determination of "specified number of audit of Companies" by firms of Chartered Accountants.

8.4 A Chartered Accountant being a part time practicing partner of a firm shall not be taken into account for the purpose of reckoning the audit assignments of the firm.

8.5 A Chartered Accountant in practice as well as firm of Chartered Accountants in practice shall maintain a record of the audit assignments accepted by him or by the firm of Chartered Accountants, or by any of the partners of the firm in his individual name or as a partner of any other firm, as far as possible, in the following format:

S. No.	Name of the Company	Registration Number	Date of Appointment	Date of Acceptance
1	2	3	4	5

Chapter IX
Appointment as Statutory auditor

9.0 A member of the Institute in practice shall not accept the appointment as statutory auditor of Public Sector Undertaking(s)/ Government Company(ies)/ Listed Company(ies) and other Public Company(ies) having turnover of Rs. 50 crores or more in a year where he accepts any other work(s) or assignment(s) or service(s) in regard to the same Undertaking(s)/ Company(ies) on a remuneration which in total exceeds

the fee payable for carrying out the statutory audit of the same Undertaking/company.

Provided that in case appointing authority(ies)/regulatory body(ies) specify(ies) more stringent condition(s)/ restriction(s), the same shall apply instead of the conditions/ restrictions specified under these Guidelines.

9.1 The above restrictions shall apply in respect of fees for other work(s) or service(s) or assignment(s) payable to the statutory auditors and their associate concern(s) put together.

9.2 For the above purpose,

(i) the term "other work(s)" or "service(s)" or "assignment(s)" shall include Management Consultancy and all other professional services permitted by the Council pursuant to Section 2(2)(iv) of the Chartered Accountants Act, 1949 but shall not include: -

(a) audit under any other statute;

(b) certification work required to be done by the statutory auditors; and

(c) any representation before an authority;

(ii) the term "associate concern" means any corporate body or partnership firm which renders the Management Consultancy and all other professional services permitted by the Council wherein the proprietor and/or partner(s) of the statutory auditor firm and/or their "relative(s)" is/are Director/s or partner/s and/or jointly or severally hold "substantial interest" in the said corporate body or partnership;

(iii) the terms "relative" and "substantial interest" shall have the same meaning as are assigned thereto under Appendix (9) to the Chartered Accountants Regulations, 1988.

9.3 In regard to taking up other work(s) or service(s) or assignment(s) of the undertaking/company referred to above, it shall be open to such associate concern or corporate body to render such work(s) or service(s) or assignment(s) so long as aggregate remuneration for such other work(s) or service(s) or assignment(s) payable to the statutory

auditor/s together with fees payable to its associate concern(s) or corporate body(ies) do/does not exceed the aggregate of fee payable for carrying out the statutory audit.

Chapter X
Appointment of an auditor when he is indebted to a concern

10.0 A member of the Institute in practice or a partner of a firm in practice or a firm, or a relative of such member or partner shall not accept appointment as auditor of a concern while indebted to the concern or given any guarantee or provided any security in connection with the indebtedness of any third person to the concern, for limits fixed in the statute and in other cases for amount exceeding Rs. 1,00,000/-

Chapter XI
Directions in case of unjustified removal of auditors

11.0 A member of the Institute in practice shall follow the direction given, by the Council or an appropriate Committee or on behalf of any of them, to him being the incoming auditor(s) not to accept the appointment as auditor(s), in the case of unjustified removal of the earlier auditor(s).

Chapter XIII[3]
Guidelines on Tenders

Refer to **Appendix 'J'** of the Code.

Chapter XIV[4]
Unique Document Identification Number (UDIN) Guidelines

Refer to **Appendix 'I'** of the Code.

[3] Guideline No. 1-CA(7)/03/2016 issued vide Notification dt. 7.4.2016 published in Part-III Section 4 of the Gazette of India , Extraordinary, Dated 7th April, 2016. – Included under Council General Guidelines pursuant to decision of Council at its 388th Meeting held on 6th and 7th Feb., 2020

[4] Guideline No.1-CA(7)/192/2019 issued vide Notification dt. 2.8.2019 – Included under Council General Guidelines pursuant to decision of Council at its 388th Meeting held on 6th and 7th Feb., ,2020

Chapter XV[5]
Guidelines for Networking

Refer to **Appendix 'K'** of the Code.

Chapter XVI[6]
Logo Guidelines

Refer to **Appendix 'L'** of the Code.

Chapter XVII[7]
Guidelines for Corporate Form of Practice

Refer to **Appendix 'D'** of the Code.

[5] As issued on 27.9.2011 - Included under Council General Guidelines pursuant to decision of Council at its 388th Meeting held on 6th and 7th Feb., ,2020

[6] As issued by Council at its 367th Meeting held on 12th to 14th March, 2007 and continued on 10th and 11th April, 2007 - – Included under Council General Guidelines pursuant to decision of Council at its 388th Meeting held on 6th and 7th Feb., ,2020

[7] As issued by Council at its 261st Meeting held on 1st to 3rd August, 2006- – Included under Council General Guidelines pursuant to decision of Council at its 388th Meeting held on 6th and 7th Feb., ,2020

Appendix VII

Revised Minimum recommended scale of fees chargeable for the professional assignments done by Chartered Accountants - *An announcement hosted by Committee for Members in Practice -Last updated on 11th February,2020:*

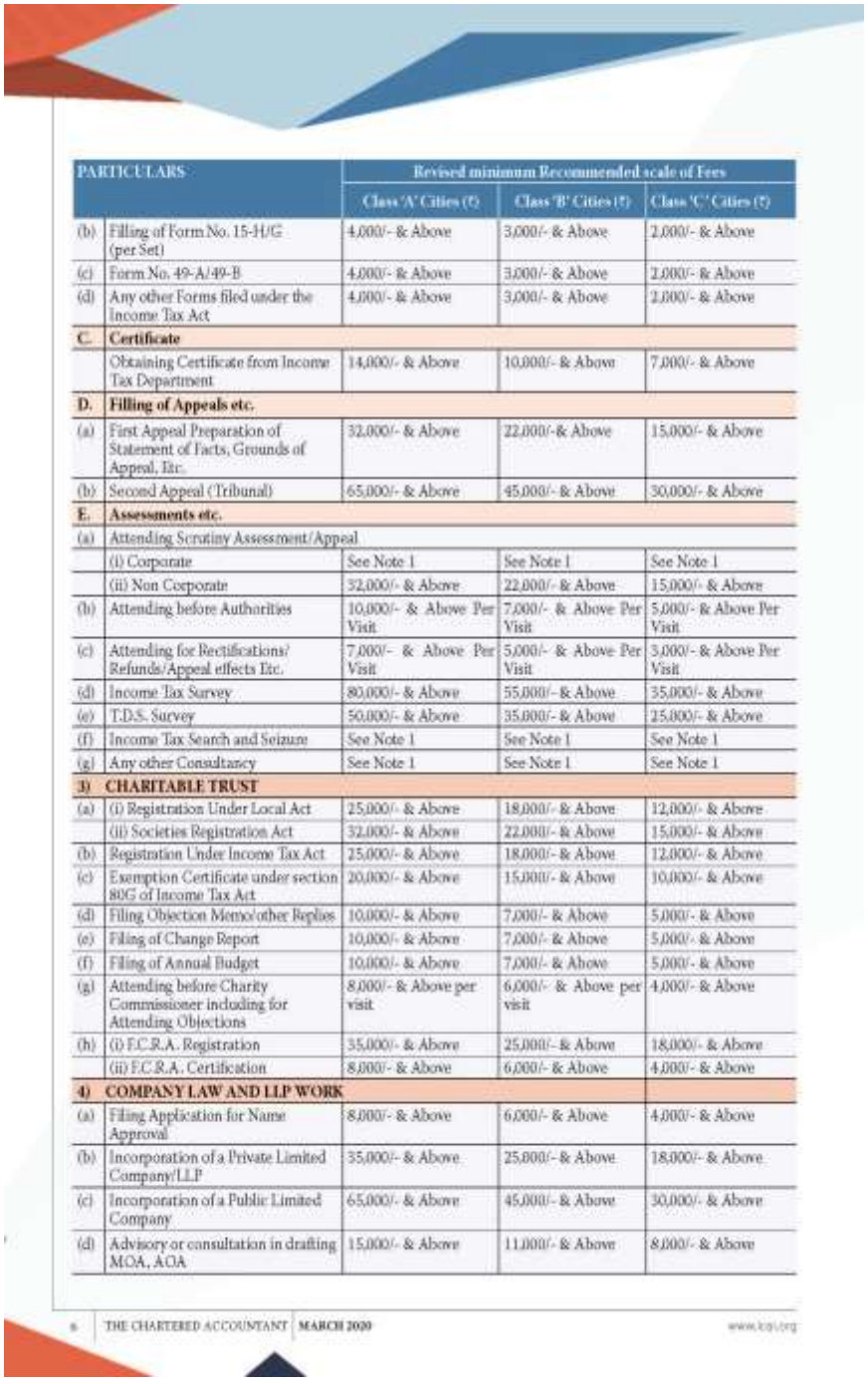
11.02.2020

Committee for Member in Practice (CMP), ICAI

Revised Minimum Recommended Scale of Fees for the Professional Assignments done by the Chartered Accountants

The Committee for Members in Practice (CMP) of ICAI as a part of its commitment to strengthen the Practitioners has initiated the Revised Minimum Recommended Scale of Fees for the professional assignments done by the members of ICAI. The recommendation is about the fee to be charged as per the work performed for various professional assignments. The fee has been recommended separately for Class A, Class B and Class C cities.

PARTICULARS		Revised minimum Recommended scale of Fees		
		Class 'A' Cities (₹)	Class 'B' Cities (₹)	Class 'C' Cities (₹)
1)	**ADVISING ON DRAFTING OF DEEDS/AGREEMENTS**			
(a)	(i) Partnership Deed	15,000/- & Above	10,000/- & Above	8,000/- & Above
	(ii) Partnership Deed (With Consultation & Tax Advisory)	20,000/- & Above	15,000/- & Above	10,000/- & Above
(b)	Filling of Forms with Registrar of Firms	7,000/- & Above Per Form	5,000/- & Above Per Form	3,000/- & Above
(c)	Supplementary / Modification in Partnership Deed	12,000/- & Above	9,000/- & Above	6,000/- & Above
(d)	Joint Development Agreements / Joint Venture Agreements	12000 & Above (See Note-1)	9000 & Above (See Note-1)	6,000/- & Above (See Note-1)
(e)	Others Deeds such as Power of Attorney, Will , Gift Deed etc.	5000 & Above	4000 & Above	3,000/- & Above
2)	**INCOME TAX**			
A.	**Filling of Return of Income**			
(i)	For Individuals/HUFs etc.			
(a)	Filling of Return of Income with Salary/Other Sources/Share of Profit	8,000/- & Above	6,000/- & Above	4,000/- & Above
(b)	Filling of Return of Income with details Capital Gain working			
	(i) Less than 10 Transactions (For Shares & Securities)	11,000/- & Above	8,000/- & Above	5,000/- & Above
	(ii) More than 10 Transactions (For Shares & Securities)	17,000/- & Above	12,000/- & Above	8,000/- & Above
(c)	Filling on Return of Income for Capital Gain on Immovable property	32,000/- & Above	22,000/- & Above	15,000/- & Above
(d)	Filling on Return of Income with Preparation of Bank Summary, Capital A/c & Balance Sheet.	12,000/- & Above	9,000/- & Above	6,000/- & Above
(ii)	(a) Partnership Firms/Sole Proprietor with Advisory Services	15,000/- & Above	10,000/- & Above	8,000/- & Above
	(b) Minor's I.T. Statement	8,000/- & Above	6,000/- & Above	4,000/- & Above
	(c) Private Ltd. Company			
	(i) Active	25,000/- & Above	18,000/- & Above	12,000/- & Above
	(ii) Defunct	12,000/- & Above	9,000/- & Above	6,000/- & Above
	(d) Public Ltd. Company			
	(i) Active	65,000/- & Above	45,000/- & Above	30,000/- & Above
	(ii) Defunct	25,000/- & Above	18,000/- & Above	12,000/- & Above
B.	**Filling of Forms etc.**	**(Quarterly Fees)**	**(Quarterly Fees)**	**(Quarterly Fees)**
(a)	Filling of TDS/TCS Return (per Form)			
	(i) With 5 or less Entries	4,000/- & Above	3,000/- & Above	2,000/- & Above
	(ii) With more than 5 entries	9,000/- & Above	7,000/- & Above	5,000/- & Above



PARTICULARS		Revised minimum Recommended scale of Fees		
		Class 'A' Cities (₹)	Class 'B' Cities (₹)	Class 'C' Cities (₹)
(b)	Filling of Form No. 15-H/G (per Set)	4,000/- & Above	3,000/- & Above	2,000/- & Above
(c)	Form No. 49-A/49-B	4,000/- & Above	3,000/- & Above	2,000/- & Above
(d)	Any other Forms filed under the Income Tax Act	4,000/- & Above	3,000/- & Above	2,000/- & Above
C.	**Certificate**			
	Obtaining Certificate from Income Tax Department	14,000/- & Above	10,000/- & Above	7,000/- & Above
D.	**Filling of Appeals etc.**			
(a)	First Appeal Preparation of Statement of Facts, Grounds of Appeal, Etc.	32,000/- & Above	22,000/-& Above	15,000/- & Above
(b)	Second Appeal (Tribunal)	65,000/- & Above	45,000/- & Above	30,000/- & Above
E.	**Assessments etc.**			
(a)	Attending Scrutiny Assessment/Appeal			
	(i) Corporate	See Note 1	See Note 1	See Note 1
	(ii) Non Corporate	32,000/- & Above	22,000/- & Above	15,000/- & Above
(b)	Attending before Authorities	10,000/- & Above Per Visit	7,000/- & Above Per Visit	5,000/- & Above Per Visit
(c)	Attending for Rectifications/ Refunds/Appeal effects Etc.	7,000/- & Above Per Visit	5,000/- & Above Per Visit	3,000/- & Above Per Visit
(d)	Income Tax Survey	80,000/- & Above	55,000/- & Above	35,000/- & Above
(e)	T.D.S. Survey	50,000/- & Above	35,000/- & Above	25,000/- & Above
(f)	Income Tax Search and Seizure	See Note 1	See Note 1	See Note 1
(g)	Any other Consultancy	See Note 1	See Note 1	See Note 1
3)	**CHARITABLE TRUST**			
(a)	(i) Registration Under Local Act	25,000/- & Above	18,000/- & Above	12,000/- & Above
	(ii) Societies Registration Act	32,000/- & Above	22,000/- & Above	15,000/- & Above
(b)	Registration Under Income Tax Act	25,000/- & Above	18,000/- & Above	12,000/- & Above
(c)	Exemption Certificate under section 80G of Income Tax Act	20,000/- & Above	15,000/- & Above	10,000/- & Above
(d)	Filing Objection Memo/other Replies	10,000/- & Above	7,000/- & Above	5,000/- & Above
(e)	Filing of Change Report	10,000/- & Above	7,000/- & Above	5,000/- & Above
(f)	Filing of Annual Budget	10,000/- & Above	7,000/- & Above	5,000/- & Above
(g)	Attending before Charity Commissioner including for Attending Objections	8,000/- & Above per visit	6,000/- & Above per visit	4,000/- & Above
(h)	(i) F.C.R.A. Registration	35,000/- & Above	25,000/- & Above	18,000/- & Above
	(ii) F.C.R.A. Certification	8,000/- & Above	6,000/- & Above	4,000/- & Above
4)	**COMPANY LAW AND LLP WORK**			
(a)	Filing Application for Name Approval	8,000/- & Above	6,000/- & Above	4,000/- & Above
(b)	Incorporation of a Private Limited Company/LLP	35,000/- & Above	25,000/- & Above	18,000/- & Above
(c)	Incorporation of a Public Limited Company	65,000/- & Above	45,000/- & Above	30,000/- & Above
(d)	Advisory or consultation in drafting MOA, AOA	15,000/- & Above	11,000/- & Above	8,000/- & Above

PARTICULARS		Revised minimum Recommended scale of Fees		
		Class 'A' Cities (₹)	Class 'B' Cities (₹)	Class 'C' Cities (₹)
(e)	(i) Company's/LLP ROC Work, Preparation of Minutes, Statutory Register & Other Secretarial Work	See Note 1	See Note 1	See Note 1
	(ii) Certification (Per Certificate)	15,000/- & Above	11,000/- & Above	8,000/- & Above
(f)	Filing Annual Return Etc.	10,000/- & Above per Form	7,000/- & Above per Form	5,000/- & Above
(g)	Filing Other Forms Like : F-32, 18, 2 etc.	5,000/- & Above	4,000/- & Above per Form	3,000/- & Above
(h)	Increase in Authorised Capital Filing of F-5, F-23, preparation of Revised Memorandum of Association/Article of Association/ LLP Agreement	25,000/- & Above	20,000/- & Above	14,000/- & Above
(i)	DPIN/DIN per Application	4,000/- & Above	3,000/- & Above	2,000/- & Above
(j)	Company Law Consultancy including Petition drafting	See Note 1	See Note 1	See Note 1
(k)	Company Law representation including LLP before RD and NCLT	See Note 1	See Note 1	See Note 1
(l)	ROC Representation	See Note 1	See Note 1	See Note 1
5)	**AUDIT AND OTHER ASSIGNMENTS**			
Rate per day would depend on the complexity of the work and the number of days spent by each person				
	(i) Principal	18,000/- & Above per day	12,000/- & Above per day	8,000/- & Above per day
	(ii) Qualified Assistants	10,000/- & Above per day	7,000/- & Above per day	5,000/- & Above per day
	(iii) Semi Qualified Assistants	5,000/- & Above per day	4,000/- & Above per day	3,000/- & Above per day
	(iv) Other Assistants	3,000/- & Above per day	2,000/- & Above per day	1,000/- & Above per day
Subject to minimum indicative Fees as under:				
	(i) Tax Audit	40,000/- & Above	30,000/- & Above	22,000/- & Above
	(ii) Company Audit			
	(a) Small Pvt. Ltd. Co. (Turnover up to ₹ 2 crore)	50,000/- & Above	35,000/- & Above	25,000/- & Above
	(b) Medium Size Pvt. Ltd. Co./ Public Ltd. Co.	80,000/- & Above	55,000/- & Above	35,000/- & Above
	(c) Large Size Pvt. Ltd. Co./ Public	See Note 1	See Note 1	See Note 1
	(iv) Review of TDS Compliance	25,000/- & Above	18,000/- & Above	12,000/& Above
	(v) Transfer Pricing Audit	See Note 1	See Note 1	See Note 1
6)	**INVESTIGATION, MANAGEMENT SERVICES OR SPECIAL ASSIGNMENTS**			
Rate per day would depend on the complexity of the work and the number of days spent by each person				
(a)	Principal	35,000/- & Above + per day charge	25,000/- & Above + per day charge	18,000/- & Above per day charge
(b)	Qualified Assistant	18,000/- & Above + per day charge	12,000/- & Above + per day charge	8,000/- & Above per day charge
(c)	Semi Qualified Assistant	10,000/- & Above + per day charge	7,000/- & Above + per day charge	5,000/- & Above per day charge

	PARTICULARS	Revised minimum Recommended scale of Fees		
		Class 'A' Cities (₹)	Class 'B' Cities (₹)	Class 'C' Cities (₹)
7)	**CERTIFICATION WORK**			
(a)	Issuing Certificates under the Income Tax Act i.e. U/s 80IA/80IB/10 A/10B & other Certificates	See Note 1	See Note 1	See Note 1
(b)	Other Certificates For LIC/ Passport/Credit Card/Etc.	10,000/- & Above	7,000/- & Above	5,000/- & Above
(c)	Other Attestation (True Copy)	3,000/- & Above per form	2,000/- & Above per form	1,000/- & Above
(d)	Net worth Certificate for person going abroad	18,000/- & Above	12,000/- & Above	8,000/- & Above
8)	**RERA**			
(a)	Audit of Accounts	10,000/- & Above	7,000/- & Above	5,000/- & Above
(b)	Appearance Before Appellate Tribunal of Regulatory Authority or Adjudicating Authority	50,000/- & Above	35,000/- & Above	25,000/- & Above
(c)	Advisory & Consultation	See Note 1	See Note 1	See Note 1
(d)	Certification for withdrawal of amount	See Note 1	See Note 1	See Note 1
9)	**CONSULTATION & ARBITRATION**			
Rate per hour would depend on the complexity of the work and the number of hours spends by each person				
(a)	Principal	35,000/- & Above (initial fees) + additional fees @ 8,000/- & Above per hour	25,000/- & Above (initial fees) + additional fees @ 6,000/- & Above per hour	18,000/- & Above (initial fees) + additional fees @ 4,000/- & Above per hour
(b)	Qualified Assistant	6,000/- & Above per hour	4,000/- & Above per hour	3,000/- & Above per hour
(c)	Semi Qualified Assistant	3,000/- & Above per hour	2,000/- & Above per hour	1,000/- & Above per hour
10)	**NBFC/RBI MATTERS**			
(a)	NBFC Registration with RBI	See Note 1	See Note 1	See Note 1
(b)	Other Returns	18,000/- & Above	12,000/- & Above	8,000/- & Above
11)	**GST**			
(a)	Registration	20,000/- & Above	15,000/- & Above	10,000/- & Above
(b)	Registration with Consultation	See Note 1	See Note 1	See Note 1
(c)	Tax Advisory & Consultation i.e. about value, taxability, classification, etc.	See Note 1	See Note 1	See Note 1
(d)	Challan/Returns	15,000/- & Above + (4,000/- Per Month)	10,000/- & Above + (3,000/- Per Month)	8,000/- & Above + (2,000/- Per Month)
(e)	Adjudication/Show Cause notice reply	30,000/- & Above	20,000/- & Above	15,000/- & Above
(f)	Filing of Appeal / Appeals Drafting	30,000/- & Above	20,000/- & Above	15,000/- & Above
(g)	Furnish details of inward/outward supply	See Note 1	See Note 1	See Note 1
(h)	Misc services i.e. refund, cancellation/revocation registration, maintain electronic cash ledger etc.	See Note 1	See Note 1	See Note 1
(i)	Audit of accounts and reconciliation Statement	40,000/- & Above	20,000/- & Above	12,000/- & Above
(j)	Any Certification Work	10,000/- & Above	7,000/- & Above	5,000/- & Above

PARTICULARS		Revised minimum Recommended scale of Fees		
		Class 'A' Cities (₹)	Class 'B' Cities (₹)	Class 'C' Cities (₹)
12)	**FEMA MATTERS**			
(a)	Filing Declaration with RBI in relation to transaction by NRIs/ OCBs	35,000/- & Above	25,000/- & Above	18,000/- & Above
(b)	Obtaining Prior Permissions from RBI for Transaction with NRIs/ OCBs	50,000/- & Above	35,000/- & Above	25,000/- & Above
(c)	Technical collaboration: Advising, obtaining RBI permission, drafting and preparing technical collaboration agreement and incidental matters	See Note 1	See Note 1	See Note 1
(d)	Foreign collaboration: Advising, obtaining RBI permission, drafting and preparing technical collaboration agreement and incidental matters (incl. Shareholders Agreement)	See Note 1	See Note 1	See Note 1
(e)	Advising on Non Resident Taxation Matters including Double Tax Avoidance Agreements including FEMA	See Note 1	See Note 1	See Note 1
13)	**PROJECT FINANCING**			
(a)	Preparation of CMA data	See Note 1	See Note 1	See Note 1
(b)	Services relating to Financial sector	See Note 1	See Note 1	See Note 1
14)	**ACCOUNTANCY SERVICES (New Heading)**			
	Book Keeping and the preparation of financial statements			See Note 1
	Other Services			See Note 1
15)	**Other Services not listed above**			See Note 1

Notes:

1) Fees to be charged depending on the complexity and the time spent on the particular assignment.

2) The above recommended minimum scale of fees is as recommended by the Committee for Members in Practice (CMP) of ICAI

3) The aforesaid table states recommendatory minimum scale of fees works out by taking into account average time required to complete such assignments. However, members are free to charge varying rates depending upon the nature and complexity of assignment and time involved in completing the same.

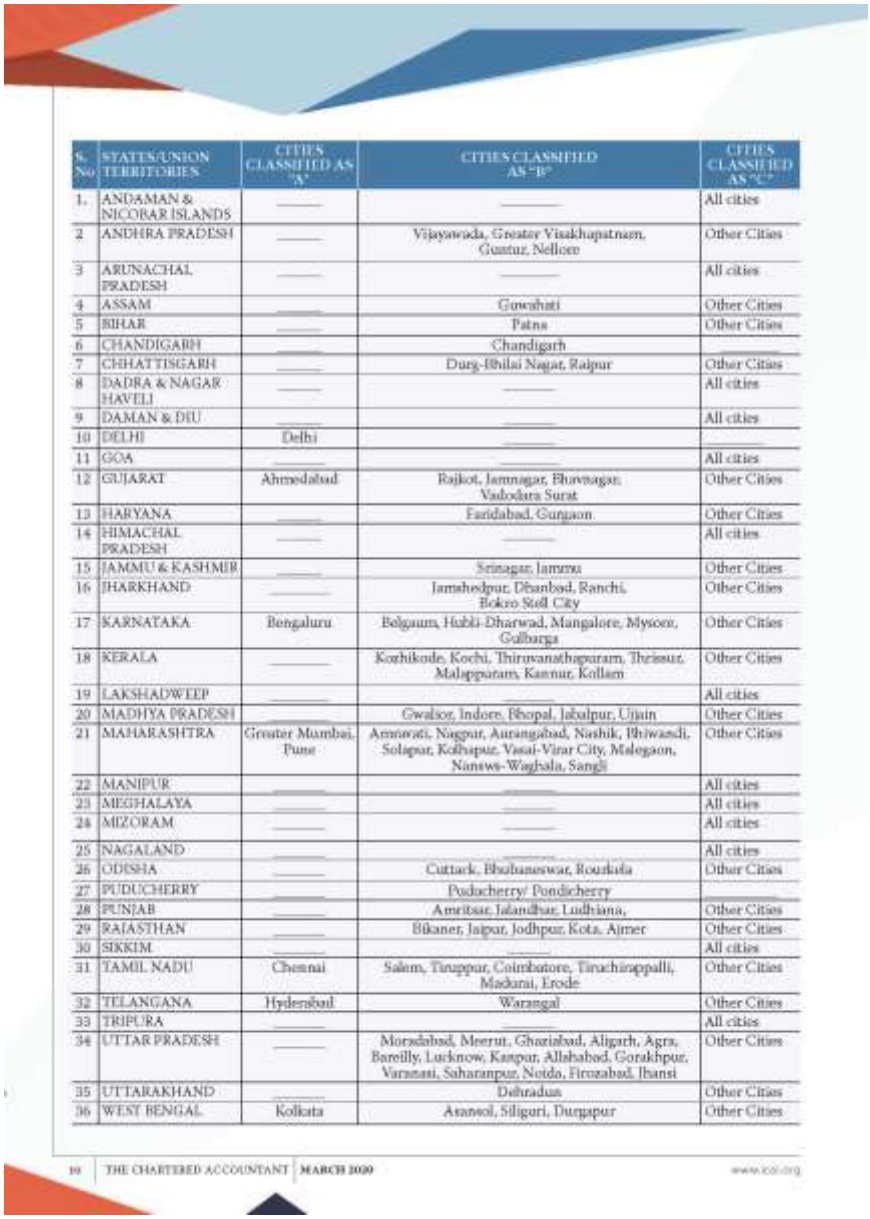
4) Office time spent in travelling & out-of-pocket expenses would be chargeable. The Committee issues for general information the above recommended scale of fees which it considers reasonable under present conditions. It will be appreciated that the actual fees charged in individual cases will be matter of agreement between the member and the client.

5) GST should be collected separately wherever applicable.

6) The Committee also recommends that the bill for each service should be raised separately and immediately after the services are rendered.

7) Classification of Class A, Class B & Class C Cities are given in **Annexure 'A'**

8) The amount charged will be based on the location of the service provider.



S. No	STATES/UNION TERRITORIES	CITIES CLASSIFIED AS "A"	CITIES CLASSIFIED AS "B"	CITIES CLASSIFIED AS "C"
1.	ANDAMAN & NICOBAR ISLANDS	———	———	All cities
2	ANDHRA PRADESH	———	Vijayawada, Greater Visakhapatnam, Guntur, Nellore	Other Cities
3	ARUNACHAL PRADESH	———	———	All cities
4	ASSAM	———	Guwahati	Other Cities
5	BIHAR	———	Patna	Other Cities
6	CHANDIGARH	———	Chandigarh	———
7	CHHATTISGARH	———	Durg-Bhilai Nagar, Raipur	Other Cities
8	DADRA & NAGAR HAVELI	———	———	All cities
9	DAMAN & DIU	———	———	All cities
10	DELHI	Delhi	———	———
11	GOA	———	———	All cities
12	GUJARAT	Ahmedabad	Rajkot, Jamnagar, Bhavnagar, Vadodara Surat	Other Cities
13	HARYANA	———	Faridabad, Gurgaon	Other Cities
14	HIMACHAL PRADESH	———	———	All cities
15	JAMMU & KASHMIR	———	Srinagar, Jammu	Other Cities
16	JHARKHAND	———	Jamshedpur, Dhanbad, Ranchi, Bokro Steel City	Other Cities
17	KARNATAKA	Bengaluru	Belgaum, Hubli-Dharwad, Mangalore, Mysore, Gulbarga	Other Cities
18	KERALA	———	Kozhikode, Kochi, Thiruvanathapuram, Thrissur, Malappuram, Kannur, Kollam	Other Cities
19	LAKSHADWEEP	———	———	All cities
20	MADHYA PRADESH	———	Gwalior, Indore, Bhopal, Jabalpur, Ujjain	Other Cities
21	MAHARASHTRA	Greater Mumbai, Pune	Amravati, Nagpur, Aurangabad, Nashik, Bhiwandi, Solapur, Kolhapur, Vasai-Virar City, Malegaon, Nanded-Waghala, Sangli	Other Cities
22	MANIPUR	———	———	All cities
23	MEGHALAYA	———	———	All cities
24	MIZORAM	———	———	All cities
25	NAGALAND	———	———	All cities
26	ODISHA	———	Cuttack, Bhubaneswar, Rourkela	Other Cities
27	PUDUCHERRY	———	Puducherry/ Pondicherry	———
28	PUNJAB	———	Amritsar, Jalandhar, Ludhiana,	Other Cities
29	RAJASTHAN	———	Bikaner, Jaipur, Jodhpur, Kota, Ajmer	Other Cities
30	SIKKIM	———	———	All cities
31	TAMIL NADU	Chennai	Salem, Tiruppur, Coimbatore, Tiruchirappalli, Madurai, Erode	Other Cities
32	TELANGANA	Hyderabad	Warangal	Other Cities
33	TRIPURA	———	———	All cities
34	UTTAR PRADESH	———	Moradabad, Meerut, Ghaziabad, Aligarh, Agra, Bareilly, Lucknow, Kanpur, Allahabad, Gorakhpur, Varanasi, Saharanpur, Noida, Firozabad, Jhansi	Other Cities
35	UTTARAKHAND	———	Dehradun	Other Cities
36	WEST BENGAL	Kolkata	Asansol, Siliguri, Durgapur	Other Cities

https://cmpbenefits.icai.org/wp-content/uploads/2020/02/Details-download.pdf

Appendix VIII

APPLICABILITY OF SA 700 (REVISED), FORMING AN OPINION AND REPORTING ON FINANCIAL STATEMENTS, TO FORMATS OF AUDITOR'S REPORTS PRESCRIBED UNDER VARIOUS LAWS AND/ OR REGULATIONS

(Issued in August 2013 and revised in February, 2022. The revised announcement was considered and approved by the Council of ICAI at its 408th meeting held on 3rd & 4th February, 2022)

1. The Council of ICAI, at its 326th meeting held from 27th to 29th July 2013 considered the issue relating to application of Standard on Auditing (SA) 700¸ Forming anOpinion and Reporting on Financial Statements to such cases where the format of the auditor's report is prescribed under the relevant law or the regulation thereunder and are per se not in line with the requirements of SA 700. The Council further considered the aforesaid matter at its 408th meeting held from 3rd to 4th February 2022 in light of SA 700 (Revised), "Forming an Opinion and Reporting on Financial Statements". The Council noted that in many cases such prescribed auditor's report were required to be filed online in a preset form and, hence, it was not possible for the auditors to make necessary changes in these reports to bring them in line with the SA 700 (Revised). Similarly, many a times, even where the auditor's report were to be submitted in a physical form and not filed online, the concerned regulatory/ government agencies may not accept such audit reports which contained any changes made by the auditors to the prescribed formats to bring them in line with SA 700 (Revised).

2. In view of the above, the Council decided that while the matter was being taken up by the Institute with the relevant regulatory authorities/ Government agencies, etc., to change the prescribed formats for bringing the same in line with the requirements of SA 700 (Revised), the members may, in the situations described in paragraph 1 above, submit the auditor's report in the format/s prescribed under the relevant law or regulation until announcement of necessary change is made by the appropriate authority. In such cases the members would not be viewed as having not complied with the provisions of SA 700 (Revised).

3. In this context, it may also be noted that paragraph A56 of the SA 200, Overall Objectives of the Independent Auditor and the Conduct of An Audit in Accordance With Standards on Auditing clearly states as follows:

> "A56. In performing an audit, the auditor may be required to comply with legal or regulatory requirements in addition to the SAs. The SAs do not override laws and regulations that govern an audit of financial statements……."

4. Further, paragraph 49 of SA 700 (Revised) requires that if the auditor is required by law or regulation applicable to the entity to use a specific layout or wording of the auditor's report, the auditor's report shall refer to Standards on Auditing only if the auditor's report includes, at minimum, each of the elements as prescribed in the said paragraph.

5. On a perusal of a cross section of the formats of the auditor's report prescribed under various laws, specially, the Income-tax Act, 1961 and the Value Added Tax Acts of various States, it is clear that these prescribed formats do not contain all the elements of the auditor's report as required in paragraph 49 of SA 700 (Revised). In the background of the difficulties mentioned in paragraph 1 above, it may also not be possible for the auditors to suitably modify the prescribed format. Accordingly, it would not per se be possible for the auditors to state in their audit reports that the audit has been carried out in accordance with the Standards on Auditing. However, the auditors would be required to carry out the audits in accordance with the Standards on Auditing issued by the Institute of Chartered Accountants of India.

The same can also be downloaded from ICAI website.

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Appendix IX

Instruction for filling from 10BB (A.Y.2023-24)

These instructions are intended to assist the user in filling the particulars in Form 10BB notified on 21st February 2023 vide Notification No. 7/2023, applicable from Assessment Year 2023-24 onwards. Please note that instruction file is not a legal document. In case of any ambiguity, relevant sections and rules of the Income-tax Act, 1961 and Income-tax rules, 1962 will always prevail. Therefore, user should refer relevant provision of the Income Tax Act and Rules before filing the form.

1. Assessment Year from which re-notified Form 10BB is applicable.

Form 10BB notified vide Notification No. 7/2023 is applicable from Assessment Year 2023-24 onwards.

2. Applicability of existing Form 10BB.

Existing Form 10BB is available on portal and is applicable till Assessment Year 2022-23 only. For filings upto Assessment Years 2022-23, Form 10BB is available on e-Filing portal and can be accessed at–

"e-File -----> Income Tax Forms ----> File Income Tax Forms ---> Persons not dependent on any Source of Income----> Form 10BB" for assignment to CA.

or

Alternatively, the form can be assigned using "My CA" functionality as well.

3. Meaning of "auditee".

Any fund or institution or trust or any university or other educational institution or any hospital or other medical institution referred to in sub - clauses (iv), (v), (vi) or (via) of clause (23C) of section 10 of the Act or any trust or institution referred to in sections 11 or 12 of the Act shall be referred as "auditee" in this form.

4. Applicability of re-notified Form 10BB.

Form 10 B is applicable where any of the below mentioned conditions are satisfied-

(I) The total income of *auditee*, without giving effect to the provisions of mentioned clause/section, as applicable-

a) sub-clauses (iv), (v), (vi) and (via) of clause 23C of section 10

b) sections 11 and 12 of the Act,

exceeds rupees five crores during the previous year

(II) *Auditee* has received any foreign contribution during the previous year

(III) *Auditee* has applied any part of its income outside India during the previous year.

For all other cases, **Form No. 10BB** shall be applicable.

For more details, you may refer Rule 16CC and Rule 17B of Income tax Rules, 1962.

5. Meaning of "foreign contribution".

For Rule 16CC and Rule 17B, the word "foreign contribution'' shall have the same meaning assigned to it in clause (h) of sub-section (1) of section 2 of the Foreign Contribution (Regulation) Act, 2010 (42 of 2010).

6. Process to file Form 10BB (A.Y 2023-24 onwards).

Following are the steps for filing Form 10BB (A.Y. 2023-24 onwards):

1) Taxpayer login: Assign Form to CA. Form can be assigned in either of two ways-

a) e-File -----> Income Tax Forms ----> File Income Tax Forms ---> Persons not dependent on any Source of Income----> Form 10BB (A.Y. 2023-24 onwards)

b) Authorised Partners-----> My Chartered Accountant (CA) -----> Add CA (if not added) ----> Assign Form 10BB (A.Y. 2023-24 onwards).

2) CA Login: CA to accept the assignment and upload the Form through the Worklist's "For Your Action" tab.

3) Taxpayer login: Taxpayer to accept the form uploaded by CA through the Worklist's "For Your Action" tab.

Please ensure that the form is uploaded and accepted before the *specified date referred to in section 44AB i.e. date one month prior to the due date for furnishing the return of income under sub-section (1) of section 139* to avoid any delay in filing.

7. Modes of Verification of Form 10BB (A.Y. 2023-24 onwards).

- For CAs, only DSC option is available for uploading of Form 10BB.
- For taxpayers (auditee) other than companies, both DSC and EVC options are available to accept the form uploaded by CA.
- For Companies, only DSC option is available to accept the form uploaded by CA.

Common Instructions : -

1) All amounts provided shall be in Rupees (Rs.) only.

2) In all CSV templates, kindly ensure the Date format of "DD-MMM-YYYY".

   For example: If the Date required to be mentioned is 31st January 2023, same can be mentioned as 31-Jan-2023 or 31-JAN-2023.

3) For all Schedules in Serial Number 23(vii), Serial No. 23(viii) and Serial No. 32, please note the following: -

   a) For number of records upto 50: either of table or CSV option can be used. In both cases, data will be reflected in table.

   b) For number of records more than 50: Only CSV option can be used. The data will appear as CSV attachment only.

   c) While using upload CSV option, followings steps to be followed:-

      "Download Excel template → Add Records → Convert Excel template into .csv file → upload .csv file"

   d) Whenever a new CSV file is uploaded for a schedule, it will over-write the existing records/data provided in that schedule, if any. Old records will be removed and records uploaded through latest CSV will be populated.

Field Specific Instructions: -

Field Number	Field Name	Instructions
Report from an accountant Panel	Date	Fill Date of Audit Report
6	Other addresses, if applicable	Provide the address which has been decided by the management by way of a resolution and which has been intimated to the jurisdictional Assessing Officer in writing within seven days of such resolution as per the proviso to sub-rule (3) of rule 17AA
7	Type of the auditee	Select an option available in dropdown- • Trust • Society • Company • Others In case of selecting "Others", please specify the details in textbox provided.
9(a)	Details of all the Author (s)/ Founder (s)/ Settlor (s)/ Trustee (s)/ Members of society/Members of the Governing Council/ Director (s)/ shareholders holding5% or more of shareholding / Office Bearer (s) of the auditee at any time during	a) Atleast one record in the table is mandatory to be provided. b) Following options are available in dropdown for selection for "Relation": 1- Author 2- Founder 3- Settlor 4- Trustee 5- Members of society 6- Members of the Governing Council 7- Director 8- Shareholders holding 5% or more of shareholding

	the previous year	9- Office Bearer (s) 10- Others If more than 1 relation is applicable for a person, separate records can be added relation wise.
9(a) & 9(b)	ID Code	If PAN or Aadhar number is available, the same should be mandatorily filled. The following options will be available for selection in said case- 1-PAN 2-Aadhar Number If neither PAN nor Aadhar is available, one of the following should be provided- 3-Taxpayer Identification Number of the country where the person resides 4-Passport number 5-Elector's photo identity number 6-Driving License number 7-Ration card number
23 (vii)	Schedule TDS disallowable- (a) Details of payment on which tax is not deducted (b) Details of payment on which tax has been deducted but has not been paid on or before the due date specified in sub-section (1) of section 139	If amount mentioned is "0" in amount column, Schedules will not be applicable. However, if an amount greater than "0" is provided, either of said two schedules or both schedules shall be mandatory.

23 (viii)	Schedule 40A(3) & Schedule 40A(3A)	a) Schedules 40A(3) shall be mandatory if "Yes" is selected in the question- Is any amount disallowable under thirteenth proviso to section 10(23C) or Explanation 3 to section 11(1) read with sub-section (3) of section 40A?
		b) Schedules 40A(3A) shall be mandatory if "Yes" is selected in the question- Is any amount disallowable under thirteenth proviso to section 10(23C) or Explanation 3 to section 11(1) read with sub-section (3A) of section 40A?
28	Details of specified person as referred to in sub-section (3) of section 13	Any person referred to in sub-section (3) of section 13 shall be referred as specified person in this form.
28	Code of person referred to in sub- section (3) of section 13	Following codes are available for selection- 1- the author of the trust or the founder of the institution 2- any person who has made a substantial contribution to the trust or institution, that is to say, any person whose total contribution up to the end of the relevant previous year exceeds fifty thousand rupees 3- where such author, founder or person is a Hindu undivided family, a member of the family 4- any trustee of the trust or manager (by whatever name called) of the institution 5- any relative of any such author,

		founder, person, member, trustee or manager as aforesaid 6- any concern in which any of the persons referred above have a substantial interest If more than 1 Code is applicable for a person, separate records can be added code wise.
30	Whether the auditee has incurred any specified violation as referred to in Explanation 2 to the fifteenth proviso to clause (23C) of section 10 or Explanation to sub-section (4) of section 12AB and the amount of such violation.	Field "Amount of such violation" is mandatory to be provided. It can be mentioned as 0 in case there is no such violation.
32	1. Schedule TDS/TCS 2. Schedule Statement of TDS or TCS 3. Schedule Interest on TDS/TCS	If "Yes" is selected in Field No. 32, alteast one record shall be mandatory to be provided in - 1. Schedule TDS/TCS 2. Schedule Statement of TDS or TCS If "Yes" is selected in question→ Whether the assessee is liable to pay interest under section 201(1A) or section 206C(7)?, "Schedule Interest on TDS/TCS" shall be mandatory.
Attachments		Following attachments are mandatory- a) Income and Expenditure Account/Profit and Loss Account b) Balance Sheet

		There is an optional attachment option as well named "Miscellaneous Attachments" where any other relevant document may be attached. Please note that size of each attachment shall not exceed 5MB. All the attachments should be in PDF/ZIP format only and all the files in ZIP file should contain files in PDF format only.

Appendix X

Instructions for filling Form 10B (Applicable from A.Y. 2023-24 onwards)

These instructions are intended to assist the user in filling the re-notified Form 10B available on e-filling portal and will be applicable from Assessment Year 2023-24 onwards. Please note that instruction file is not a legal document. In case of any ambiguity relevant rules and sections of the Income tax act 1961 and Income tax rules 1962 will always prevail, therefore user should refer relevant provision of act and rules before filing the form.

1. Assessment Year from which re-notified Form 10B is applicable.

Form 10B is re-notified vide Notification No. 7/2023 and is applicable from Assessment Year 2023-24.

2. Applicability of existing Form 10B.

Existing Form 10B is available on portal and is applicable till Assessment Year 2022-23 only. For filings upto Assessment Years 2022-23, Form 10B is available on e-Filing portal and can be assigned to CA through -----

"e-File -----> Income Tax Forms ----> File Income Tax Forms ---> Persons not dependent on any

Source of Income----> Form 10B--------→ assign to CA"

3. Meaning of "auditee".

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), (v), (vi) or (via) of clause (23C) of section 10 of the Act or any trust or institution referred to in sections 11 or 12 of the Act shall be referred as "auditee" in this form

4. Applicability of re-notified Form 10B.

Re-notified Form 10B shall be applicable in cases where any of the below mentioned conditions are satisfied-

(I) The total income of *auditee*, without giving effect to the provisions of mentioned clause/section, as applicable-

a) sub-clauses (iv), (v), (vi) and (via) of clause 23C of section 10 b) sections 11 and 12 of the Act, exceeds rupees five crores during the previous year,

(II) *Auditee* has received any foreign contribution during the previous year,

(III) *Auditee* has applied any part of its income outside India during the previous year.

For more details, Rule 16CC and Rule 17B of Income Tax Rules, 1962 may be referred.

5. Meaning of "foreign contribution".

For Rule 16CC and Rule 17B, the word "foreign contribution'' shall have the same meaning assigned to it in clause (h) of sub-section (1) of section 2 of the Foreign Contribution (Regulation) Act, 2010 (42 of 2010).

6. Process to file re-notified Form 10B

Following are the steps for filing Form 10B:

1) Taxpayer can assign Form 10B (AY 2023-24 onwards) to CA, from E-file form mode ---->.

2) CA can check the assignment in "For your action tab" under worklist--->

3) CA can either accept or reject the assignment----->

4) In case CA accepts the assignments, he/she needs to upload the JSON along with PDF attachments under offline mode of filing----->

5) Once CA submits the JSON, with valid attachments, taxpayer either has to accept/reject the form uploaded by CA through the Worklist's "For Your Action" tab.

6) Filing of form is considered to be completed only when taxpayer accepts the form submitted by CA and verify the same with active DSC/EVC registered on e-filing portal.

Form is considered to be filed within due date, if it is filed on or before the specified date referred to in section 44AB i.e. date one month prior

to the due date for furnishing the return of income under sub-section (1) of section 139 of income tax act, 1961.

7. Modes of Verification of Form 10B

- For CAs, only DSC option is available for uploading of Form 10B.
- For taxpayers (auditee) other than companies, both DSC and EVC options are available to accept the form uploaded by CA.
- For Companies, only DSC option is available to accept the form uploaded by CA.

8. Process of Downloading Offline Utility for Re-notified form 10B

Visit https:/ / www.inco metax. gov.in ----- > Go to download section----> Income tax forms------> Form 10B (A.Y.2023-24 onwards) -----> click on form utility

Note: Please make sure you always use the latest version of utility, available on E-filling portal to download and upload the json.

9. Instructions for filling specific fields of Form 10B

Field Number	Field Name / Description	Instructions
Report from an accountant Panel	Date	Fill Date of Audit Report
6	Other addresses, if applicable	Provide the address which has been decided by the management by way of a resolution and which has been intimated to the jurisdictional Assessing Officer in writing within seven days of such resolution as per the proviso to sub-rule (3) of rule 17AA
7	Type of the auditee	In case "Others" is selected from the dropdown, user is required to separately provide the detail of the type of the auditee.

9	Registration Details	At least one record is mandatory to be provided in the table. In column 1, options are available under dropdown to select the section under which auditee is registered /provisionally registered or approved/ provisionally approved /notified. *In case option "other, please specify" is selected from the dropdown then details of the relevant section needs to be provided.*
10(a)	Details of all the Author (s)/ Founder (s)/ Settlor (s)/Trustee (s)/ Members of society/Members of the Governing Council/ Director (s)/ shareholders holding 5% or more of shareholding / Office Bearer (s) of the auditee at any time during the previous year	At least one record is mandatory to be provided in the table. In column no. 2, If more than one relation is applicable for a person, separate records can be added relation wise. Details of percentage of shareholding in Column no. 3 needs to be provided in case dropdown value "8-Shareholders holding 5% or more of shareholding" is selected in the field "relations." Details of change is required to be provided in column no. 8 in case there is any change which took place in relation during previous year of audit as specified in column no. 7
10(a) & 10(b)	ID Code	If PAN or Aadhar number is available, detail of the same shall be provided by selecting one of the two dropdown value. 1- PAN

		2- Aadhar Number If neither PAN or Aadhar is available, details of the one of the following needs to be provided- 3- Taxpayer Identification Number of the country where the person resides 4- Passport number 5-Elector's photo identity number 6- Driving License number 7- Ration card number
11	Objects of the auditee	Multiple objects can be selected, in case more than one object is applicable on the auditee.
12	Whether the auditee, being a trust or institution referred to in section 11 or 12, has adopted or undertaken modification of the objects which do not conform to the conditions of registration?	In case more than one modification is undertaken or adopted, details of latest modification is required to be provided.
12(ii)(B) & 12(ii)(C)	Whether an application for registration has been made in the prescribed form and manner within the stipulated period of thirty days from the date	In case "Yes" is selected for the referred field, details in the S.no. 12(ii)(C) is necessary to be provided

	of said adoption or modification, as per sub-clause (v) of clause (ac) of sub- section (1) of section 12A *	
13(iii)	If the answer to 13(iii) is yes, whether application for registration under section sub-clause (iii) of clause (ac) of sub-section (1) of section 12A or application for approval under clause (iii) of the first proviso to clause (23C) of section 10 has been filed?	In case "Yes" is selected for the referred field, details in the S.no. 13(iv) is necessary to be provided.
14(ii)	Provide the following details of the books of account and other documents	Details of books and account is mandatory to be provided. In Col. 2, nature of books of accounts can be selected from the available dropdown values. Auditor is required to provide the details of all the books of account which is either maintained at registered place or any other place. In case books of accounts are maintained at any place other than the registered place then details of the such place need to provided
16	If 'A' or 'D' in 15 is	Details of the project/institution in

	Yes, the aggregate annual receipts from such activities in respect of that project/institution	S.no 16 is mandatory to be provided, in case auditee is running projects/institutions for the charitable purposes of advancement of any other object of general public utility
17(ii)(c)	Whether separate books of account have been maintained for the business undertaking	In case auditee has any business undertaking referred in Section 11(4) and separate books of accounts have been maintained for the same then Balance Sheet, Profit and Loss account are mandatory to be attached in PDF or zip file at the time of submission of form on e-filling portal under supporting document. Auditor is required to attach the report in 3CA/3CB, if such business is covered under tax audit provisions. Please note that size of each document shall not exceed 5 MB and all the attachments together should not exceed 50MB.Also all the attachments should be in PDF/ZIP format only and all the files in ZIP folder should contain files in PDF format only.
18(ii)(c)	Whether separate books of account have been maintained for the business	In case auditee has any income being profits and gains from any business as referred in seventh proviso to Clause (23C) of section 10 or sub-section (4A) of section 11, as the case may be and separate books of accounts have been maintained for the same then Balance Sheet, Profit and Loss

		accounts is mandatory to be attached in PDF or zip file at the time of submission of form on e-filling portal under supporting document. Auditor is required to attach the report in 3CA/3CB, if such business is covered under tax audit provisions. Please note that size of each document shall not exceed 5 MB and all the attachments together should not exceed 50MB.Also all the attachments should be in PDF/ZIP format only and all the files in ZIP folder should contain files in PDF format only.
23(iii)(c)	Others (Specify the nature)	In case the nature of Donations received by fund or trust, or institution of the auditee approved under sub-clause (iv) of clause (a) of sub-section (2) of section 80G and which are not eligible under sub-section (5) of section 80G is other than prescribed in 23(iii)(a) and (b) then nature of that other category is mandatory to be provided.
23 (vii)	Any other voluntary contribution not part of Form No. 10BD, please specify the nature	In case the auditee receives any donation, which is not covered under S.no. 23(i) to 23(vi), then nature and amount of such donation is required to be provided in 23(vii)
31(ii)	Details of application out of (i)(a) and (i)(b) resulting in payment in excess	In case auditee has made any payment in excess of ₹50 lakh during the previous to any person for the purpose of application of income for religious and charitable purpose

	of Rs.50 lakh during the previous year to any person	then details in S.no 31(ii) needs to be provided. PAN of the person to whom such payment is made is to be provided. Amount of application in col. 4 shall be equal to total of electronic and other than electronic modes of application in col.7
31(vi)(a) & 31(vi)(b)	Bifurcation of application in 31(v) into Revenue or Capital	Total of the amounts provided in 31(vi)(a) & 31(vi)(b) shall be equal to the amount calculated in 31(v)
31(xvii)	Any other Disallowance (Please specify)	If any amount other than 0 is provided in this field then the nature of such disallowance is to be specified.
38	Details of application resulting in payment or credit	In case auditee made any payment in excess of ₹50 lakh during the previous year to one person out of the sources mentioned in S.No 37 for the purpose of
	in excess of Rs 50 lakh during previous year to a single person out of 37	application then details are required to be provided in S.No 38 PAN of the person to whom such payment is made is to be provided, if available. Amount of application in col. 4 shall be equal to the total of electronic and other than electronic modes of application as provided in col.7.
39(iii)	If yes in (i), please provide computation of Income chargeable under twenty second	Details in S.No 39(iii) is required to be provided when provisions of twenty second proviso to Clause (23C) of section 10 or sub-section (10) of section 13 are applicable on the auditee as prescribed in S.No

	proviso to clause (23C) of section 10 or sub- section (10) of section 13	39(i)
41	Details of specified person as referred to in sub-section (3) of section 13	Details of the at least one specified person which are referred in Section 13(3) is mandatory to be provided. In case more than one specified person is applicable, details of all those specified persons are required to be provided. Either of the PAN or Adhaar details of specified person is mandatory to be provided. The mentioned details may be skipped only when such specified person is non-resident or not holding PAN. In case specified person is of category of "any person who has made a substantial contribution to the trust or institution, that is to say, any person whose total contribution up to the end of the relevant previous year exceeds fifty thousand rupees" then amount of such contribution is required to be specified in col.6
Schedule Corpus	Details of Corpus	The details in schedule corpus are mandatory to be given, if amount of more than 0 is provided in any of the below fields • 26(A)- Corpus representing donations received for the renovation or repair of places notified under clause (b) of sub-section (2) of section 80G eligible for exemption under

		Explanation 1A to the third proviso to clause (23C) of section 10 or Explanation 3A to sub-section (1) of section 11 • 26(B)- Corpus donations as referred to in clause (d) of sub-section (1) of section 11 or Explanation 1 to the third proviso to section 10 (23C) eligible for exemption and invested in modes specified under sub-section (5) of section 11 • 31(vii)- Amount invested or deposited back in corpus which was applied during any preceding previous year and not claimed as application during that previous year. • 35(b)- Income as per Explanation 3B to sub- section (1) of section 11 in case of violation of clause (a) or (b) or (c) or (d) of Explanation 3A to sub-section (1) of section 11 read with clause (b) of sub-section (2) of section 80. • 35(c)- Income as per Explanation 1B to the third proviso to Clause (23C) of section 10 in case of violation of clause (a) or (b) or (c) or (d) of Explanation 1A to the third proviso to Clause (23C) of section 10 read with clause (b) of sub-section (2) of section 80G • 37(D)- Application of Income out

		of corpus
Schedule FC	Details of Foreign Contribution	The details in schedule FC are mandatory to be given, if amount of more than 0 is provided in any of the below fields - • 25- Total foreign contribution out of the total voluntary contributions stated in 24
Schedule LB	Details of Loan and Borrowing	The details in schedule LB are mandatory to be given, if amount of more than 0 is provided in any of the below fields - • 31(viii) Repayment of loan or borrowing during the previous year which was earlier applied and not claimed as application during that previous year during that previous year • 37(E) Application of income out of the borrowed fund • 37(F) Application of the income out of the other fund
Schedule Int App	Details of income applied outside India	The details in schedule Int App are mandatory to be given, if amount of more than 0 is provided in any of the below fields - • 29- Income applied outside India which is eligible under clause (c) of sub-section (1) of section 11 • 33(e)- Income applied outside India which is eligible under clause (c) of sub-section (1) of section 11
Schedule DI	Details of deemed application under	The details in schedule DI are mandatory to be given,

	Explanation 1 sub-section (1) of section 11 and deemed income under sub- section (1B) of section 11	if amount of more than 0 is provided in any of the below fields - • 31(xix)- Amount deemed to have been applied during the previous year under clause (2) of Explanation 1 to subsection (1) of section 11 • 33(a)- Where the auditee has any deemed income referred to in sub-section (1B) of section 11 which is chargeable to tax @ 30 % under section 115BBI and the amount of such deemed income • 37(B)- Income deemed to be applied in any preceding year under clause (2) of Explanation 1 to sub-section (1) of section 11 during any earlier previous year.
Schedule DA	Details of accumulated income taxed in earlier assessment years as per sub-section (1B) of section 11	The details in schedule DA are mandatory to be given in case any amount of more than 0 is provided in col. 6 of schedule DI.
Schedule AC	The details of accumulation	The details in schedule AC are mandatory to be given, if amount of more than 0 is provided in any of the below fields - • 31(xx)- Income accumulated as per the provisions of Explanation 3 to the third proviso to clause (23C) of section 10 or sub- section (2) of section 11 • 37A- Income accumulated under third proviso to clause

		(23C) of section 10 or under sub- section (2) of section 11 during any earlier previous year The details in schedule AC are mandatory to be provided, if yes is selected in the below field - • 33(b)- Whether the auditee has any deemed income referred to in Explanation 4 to third proviso to clause (23C) of section 10 or sub- section (3) of section 11 which is chargeable to tax @ 30 % under section 115BBI and the amount of such deemed income?
Schedule ACA	Details of accumulated income taxed in earlier assessment years as per sub-section (3) of section 11	The details in schedule ACA are mandatory to be provided in case any amount of more than 0 is provided in col. 7 of schedule AC
Schedule SP-a	Whether any part of income or property of the auditee is lent, or continues to be lent, to the specified person during the previous year?	If yes is selected in 42(a), the details in schedule SP-a are mandatory to be provided. PAN of the specified person is to be provided, unless such person is non-resident or not holding PAN
Schedule SP-b	Details of land, building or other property of the auditee which is, or continues to be, made available	If yes is selected in 42(b), the details in schedule SP-b are mandatory to be provided. PAN of the specified person is to be provided, unless such person is non- resident or not holding PAN

	during the previous year for use of the specified person, during the previous year	
Schedule SP-c	Details of salary, allowance or otherwise which is paid to the specified person out of the resources of the auditee for services rendered by him during the previous year	If yes is selected in 42(c), the details in schedule SP-c are mandatory to be provided. PAN of the specified person is to be provided, unless such person is non-resident or not holding PAN
Schedule SP-d	Details of the services of the auditee are made available to the specified person during the previous year?	If yes is selected in 42(d), the details in schedule SP-d are mandatory to be provided. PAN of the specified person is to be provided, unless such person is non-resident or not holding PAN
Schedule SP- e 1	Details of any share, security is purchased by or on behalf of the auditee from the specified person during the previous year?	If yes is selected in 42(e), the details in schedule SP-e1 are mandatory to be provided. In case type of asset purchased is share or security or other movable property then auditor is required to provide the details in schedule e1 of such property. In case no Immovable property is purchased and schedule e2 is not applicable then auditor may fill the following details in the schedule e2: 1) Name of specified person – NA

		2) PAN of specified person- skip the details. 3) Type of asset -Land 4) Address of Property- NA 5) Area (in Sq ft)- 0 6) Stamp Duty Value-0 7) Amount of consideration paid for asset- • Adequate Consideration for asset – • PAN of the specified person is to be provided, unless such person is non- resident or not holding PAN
Schedule SP- e 2	Details in case of Other Property being Immovable:	If yes is selected in 42(e), the details in schedule SP-e2 are mandatory to be provided.
		In case type of asset purchased Land/residential property or commercial property then auditor is required to provide the details in schedule e2 of such property. In case no movable property like shares/security or other property is purchased and schedule e1 is not applicable then auditor may fill the following details in the schedule e1: 1) Name of specified person – NA 2) PAN of specified person- skip the details. 3) Nature of property purchased - Other property. 4) Name of the Company/ Concern of which the shares are purchased- NA 5) Number of shares purchased

		during the previous year- 0 6) Price of each share/security- NA 7) Total consideration paid share or security -0 8) Adequate consideration for share or security-0 9) Nature of property-NA 10) Number of property purchased - 0 11) Price of property- 0 12) Total consideration paid for property during the previous year -0 13) Adequate Consideration -0 PAN of the specified person is to be provided, unless such person is non-resident or not holding PAN
Schedule SP- f 1	Details of any share, security sold by or on behalf of the trust or institution to a specified person during the previous year?	If yes is selected in 42(f), the details in schedule SP-f1 are mandatory to be provided. In case type of asset sold is share or security or other movable property then auditor is required to provide the details in schedule f1 of such property. In case no Immovable property is sold and schedule f2 is not applicable then auditor may fill the following details in the schedule f2: 1. Name of specified person – NA 2. PAN of specified person- skip the details. 3. Type of asset -Land 4. Address of Property- NA 5. Area (in Sq ft)- 0

		6. Stamp Duty Value-0 7. Amount of consideration for asset- 0 8. Adequate Consideration for asset – 0 PAN of the specified person is to be provided, unless such person is non-resident or not holding PAN
Schedule SP-f2	Details in case of other property being immovable	If yes is selected in 42(f), the details in schedule SP-f2 are mandatory to be provided. In case type of asset sold is share or security or other movable property then auditor is required to provide the details in schedule f2 of such property. In case no movable property like shares/security or other property is sold and schedule f2 is not applicable then auditor may fill the following details in the schedule f2: 1. Name of specified person – NA 2. PAN of specified person- skip the details. 3. Nature of property sold -Other property. 4. Name of the Company/ Concern of which the shares are sold- NA 5. Number of shares purchased during the previous year- 0 6. Price of each share/security- NA 7. Total consideration share/ security -0 8. Adequate consideration of share or security-0 9. Nature of movable property-NA

		10. Number of movable properties sold - 0 11. Price of movable property- 0 12. Total consideration for property during the previous year -0 13. Adequate consideration- 0 PAN of the specified person is to be provided, unless such person is non-resident or not holding PAN
Schedule SP-g	Details of any income or property which is diverted during the previous year in favor of any specified person	If yes is selected in 42(g), the details in schedule SP-g are mandatory to be provided. PAN of the specified person is to be provided, unless such person is non-resident or not holding PAN
Schedule SP-h	Details of any funds that are, or continue to remain invested in any concern during the previous year in which the specified person has a substantial interest	If yes is selected in the 42(h), the details in schedule SP-h are mandatory to be provided, PAN of the specified person is to be provided unless such person is non-resident or not holding PAN
Schedule TDS disallowable	Details of amounts inadmissible amount disallowable under thirteenth proviso to clause (23C) of section 10 or sub section (1) of section 11 read with sub-clause(ia) of clause (a) of	Details in schedule TDS Disallowable are mandatory to be provided in case amount greater than 0 is filled in the below two fields: • 31(ix)- Amount disallowable under thirteenth proviso to clause (23C) of section 10 or Explanation 3 to subsection (1) of section 11 read with sub-clause (ia) of clause (a) of section 40

	section 40. (a) Details of payment on which tax is not deducted (b) Details of payment on which tax has been deducted but has not been paid on or before the due date specified in sub-section (1) of section 139	• 39(vi)- Amount disallowable under Explanation to sub-section (10) of section 13 or Explanation to twenty second proviso to clause (23C) of section 10 read with sub- clause (ia) of clause (a) of section 40 In case Part (b) of schedule is not applicable then following details can be added in part (b) 1. Date of Payment- 31/03/2023 2. Amount of payment -0 3. Nature of payment- NA 4. Name of Payee- NA 5. PAN or Aadhar of payee, if available- Can be skipped 6. Address of Payee- NA 7. Amount of tax deducted-0 ➢ In case Part (a) of schedule is not applicable then following details can be added in part (a) 1. Date of Payment- 31/03/2023 2. Amount of payment -0 3. Nature of payment- NA 4. Name of Payee- NA 5. PAN or Aadhar of payee, if available- Can be skipped 6. Address of Payee- NA
Schedule 40A(3)	Details of amount is disallowable under thirteenth proviso to section 10 (23C) or Explanation 3 sub-section (1) of	Details in schedule 40A (3) are mandatory to be provided in case amount greater than 0 is filled in the below two fields:
		• 39(iii)(c)(vii)- Amount disallowable under Explanation to sub-section (10) of section 13

	section 11 read with sub- section (3) of section 40A	or Explanation to twenty second proviso to clause (23C) of section 10 read with sub-sections 3 or 3A of section 40 • As per 31(x)(A) in offline utility- Amount disallowable under thirteenth proviso to section 10(23C) or Explanation 3 to sub-section (1) of section 11 read with sub- section (3) of section 40
Schedule 40A(3A)	Details of Amount disallowable under thirteenth proviso to section 10(23C)/sub-section (1) of section 11 read with sub-section (3A) of section 40A	Details in schedule 40A(3) are mandatory to be provided in case amount greater than 0 is filled in the below two fields: • 39(iii)(c)(vii)- Amount disallowable under Explanation to sub-section (10) of section 13 or Explanation to twenty second proviso to clause (23C) of section 10 read with sub-sections 3 or 3A of section 40 • As per 31(x)(B) in offline utility- Amount disallowable under thirteenth proviso to section 10(23C) or Explanation 3 to sub-section (1) of section 11 read with sub- section (3A) of section 40
Schedule TDS/TCS and Schedule Statement of TDS/TCS	Schedule TDS/TCS and Schedule Statement of TDS/TCS	If yes is selected in S.no 49, the details in schedule TDS/TCS and Schedule Statement of TDS/TCS are mandatory to be provided.
Schedule Interest on	Schedule Interest on TDS/TCS	If yes is selected in S.no 49, the details in schedule Interest on TDS/TCS are mandatory to be

TDS/TCS		provided.
Schedule 269SS	Details of loan or deposit or any specified sum taken, exceeding the limit specified in section 269SS during the previous year	If yes is selected in S.no 46, the details in schedule 269SS are mandatory to be provided.
Schedule 269ST	Details of amount received exceeding the limit specified in section 269ST, from a person in a day; or	If yes is selected in S.no 47, the details in schedule 269ST are mandatory to be provided.
	in respect of a single transaction; or in respect of transactions relating to one event or occasion from a person during the previous year?	
Schedule 269T	Details of repayment of any amount being loan or deposit or any specified advance exceeding the limit specified in section 269T, during the previous year?	If yes is selected in S.no 48, the details in schedule 269T are mandatory to be provided.
Schedule other law violation	Schedule other law violation	If yes is selected in S.no 43(f), the details in schedule other law violation are mandatory to be

		provided, if the auditee has not complied with the requirement of any other law, for the time being in force, and the order, direction or decree, by whatever name called, holding that such non-compliance has occurred, has either not been disputed or has attained finality.
Attachments of financial statement		At the time of submission of the form, following documents of trust/Institution are required to be attached in pdf or zip format under supporting document on e-filling portal. a) Income and Expenditure Account/Profit and Loss Account b) Balance Sheet c) Audit report in 3CA/3CB Please note that size of each document shall not exceed 5 MB and all the attachments together should not exceed 50MB.Also all the attachments should be in PDF/ZIP format only and all the files in ZIP folder should contain files in PDF format only.

Common Instructions to fill schedules and CSVs

How to attach csv file	Download Excel template →Add Records →Convert Excel template into .csv file →upload .csv file
In case auditor has more than 50 rows to fill in schedule	• For number of records upto 50: Either table or CSV option can be used. • For number of records more than 50: Only CSV option can be used

Instructions in headers to fill excel templates	Instructions headers are provided in each excel templates to assist auditor in filling out data in excel.
Dropdown values in the Excel templates	Wherever dropdown values are given to choose in the excel templates, Auditor is required to select the values from the dropdown itself.
Auto calculated fields in the excel templates	Value/amount in auto calculated fields shall be auto calculated by the system, do not manually change the value, it may fail to attach your csv file in the utility.
Attachment of new csv file	If a new CSV file is attached over the old CSV file, it will completely replace the old CSV file.

Miscellaneous things to be taken care in filing the offline utility.

Denomination of currency of the amount	All amount field in the utility shall be in the denomination of Indian rupees only.
Date format	Standard date format i.e. DD-MMM-YYYY is required to be followed in the form, for example date can be enter as 06-MAR-1990.
Nil Value of amount	In case of Nil value, auditor can enter 0 as the amount fields are mandatory to be filled.
Filling out the schedule's panels	Below mentioned 5 panels, which require information of different schedules, shall be available only when auditor completes the other panels of the utility. 1. Sch. Corpus-DI 2. Sch. DA- Sch. ACA 3. Sch. SP-a -Sch H 4. Sch. TDS disallowable -Sch. Interest on TDS/TCS 5. Sch.269SS- Sch. Other law violation
Download JSON facility without completing all panels of the	Auditor is allowed to download the JSON file even if all the panels are not completed. However, to download and upload the valid JSON on e-filling portal, auditor is required to complete all the panels.

form	
Details to be added in table only	For the below schedules, auditor is required to add the details in table only i.e. upload csv option is not available for these schedules: 1. Schedule corpus 2. Schedule FC 3. Schedule DI 4. Schedule DA 5. Schedule AC 6. Schedule ACA

Appendix XI

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 (I) of section 12A of the Act, in setting 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 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 l0BD. The certificate of such donation is required to be provided in Form No. 10BE. Further, Form No. l0BD 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 I(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 (I) 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 (I) 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 1(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 celtificate 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 I 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 II 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 mode 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 up loading on irsofficersonline.gov.in.
11. All PrCCITs.

(Vipul Agarwal)

Director (TPL-I), CBDT

Appendix XII

172. Audit report in Form No. 10B in terms of rule 17B - Auditor can accept as a correct list of specified persons as given by managing trustee while filing report

1. Under section 12A(*b*), in the cases of charitable and religious trusts or institutions whose total income, without giving effect to the provisions of sections 11 and 12, exceeds 25,000 rupees in any previous year, the accounts of the trust or institution should have been audited by an accountant as defined in the *Explanation* below section 288(2) and the person in receipt of the income should furnish, along with the return of income for the relevant assessment year, the report of such audit in the prescribed form duly signed and verified by such authority and setting forth such particulars as may be prescribed. Rule 17B of the Income-tax Rules, 1962 lays down that the report of audit of accounts of the trust of the institution should be in Form No. 10B. The Annexure to Form No. 10B requires the auditor to certify, *inter alia,* as to the non-application or non-user of the income or property for the benefit of persons referred to in section 13(3).

2. The Board have considered a representation that *while filing Form No. 10B and its annexure an auditor can accept as correct the list of persons covered by section 13(3), as given by the managing trustees, etc. The Board agree that an auditor can accept as correct the list of specified persons, till* given further instructions, by the managing trustees and base their report on the strength of this certificate.

Circular : *No. 143 [F. No. 180/74/73-IT(A-I)], dated 20-8-1974.*

Appendix XIII

EXEMPTION UNDER SECTION 11 IN CASE OF ASSESSEE CLAIMING BOTH TOBE CHARITABLE INSTITUTIONS AS WELL AS MUTUAL ORGANISATIONS

CIRCULAR NO. 11/2008, DATED 19-12-2008

Definition of 'Charitable purpose' under section 2(15) of the Income-tax Act, 1961

Section 2(15) of the Income-tax Act, 1961 ('Act') defines "charitable purpose" to include the following:-

(i) Relief of the poor

(ii) Education

(iii) Medical relief, and

(iv) the advancement of any other object of general public utility.

An entity with a charitable object of the above nature was eligible for exemption from tax under section 11 or alternatively under section 10(23C) of the Act. However, it was seen that a number of entities who were engaged in commercial activities were also claiming exemption on the ground that such activities were for the advancement of objects of general public utility in terms of the fourth limb of the definition of 'charitable purpose'. Therefore, section 2(15) was amended vide Finance Act, 2008 by adding a proviso which states that the 'advancement of any other object of general public utility' shall not be a charitable purpose if it involves the carrying on of –

(a) any activity in the nature of trade, commerce or business; or

(b) any activity of rendering any service in relation to any trade, commerce or business;

for a cess or fee or any other consideration, irrespective of the nature of use or application, or retention of the income from such activity.

2. The following implications arise from this amendment –

2.1 The newly inserted proviso to section 2(15) will not apply in respect of the first three limbs of section2(15), i.e., relief of the poor, education or medical

relief. Consequently, where the purpose of a trust or institution is relief of the poor, education or medical relief, it will constitute 'charitable purpose' even if it incidentally involves the carrying on of commercial activities.

2.2. 'Relief of the poor' encompasses a wide range of objects for the welfare of the economically and socially disadvantaged or needy. It will, therefore, include within its ambit purposes such as relief to destitute, orphans or the handicapped, disadvantaged women or children, small and marginal farmers, indigent artisans or senior citizens in need of aid. Entities who have these objects will continue to be eligible for exemption even if they incidentally carry on a commercial activity, subject, however, to the conditions stipulated undersection 11(4A) or the seventh proviso to section 10(23C) which are that

(i) the business should be incidental to the attainment of the objectives of the entity, and

(ii) separate books of account should be maintained in respect of such business.

Similarly, entities whose object is 'education' or 'medical relief' would also continue to be eligible for exemption as charitable institutions even if they incidentally carry on a commercial activity subject to the conditions mentioned above.

3. The newly inserted proviso to section 2(15) will apply only to entities whose purpose is 'advancement of any other object of general public utility' i.e. the fourth limb of the definition of 'charitable purpose 'contained in section 2(15). Hence, such entities will not be eligible for exemption under section 11 or undersection 10(23C) of the Act if they carry on commercial activities. Whether such an entity is carrying on an activity in the nature of trade, commerce or business is a question of fact which will be decided based on the nature, scope, extent and frequency of the activity.

3.1. There are industry and trade associations who claim exemption from tax u/s 11 on the ground that their objects are for charitable purpose as these are covered under 'any other object of general public utility'. Under the principle of mutuality, if trading takes place between persons who are associated together and contribute to a common fund for the financing of some venture or object and in this respect have no dealings or relations with any outside body, then any surplus returned to the persons forming such association is not chargeable to tax. In such cases, there must be complete identity between the contributors and the participants.

Therefore, where industry or trade associations claim both to be charitable institutions as well as mutual organizations and their activities are restricted to contributions from and participation of only their members, these would not fall under the purview of the proviso to section 2(15) owing to the principle of mutuality. However, if such organizations have dealings with non-members, their claim to be charitable organizations would now be governed by the additional conditions stipulated in the proviso to section 2 (15).

3.2. In the final analysis, however, whether the assessee has for its object 'the advancement of any other object of 'general public utility' is a question of fact. If such assessee is engaged in any activity in the nature of trade, commerce or business or renders any service in relation to trade, commerce or business, it would not be entitled to claim that its object is charitable purpose. In such a case, the object of 'general public utility 'will be only a mask or a device to hide the true purpose which is trade, commerce or business or the rendering of any service in relation to trade, commerce or business. Each case would, therefore, be decided on its own facts and no generalization is possible. Assessees, who claim that their object is 'charitable purpose' within the meaning of Section 2(15), would be well advised to eschew any activity which is in the nature of trade, commerce or business or the rendering of any service in relation to any trade, commerce or business.

Appendix XIV

165. Application of income to charitable purposes and restriction of accumulation of trust income in terms of sub-sections (1) and (2) as they stood between 1-4-1962 to 31-3-1971 (prior to the amendments made by the Finance Act, 1970) - Taxability of income under sub-sections (1) and (2) - Legal position on issues pertaining thereto explained.

CLARIFICATION 1

1. Attention is invited to the Board's Circular Nos. 5-P(LXX-6) of 1968 and 12-P(LXX-7) of 1968 *[Clarification 2]* which had been duly endorsed to all Chambers of Commerce. References are still being received from the public seeking clarifications regarding the taxability of income under the provisions of sections 11(1) and 11(2).

2. The legal position is clarified as under :

- Under section 11(1)(*a*), a trust claiming exemption is allowed to accumulate 25 per cent of its income or Rs. 10,000, whichever is higher. Thus, if a trust accumulates a larger income than the limits prescribed for exemption, what would be chargeable to tax is the excess over the exempted limit, and not the entire accumulation including the exempted portion.
- Section 11(2), however, provides that if the conditions laid down in the sub-section are satisfied, restrictions as regards accumulation or setting apart of income shall not apply for the period during which the conditions prescribed therein remain satisfied. To avoid taxation under section 11(1)(*a*), investment in Government securities as prescribed in section 11(2), has to be made, not only in respect of excess amount which is chargeable under section 11(1)(*a*) but of the entire unspent balance including the exempted portion.
- Subsequently, if it is found that the provisions of section 11(2) have been violated and the income has been applied to purposes other than charitable or religious, or the amounts cease to be accumulated or set apart, the entire accumulation covered by section 11(2) will be subjected to tax under section 11(3).

3. *Thus, while under section 11(1)(a), the tax will be levied in the year to*

*which the income relates, under section 11(3) the income would be chargeable in the year in which the amounts cease to be accumulated for the specific purpose mentioned. Thus, when the amounts are taxed under section 11(3), the benefit which would have been available to a trust in respect of 25 per cent of its income or Rs. 10,000 under section 11(1)(*a *) would also be lost.*

Circular : *No. 29 [F. No. 20/22/69-IT(A-I)], dated 23-8-1968.*

CLARIFICATION 2

Attention is invited to the Board's Circular No. 5-P(LXX-6), dated 19-6-1968 *(Clarification 3),* on the above mentioned subject.

It has been brought to the Board's notice that para 5 of the above circular creates the impression that where a trust accumulates more than 25 per cent of its income, only the excess over 25 per cent will be taxable under section 11(1). It is hereby clarified that the correct position in this regard is that *if a trust desires to accumulate income in excess of the limits laid down in section 11(1), the conditions specified in section 11(2) have to be fulfilled in respect of the entire accumulation and not merely in respect of the accumulation in excess of 25 per cent of the income. Further, if the trust does not comply with the conditions laid down in section 12(2),* the amount which becomes liable to assessment under section 11(3) is the entire income accumulated and not merely the income accumulated in excess of the limits specified in section 11(1). In other words, *such an assessee loses benefit of the accumulation permitted under section* 11(1).

Circular : *No. 12-P [LXX-7 of 1968], dated 26-11-1968.*

JUDICIAL ANALYSIS

The above circular was quoted and relied on, in *M.CT.M. Chidambaram Chettiar Foundation* v. *ITO* [1991] 39 TTJ (Mad.) 82, 87.

Note : The above view cannot be construed as correct, in view of the preponderant judicial view expressed in the cases of *CIT* v. *C.M. Kothari Charitable Trust* [1984] 149 ITR 573 (Mad.); *CIT* v. *H.H. Marthanda Varma Elayaraja of Travancore Trust* [1981] 129 ITR 191 (Ker.); *Mohanlal Hargovinddas Public Charitable Trust* v. *CIT* [1980] 122 ITR 130 (MP); *CIT* v. *Shri Krishen Chand Charitable Trust* [1975] 98 ITR 387 (J & K) and *CIT* v. *Trustees of Bhat Family Research Foundation* [1990] 185 ITR 532 (Bom.) and

Addl. CIT v. *A.L.N. Rao Charitable Trust* [1976] 103 ITR 44 (Kar.), which has since been approved by the Supreme Court in the case of *Addl. CIT* v. *A.L.N. Rao Charitable Trust* [1995] 216 ITR 697 (SC).

CLARIFICATION 3

1. In Board's Circular No. 2-P(LXX-5), dated 15-5-1963, it was explained that a religious or charitable trust, claiming exemption under section 11(1), must spend at least 75 per cent of its *total income* for religious or charitable purposes. In other words, it was not permitted to accumulate more than 25 per cent of its *total income.* The question has been reconsidered by the Board and the correct legal position is explained below.

2. Section 11(1) provides that subject to the provisions of sections 60 to 63, "the following income shall not be included in the total income of the previous year. . . ." The reference in clause (*a*) is invariably to "Income" and not to "total income". The expression "total income" has been specifically defined in section 2*(45)* as "the total amount of income computed in the manner laid down in this Act". *It would, accordingly, be incorrect to assign to the word "income", used in section 11(1)(*a*), the same meaning as has been specifically assigned to the expression "total income"* vide *section* 2*(45).*

3. *In the case of a business undertaking, held under trust, its "income" will be the income as shown in the accounts of the undertaking.* Under section 11(4), any income of the business undertaking determined by the ITO, in accordance with the provisions of the Act, which is in excess of the income as shown in its accounts, is to be deemed to have been applied to purposes other than charitable or religious, and hence it will be charged to tax under sub-section (3). As only the income disclosed in the account will be eligible for exemption under section 11(1), the permitted accumulation of 25 per cent will also be calculated with reference to this income.

4. *Where the trust derives income from house property interest on securities, capital gains, or other sources, the word "income" should be understood in its commercial sense,* i.e., book income, after adding back any appropriations or applications thereof towards the purposes of the trust or otherwise, and also after adding back any debits made for capital expenditure incurred for the purposes of the trust or otherwise. It should be noted, in this connection, that the amounts so added back will become chargeable to tax under section 11(3) to the extent that they represent outgoings for purposes other than those of the trust. The amounts spent or applied for the purposes

of the trust from out of the income, computed in the aforesaid manner, should be not less than 75 per cent of the latter, if the trust is to get the full benefit of the exemption under section 11(1).

5. *To sum up the business income of the trust, as disclosed by the accounts* plus *its other income computed as above, will be the "income" of the trust for the purposes of section 11(1). Further, the trust must spend at least 75 per cent of this income and not accumulate more than 25 per cent thereof. The excess accumulation, if any, will become taxable under section 11(1).*

Circular : *No. 5-P(LXX-6) of 1968, dated 19-6-1968.*

JUDICIAL ANALYSIS

EXPLAINED IN - The above circular was explained in *CIT* v. *Programme for Community Organi-sation* [1997] 228 ITR 620 (Ker.), with the following observations :

"Reading of the circular dated June 19, 1968, it would be a condition by way of a clarification. The circular relates to the subject in the context.

It contains instructions regarding 'income' required to be applied for charitable purposes. Even the Board of Revenue has understood that it would be incorrect to assign to the word 'income' used in section 11(1)(*a*) of the Act, the same situation of understanding as is available from the expression 'total income' which is used in section 2(*45*) of the Act. It is specified that in the case of a business undertaking held under a trust, its income disclosed by the account will be eligible for exemption under section 11(1) and the permitted accumulation of 25 per cent will also be calculated with reference to this income.

Learned senior tax counsel submitted that the last paragraph of the circular makes out a different situation and, therefore, the circular as a whole will have to be read and taken into consideration in the context...." (pp. 623-624)

"The above paragraph, if fully read, does not alter the situation in any way. As seen from the above, when the trust derives income, it says that the word "income" should be understood in its commercial sense, *i.e.,* book income. In other words, the Department requires its officer to understand the income of the trust with reference to the book income, after adding back the items stated therein. It is thereafter that we see that whatever may be the position, the amount spent or applied for the purposes, it is clarified, should not be less than 75 per cent of the latter if the trust is to get the full benefit of the exemption

under section 11(1). In our judgment, the statutory provision makes it abundantly clear that in regard to a trust which is entitled to get the full benefit of exemption of section 11(1) of the Act, its income with reference to the head under consideration would have to be understood only at 75 per cent thereof, leaving 25 per cent altogether at that stage itself. In this sense of the situation, the Central Board of Revenue also has understood the situation in the context of the statutory language of section 11(1)(*a*) of the Act and not otherwise. This means that when the situation is established that the trust is entitled to the full benefit of exemption under section 11(1), the said trust is to get the benefit of 25 per cent and this 25 per cent has to be understood as that of the income of the trust under the relevant head of section 11(1)(*a*) of the Act." (pp. 624-625)

EXPLAINED IN - In *CIT* v. *Jayashree Charity Trust* [1986] 159 ITR 280 (Cal.), it was observed that this circular makes it clear that the word 'income' in section 11(1)(*a*) must be understood in a commercial sense. The entire income of the trust, in the commercial sense, has been spent for the purpose of charity. There is no reason to deny the benefit of exemption granted by section 11 to that portion of the income which has been taken away by deduction at source on the ground that the amount has not been spent or accumulated for the purpose of charity.

CLARIFICATION 4

It was clarified that section 11(1)(*a*) required that where income derived from property held under trust was accumulated for future application to charitable purposes in India, the extent of such accumulation should not exceed 25 per cent of the income from the property or Rs. 10,000, whichever is higher. Thus, *where a charitable trust donated, for charitable purposes, not out of its income but out of its corpus, movable or immovable property, equivalent to, or more in value than 75 per cent of the trust income for the year, the trust could not be regarded to have satisfied the requirement of section 11(1)(*a*).*

Source : *Relevant extracts from official minutes of twelfth meeting of Direct Taxes Advisory Committee (Central) held in New Delhi on 17-8-1968.*

CLARIFICATION 5

1. There appears to be certain amount of misconception in the minds of some Income-tax Officers regarding the provisions against the accumulation of income in excess of 25 per cent, contained in section 11(1). It may be clarified that the provisions in section 11(1), prohibiting accumulation of income in excess of 25 per cent, apply only to the income derived from

property held under trust, but such restrictions are not applicable to capital receipts. *The donations received by a charitable trust from the members of the public, being capital receipts, cannot be regarded as income of the trust.* Accordingly, the donations received by the trust should be excluded from the income of the trust for the purpose of calculating the accumulation limit of 25 per cent except in cases covered by section 12(2).

2. The above position will also be clear from section 12(2), which specifically provides that contributions made to a charitable trust by another trust, to which the provisions of section 11 apply, should, in the hands of the trustee, be deemed to be income derived from property for the purposes of section 11. Such contributions should, of course, be included in the total income of the receiving trust for the purpose of applying the limit of 25 per cent under section 11(1).

Letter : *F. No. 20/10/67-IT(A-I), dated 1-5-1967.*

JUDICIAL ANALYSIS

EXPLAINED IN - R.B. Shreeram Religious & Charitable Trust v. *CIT* [1998] 99 Taxman 318 (SC) with the observation that the CBDT Circular No. 20/10/67-IT(A-I), dated 1-5-1967 deals with the application of section 11(1). It does not deal with section 12. The Board Circular, therefore, must be read only as interpreting section 11(1) and not as interpreting section 12(1) which was not the subject-matter of the Board Circular.

CLARIFICATION 6

1. Under section 11(2), if a trust wants to accumulate income beyond the limit specified in clause (*a*) or clause (*b*) of section 11(1), it has to give a notice to the Income-tax Officer concerned in Form No. 10 prescribed under rule 17 of the Rules.

2. According to para 2 of the said Form, the accumulated money has to be invested in specified securities before the expiry of one month commencing from the end of the relevant previous year and according to para 3 thereof, copies of the annual accounts of the trust along with details of investment and utilisation, if any, of the money so accumulated, have to be furnished to the Income-tax Officer before April 30, every year.

3. It is hereby clarified that as far as proceedings for the assessment year 1962-63 are concerned, *the first requirement referred to in the previous paragraph will be regarded as having been fulfilled if the accumulated money*

is invested in the specified securities before September 30, 1962. Similarly, the second requirement referred to in the previous paragraph shall be regarded as having been fulfilled if copies of the relevant accounts along with details of investment and utilisation of the accumulated money are furnished to the Income-tax Officer concerned before September 30, 1962.

Circular : *No. 17(LXX-4), dated 2-6-1962.*

Appendix XV

MINISTRY OF FINANCE

(Department of Revenue)

(CENTRAL BOARD OF DIRECT TAXES)

NOTIFICATION

New Delhi, 23rd June, 2023

INCOME-TAX

G.S.R. 457(E).—In exercise of the powers conferred by clauses (i), (ii), (iii) and (iv) of the first proviso to clause (23C) of section 10, ninth proviso to clause (23C) of section 10, clause (b) of the tenth proviso to clause (23C) of section 10, sub-clauses (i) (ii), (iii), (iv), (v) and (vi) of clause (ac) of sub-section (1) of section 12A, sub-clause (ii) of clause (b) of sub-section (1) of section 12A, sub-section (3) of section 12AB, clauses (i), (ii), (iii) and (iv) of the first proviso to sub-section (5) of section 80G, third proviso to sub-section (5) of section 80G read with section 295 of the Income-tax Act, 1961 (43 of 1961), the Central Board of Direct Taxes hereby makes the following rules further to amend the Income-tax Rules, 1962, namely:-

1. **Short title and commencement.—**(1) These rules may be called the Income-tax (Eleventh Amendment) Rules, 2023.

(2) Save as otherwise provided in these rules, they shall come into force from the 1st day of October, 2023.

2. In the Income-tax Rules, 1962 (hereafter referred to as the principal rules),—

(a) in rule 2C,-

(i) in sub-rule (1), -

(I) in clause (i), for the words, brackets and figure "clause (i) or", the words, brackets, figure and letter "clause (i) or sub-clause (A) of" shall be substituted;

(II) in clause (ii), for the word, brackets and figures "clause (iii)", the words, bracket, figures and letter

"clause (iii) or sub-clause (B) of clause (iv)" shall be substituted;

(ii) in sub-rule (7), for the word and figures "section 10", the words and figures "section 10 as it stood immediately before its amendment by the Finance Act, 2023," shall be substituted;

(b) in rule 11AA,-

(i) in sub-rule (1),-

(I) in clause (a), for the words, brackets and figure "clause (i) or", the words, brackets, figure and letter "clause (i) or sub-clause (A) of" shall be substituted;

(II) for clause (b), the following sub-clause shall be substituted, namely:-

"(b) Form No. 10AB in case of application under clause (ii) or clause (iii) or sub -clause (B) of clause (iv) of the first proviso to sub - section (5) of section 80G to the Principal Commissioner or Commissioner authorised under the said proviso." ;

(ii) for sub-rule (7), the following sub-rule shall be substituted, namely:-

"(7) In case of an application made under,-

(i) clause (iv) of the first proviso to sub-section (5) of section 80G as it stood immediately before its amendment vide the Finance Act, 2023,; or

(ii) sub-clause (A) of clause (iv) of first proviso to sub-section (5) of section 80G, the provisional approval shall be effective from the assessment year relevant to the previous year in which such application is made.";

(c) in rule 17A,-

(i) in sub-rule (1),-

(I) in clause (i), for the words, brackets and figure "sub-clause (i) or", the words, brackets, figure and letter "sub-clause (i) or item (A) of sub-clause" shall be substituted;

(II) in clause (ii), for the word, brackets and figure "or (v)", the words, brackets, figures and letter "or (v) or item (B) of sub-clause (vi)" shall be substituted;

(ii) in sub-rule (7), for the word, figure and letter "section 12A" the words, figures and letter "section 12A as it stood immediately before its amendment vide the Finance Act, 2023," shall be substituted.

3. In the principal rules, in the APPENDIX II, -

(a) in Form No. 10A, -

(i) below the table and before the heading "Notes to fill Form No. 10A", for the portion beginning with the words " *I_, son/daughter of"* and ending with the words

"Date Signature" ,

the following shall be substituted, namely:-

"*I_____,son/daughter of_____,hereby declare that the details given in the form are true and correct to the best of my knowledge and belief.*

I undertake that I am applying for registration/approval (strike out whichever is inapplicable) under the section code 2/7/ 8/9/10/12 and the activities of the …… (Name of the institution, trust or fund) having permanent account number (PAN)…….. have not commenced on or before the date of making this application.

I further undertake 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. I also declare that I am filing this form in my capacity as……..

(designation) having PAN……..and that I am competent to file this form and verify it.

Date : *Signature*

Or (for codes 1/3/4/5/6/11)

I……., son/daughter of……., hereby declare that the details given in the form are true and correct to the best of my knowledge and belief.

I undertake 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. I further declare that I am filing this form in my capacity as……. (designation) having permanent account number……..and that I am competent to file this form and verify it.

Date: *Signature*

(strike whichever is inapplicable)";

(ii) Under the heading "Notes to fill Form No. 10A", for serial number 2., the following shall be substituted, namely:- " *2. Application for registration under section 10(23C)/12A/80G/ select one of the following code in row 2:*

1	*Sub-clause (i) of clause (ac) of sub -section (1) of section 12A*	*01*
2	*Item (A) of sub-clause (vi) of clause (ac) of sub-section (1) of section 12A*	*02*
3	*Clause (i), of first proviso to clause (23C) of section 10 (for applicants covered under sub-clause (iv) of clause (23C) of section 10)*	*03*
4	*Clause (i), of first proviso to clause (23C) of section 10 (for applicants covered under sub-clause (v) of clause (23C) of section 10)*	*04*
5	*Clause (i), of first proviso to clause (23C) of section 10 (for applicants covered under sub-clause (vi) of clause (23C) of section 10)*	*05*
6	*Clause (i), of first proviso to clause (23C) of*	*06*

	section 10 (for applicants covered under sub-clause (via) of clause (23C) of section 10)	
7	*Sub-clause (A) of clause (iv) of first proviso to clause (23C) of section 10 (for applicants covered under sub-clause (iv) of clause (23C) of section 10)*	*07*
8	*Sub-clause (A) of clause (iv) of first proviso to clause (23C) of section 10 (for applicants covered under sub-clause (v) of clause (23C) of section 10)*	*08*
9	*Sub-clause (A) of clause (iv) of first proviso to clause (23C) of section 10 (for applicants covered under sub-clause (vi) of clause (23C) of section 10)*	*09*
10	*Sub-clause (A) of clause (iv) of first proviso to clause (23C) of section 10 (for applicants covered under sub-clause (via) of clause (23C) of section 10)*	*10*
11	*Clause (i) of first proviso to sub-section (5) of section 80G*	*11*
12	*Sub-clause (A) of clause (iv) of first proviso to sub-section (5) of section 80G*	*12";*

(b) in Form No. 10AB, -

(i) Below the table and before the heading "Notes to fill Form No. 10AB", for the portion beginning with the words "*I, son/daughter of*" and ending with the words

"Date: Signature",

the following shall be substituted, namely:-

"I_____, son/daughter of_____, hereby declare that the details given in the form are true and correct to the best of my knowledge and belief.

I undertake that I am applying for registration/approval (strike out whichever is inapplicable) under the section code

4A/12A/12B/12C/12D/ 14A having commenced activities on dd/mm/yyyy and also that no income or part thereof of the ……. (Name of the institution, trust or fund) having permanent account number (PAN)…….. 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 on dd/mm/yyyy, at any time after the commencement of such activities.

I further undertake 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. I further declare that I am filing this form in my capacity as_____(designation)having PAN_____and that I am competent to file this form and verify it.

Date Signature

Or (for codes 1/2/3/4/5/6/7/8/9/10/11/12/13/14)

I_____, son/daughter of_____, hereby declare that the details given in the form are true and correct to the best of my knowledge and belief.

I undertake 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. I further declare that I am filing this form in my capacity as_____ (designation) having permanent account number _____ and that I am competent to file this form and verify it.

Date Signature

(strike out whichever is inapplicable)";

(ii) Under the heading "Notes to fill Form No. 10AB", in serial number (2),-

(I) after row 4, the following row shall be inserted, namely:-

"4A	Item (B) of sub-clause (vi) of clause (ac) of sub-section (1) of section 12A	04A";

(II) after row 12, the following rows shall be inserted, namely:-

"12A	Sub-clause (B) of clause (iv) of first proviso to clause (23C) of section 10 (for applicants covered under sub-clause (iv) of clause (23C) of section 10)	12A
12B	Sub-clause (B) of clause (iv) of first proviso to clause (23C) of section 10 (for applicants covered under sub-clause (v) of clause (23C) of section 10)	12B
12C	Sub-clause (B) of clause (iv) of first proviso to clause (23C) of section 10 (for applicants covered under sub-clause (vi) of clause (23C) of section 10)	12C
12D	Sub-clause (B) of clause (iv) of first proviso to clause (23C) of section 10 (for applicants covered under sub-clause (via) of clause (23C) of section 10)	12D";

(III) after row 14, the following row shall be inserted, namely:-

"14A	Sub-clause (B) of clause (iv) of first proviso to sub-section (5) of section 80G	14A";

(c) with effect from the date of publication of this notification in the Official Gazette,-

(i) in Form No. 10AC, after row 2, the following row shall be inserted, namely:-

"2A.	Nature of activities	Charitable		Religious		Religious cum charitable";			

(ii) in Form No. 10AD, after row 2, the following row shall be inserted, namely:-

"2A.	Nature of activities	Charitable		Religious		Religious cum charitable" ;		

(iii) a in Form No. 10B, in the Annexure, for schedule 269ST and entries relating thereto, the following shall be substituted, namely:-

"Schedule 269ST: Details of amount received exceeding the limit specified in section 269ST, from a person in a day; or in respect of a single transaction; or in respect of transactions relating to one event or occasion from a person during the previous year				
	Details of Payer and amount of payment			
S. No.	Name	PAN, if available	Address	Amount of payment";

(iv) in Form No. 10BB, in the Annexure, in row 10 (iii), for the words, brackets and figures "sub-clause (iv)", the words , brackets and figures "sub-clause (iii)" shall be substituted.

[Notification No. 45/2023/ F. No. 370142/18/2023-TPL]
SOURABH JAIN, Under Secy.

Note : The principal rules were published in the Gazette of India, Extraordinary, Part-II, Section-3, Sub-section (ii) *vide* number S.O. 969 (E) dated 26th March, 1962 and were last amended *vide* notification number G.S.R 194(E) dated 16th March, 2021.

Appendix XVI

Circular No. 17/*2023*

F. No.370142/42/2023-TPL
Government of India
Ministry of Finance
Department of Revenue
Central Board of Direct Taxes
(TPL Division)

Dated 09th October, 2023

Sub: Order under section 119 of the Income-tax Act, 1961 - reg.

Audit report in the case of a fund or trust or institution or any university or other educational institution or any hospital or other medical institution, under clause (b) of the tenth proviso to clause (23C) of section 10, or sub-clause (ii) of clause (b) of sub-section (1)of section 12A of the Income-tax Act, 1961 (the Act), as the case may be, is required to be furnished in Form No. 10B / Form No. 10BB.

2. Representations have been received regarding difficulties in filling details of persons who have made a ' substantial contribution to the trust or institution', that is to say, any person whose total contribution up to the end of the relevant previous year exceeds fifty thousand rupees (as referred to in section 13(3)(b) of the Act).

3. The matter has been examined with reference to the issue raised in paragraph 2 and it is hereby stated that for the purposes of providing details in (i) Form No. 10B in the Annexure, in row 41; and (ii) Form No. 10BB in the Annexure, in row 28, for the assessment year 2023-24:

(a) the aforesaid details (that is, of persons making substantial contribution) may be given with respect to those persons whose total contribution during the previous year exceeds fiftythousand rupees;

(b) details of relatives of such person, as referred to in (a) above may be provided, if available.

(c) details of concerns in which such person, as referred to in (a) above, has substantial interest may be provided, if available.

(Sourabh Jain)

Under Secretary (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.
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. Web Manager, O/o DGIT(Systems} with request to upload on the departmental website of incometaxindia.gov.in.
10. Pr. Commissioner of Income-tax (Media & TP) and official Spokesperson, CBDT, New Delhi.
11. JCIT, Data-Base Cell for uploading on irsofficersonline.gov.in/

Appendix XVII

Circular No. 3/*2024*

F. *No.370142/5/2024-TPL*
Government of India
Ministry of Finance
Department of Revenue
Central Board of Direct Taxes
(TPL Division)

Dated 06th March, 2024

Sub: Circular under section 119 of the Income-tax Act, 1961 - reg.

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 subclause (v) or sub-clause (vi) or sub-clause (via) of clause (23C) of section 10 of the Income tax Act, 1961 (the Act) (hereinafter referred to as the first regime) or any trust or institution registered *u/s* 12AA or 12AB of the Act (hereinafter referred to as the second regime) is exempt, subject to the fulfilment of certain conditions provided for the two regimes in the Act. These conditions *inter-alia* include the following for the entities (hereinafter referred to as trust/institution in the two regimes):-

(a) at least 85% of income of the trust/ institution should be applied during the year for the charitable or religious purposes;

(b) Trusts or institutions are allowed to apply mandatory 85% of their income either themselves or by making donations to the trusts with similar objectives; and

(c) If donated to other trust/ institution, the donation should not be towards corpus to ensure that the donations are applied by the donee trust/ institution for charitable or religious purposes.

2. In order to ensure intended application towards charitable or religious purposes, Finance Act, 2023 has provided that eligible donations made by a trust/institution shall be treated as application for charitable or religious purposes only to the extent of 85% of such donations. Accordingly, Finance Act, 2023 has made the following amendments: -

(a) inserted clause (iii) in *Explanation* 2 to third proviso of clause (23C) of section 10 of the Act;

(b) inserted clause (iii) in *Explanation* 4 to sub-section (1) of section 11 of the Act.

These amendments read as under: -

(a) clause (iii) in Explanation 2 to third proviso of clause (23C) of section 10 "any amount credited or paid out of the income of any fund or trust or institution 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 subclause (via), other than the amount referred to in the twelfth proviso, to any other fund or trust or institution 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) , or trust or institution registered under section 12AB, as the case may be, shall be treated as application for charitable or religious purposes only to the extent of eighty-five per cent of such amount credited or paid" (b) clause (iii) in Explanation 4 to sub-section (1) of section 11 any amount credited or paid, other than the amount referred to in Explanation 2, to any fund or trust or institution 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, as the case may be, or other trust or institution registered under section 12AB, as the case may be, shall be treated as application for charitable or religious purposes only to the extent of eighty-five per cent of such amount credited or paid

3. Representations have been received raising the concern that whether the balance 15% of donation to other trust / institution would be taxable or is eligible for 15% accumulation since the funds would not be available having been already disbursed.

4. The matter has been examined with reference to the issues raised in paragraph 3 and it is reiterated that eligible donations made by a trust / institution to another trust / institution under any of the two regimes referred to in para 2 shall be treated as application for charitable or religious purposes only to the extent of 85% of such donations. It means that when a trust / institution in either regime donates Rs. 100 to another trust / institution in either regime, it will be considered to have applied 85% (Rs. 85) for the purpose of charitable or religious activity. It is clarified that 15% (Rs. 15) of such donations

by the donor trust / institution shall not be required to be invested in specified modes under section 11(5) of the Act as the entire amount of Rs. 100 has been donated to the other trust / institution and is accordingly eligible for exemption under the first or second regime.

This is illustrated by following example where Trust1, Trust2 and Trust3 are trusts or institutions under any of the two regimes. Further, Trust 1 is making eligible donation to Trust2 and Trust2 is further making eligible donation to Trust3.

Sl. No.	**Particulars**	**Trust!**		**Trust2**		**Trust3**	
1.	Income (A)	300		100		100	
2.	Income which is required to be applied (B = 85% of A)		255		85		85
3.	**Application of income**						
4.	Donation to other trusts under the first or second regime (C)	100		100			Nil
5.	Amount to be considered as application of income against the donations at row no. 3 [as per clause (iii) of the Explanation 2 to third proviso to clause (23C) of section 10 or clause (iii) of the Explanation 4 to sub-section (1) of section 11 of the Act]. (D = 85% of C)		85		85		
6.	Balance income for application (E = A -C)	200		Nil		100	

7.	Application other than Sl. No.4 (F = 85% of E)		170		Nil		85
8.	Remaining income which may be accumulated without Form No. 10/9A (G = 15% of E)		30		Nil		15
9.	Funds required to be invested in section 11(5) modes (H = G)		30		Nil		15
10.	Exemption of income (I = C + F + G)	300		100		100	

(Sourabh Jain)

Under Secretary (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.
6. JS & Legal Adviser, Ministry of Law & Justice. New Delhi.
7. Institute of Chartered Accountants of India.
8. Web Manager, O/o DGIT(Systems) with request to upload on the departmental website ofincometaxindia.gov.in.
9. Pr. Commissioner of Income-tax (Media & TP) and official Spokesperson, CBDT, New Delhi.
10. JCIT, Data-Base Cell for uploading on irsofficersonline.gov.in

Appendix XVIII

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 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. l0A 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:-

l. 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 Commissioner 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 irsofficersoniine.gov.in.
10. Guard File

Appendix XIX

Extract of FAQs of the Foreign Contribution (Regulation) Act,2010

I. Introduction to the Foreign Contribution (Regulation) Act, 2010 (FCRA, 2010)

Q.1 What is the purpose of FCRA, 2010?

Ans. FCRA, 2010 has been enacted by the Parliament to consolidate the law to regulate the acceptance and utilization of foreign contribution or foreign hospitality by certain individuals or associations or companies and to prohibit acceptance and utilization of foreign contribution or foreign hospitality for any activities detrimental to national interest and for matters connected therewith or incidental thereto.

Q.2 What are the various Acts/Rules/guidelines which regulate the flow of foreign contribution to India?

Ans. The flow of foreign contribution to India is regulated under the Foreign Contribution (Regulation) Act,2010 and the Foreign Contribution (Regulation) Rules, 2011 (FCRR 2011) read with other notifications/orders etc., as issued there under from time to time. These are available at the website https://fcraonline.nic.in

Q.3 What is the status of the FCRA, 1976 after coming into force of FCRA, 2010?

Ans. It has been repealed.

Q.4 To whom is FCRA, 2010 applicable?

Ans. As per Section 1(2) of FCRA, 2010, the provisions of the Act shall apply to:

i. Whole of India

ii. Citizens of India outside India; and

iii. Associate Branches or subsidiaries, outside India, of companies or bodies corporate, registered or incorporated in India

II. Key Definitions and Concepts under FCRA, 2010

A. Foreign Contribution

Q.1 What is foreign contribution?

Ans. As defined in Section 2(1)(h) of FCRA, 2010, "foreign contribution"

means the donation, delivery or transfer made by any foreign source —

(i) of any article, not being an article given to a person* as a gift for his personal use, if the market value, in India, of such article, on the date of such gift is not more than such sum as may be specified from time to time by the Central Government by the rules made by it in this behalf.

(ii) of any currency, whether Indian or foreign;

(iii) of any security as defined in clause (h) of section 2 of the Securities Contracts (Regulation) Act, 1956 and includes any foreign security as defined in clause (o) of Section 2 of the Foreign Exchange Management Act,1999.

Explanation 1 – A donation, delivery or transfer of any article, currency or foreign security referred to in this clause by any person who has received it from any foreign source, either directly or through one or more persons, shall also be deemed to be foreign contribution within the meaning of this clause.

Explanation 2 – The interest accrued on the foreign contribution deposited in any bank referred to in sub-section (1) of Section 17 or any other income derived from the foreign contribution or interest thereon shall also be deemed to be foreign contribution within the meaning of this clause.

Explanation 3 – Any amount received, by any person from any foreign source in India, by way of fee (including fees charged by an educational institution in India from foreign student) or towards cost in lieu of goods or services rendered by such person in the ordinary course of his business, trade or commerce whether within India or outside India or any contribution received from an agent or a foreign source towards such fee or cost shall be excluded from the definition of foreign contribution within the meaning of this clause.

* In terms of FCRA, 2010 "person" includes –

(i) an individual;

(ii) a Hindu undivided family;

(iii) an association;

(iv) a company registered under section 25 of the Companies Act,1956 (now Section 8 of Companies Act, 2013).

Q.2 Who can receive foreign contribution?

Ans. Any “Person” can receive foreign contribution subject to the following conditions:-

a) It must have a definite cultural, economic, educational, religious or social programme.

b) It must obtain the FCRA registration/prior permission from the Central Government

c) It must not be prohibited under Section 3 of FCRA, 2010.

Q.3 Who cannot receive foreign contribution?

Ans. As defined in Section 3(1) of FCRA, 2010, the following are prohibited to receive foreign contribution:

(a) candidate for election;

(b) Correspondent, columnist, cartoonist, editor, owner, printer or publisher of a registered newspaper;

(c) Public Servant, Judge, Government servant or employee of any corporation or any other body controlled or owned by the Government;

(d) Member of any legislature;

(e) Political party or office bearer thereof;

(f) organization of a political nature as may be specified under sub-section (1) of Section 5 by the Central Government.

(g) association or company engaged in the production or broadcast of audio news or audio visual news or current affairs programmes through any electronic mode, or any other electronic form as defined in clause (r) of sub-section (1) of Section 2 of the Information Technology Act, 2000 or any other mode of mass communication;

(h) Correspondent or columnist, cartoonist, editor, owner of the association or company referred to in point (g).

(i) Individuals or associations who have been prohibited from receiving foreign contribution.

Q.4 Can foreign contribution be received in rupees?

Ans. Yes. Any donation, delivery or transfer received from a 'foreign source' whether in rupees or in foreign currency is construed as 'foreign contribution' under FCRA, 2010. Such transactions including interest on foreign contribution or income derived from foreign contribution even in rupees term are considered as foreign contribution.

Q.5 Will interest or any other income earned from foreign contribution (FC) be considered foreign contribution?

Ans. Yes. It will become part of F.C. Please see Explanation 2 under Question 1.

Q.6 Whether interest or any other income earned out of foreign contribution be shown as fresh foreign contribution receipt during that year or not?

Ans. No. The interest or any other income earned out of foreign contribution should be shown against Column 2(i)(b) in the annual return (Form FC-4) during the year in which it is earned. Such interest or income would be considered as F.C.

Q.7 Whether earnings from foreign client(s) by a person in lieu of goods sold or a service rendered by it is treated as foreign contribution?

Ans. No. As clarified at Explanation 3 under section 2(1)(h), foreign contribution excludes earnings from foreign client(s) by a person in lieu of goods sold or services rendered by it as this is a transaction of commercial nature/quid pro quo in the normal course of business trade etc within or outside India.

Q.8 Whether donation given by Non-Resident Indians (NRIs) is treated as 'foreign contribution'?

Ans. Contributions made by a citizen of India living in another country (i.e., Non-Resident Indian), from his personal savings, through the normal banking channels, is not treated as foreign contribution. However, while accepting any donations from such NRI, it is advisable to obtain his/her passport details to ascertain that he/she is actually an Indian citizen.

Q.9 Whether donation given by an individual of Indian origin and having foreign nationality is treated as 'foreign contribution'?

Ans. Yes. Donation from an Indian origin person who has acquired foreign citizenship is treated as foreign contribution. This will also apply to PIO / OCI cardholders. They are foreigners. However, this will not apply to 'Non-resident Indians', who still hold Indian citizenship as they are not foreigners.

Q.10 Whether foreign remittances received from a relative are to be treated as foreign contribution as per FCRA, 2010?

Ans. No. As per section 4(e) of FCRA,2010 and Rule 6 of FCRR ,2011, even the persons prohibited under section 3, i.e., persons not permitted to accept foreign contribution, are allowed to accept foreign contribution from their relatives. However, in terms of Rule 6 of FCRR, 2011, any person receiving foreign contribution in excess of ten lakh rupees or equivalent thereto in a

financial year from any of his relatives shall inform the Central Government in electronic Form FC-1 within three months from the date of receipt of such contribution. This form may be filled online on the website: https://fcraonline.nic.in

Q.11 Whether individuals not covered under Section 3 or a HUF can accept foreign contribution freely for the purposes listed in section 4 of FCRA, 2010?

Ans. Yes. Since, subject to the provisions of Section 10, even the persons specified under section 3, i.e., persons not permitted to accept foreign contribution, are allowed to receive foreign contribution for the purposes listed in section 4, it is obvious that Individuals in general and a HUF are permitted to accept foreign contribution without permission for the purposes listed in section 4. However, it should be borne in mind that the monetary limit for acceptance of foreign contribution in the form of any article given as gift to a person for his personal use has been specified as Rs. one lakh vide FCR Amendment Rules, 2019.

Q.12 Can the fee paid by the foreign delegates/participants attending/participating in a conference/seminar etc. be termed as foreign contribution and thus require permission from FCRA?

Ans. No. "Delegate/participation Fees" paid by foreign delegates/participants for participation in a conference/seminar and which is utilized for the purpose of meeting the expenditure of hosting the conference/seminar is not treated as foreign contribution and as such no permission under FCRA is required by the recipient.

Q.13 Section 2(c)(i) of repealed FCRA, 1976 inter alia defined foreign contribution as the donation, delivery or transfer made by any foreign source of any article, not given to a person as a gift for personal use, if the market value, in India, of such article exceeds one thousand rupees. What limit has been prescribed in FCRA, 2010 in respect of such articles?

Ans. The limit has been specified as Rs. One lakh through insertion of the following Rule 6A in FCRR, 2011 vide the Foreign Contribution (Regulation) (Second Amendment) Rules, 2019 [G.S.R. 659 (E) dated 16th September, 2019]: "6A. When articles gifted for personal use do not amount to foreign contribution. - Any article gifted to a person for his personal use whose market value in India on the date of such gift does not exceed rupees one lakh shall not be a foreign contribution within the meaning of sub-clause (i) of clause (h) of sub-section (1) of section (2).

B. Foreign Source

Q.14 What is a foreign source?

Ans. Foreign source, as defined in Section 2(1) (j) of FCRA, 2010 includes:-

(i) the Government of any foreign country or territory and any agency of such Government;

(ii) any international agency, not being the United Nations or any of its specialized agencies, the World Bank, International Monetary Fund or such other agency as the Central Government may, by notification, specify in this behalf;

(iii) a foreign company;

(iv) a corporation, not being a foreign company, incorporated in a foreign country or territory;

(v) a multi-national corporation referred to in sub-clause (iv) of clause (g) of section 2 of FCRA,2010;

(vi) a company within the meaning of the Companies Act, 1956, and more than one-half of the nominal value of its share capital is held, either singly or in the aggregate, by one or more of the following, namely:-

a. the Government of a foreign country or territory;

b. the citizens of a foreign country or territory;

c. corporations incorporated in a foreign country or territory;

d. trusts, societies or other associations of individuals (whether incorporated or not), formed or registered in a foreign country or territory;

e. foreign company;

provided that where the nominal value of share capital is within the limits specified for foreign investment under the Foreign Exchange Management Act, 1999, or the rules or regulations made thereunder, then, notwithstanding the nominal value of share capital of a company being more than one-half of such value at the time of making the contribution, such company shall not be a foreign source.

(vii) a trade union in any foreign country or territory, whether or not registered in such foreign country or territory;

(viii) a foreign trust or a foreign foundation, by whatever name called, or such trust or foundation mainly financed by a foreign country or territory;

(ix) a society, club or other association or individuals formed registered outside India;

(x) a citizen of a foreign country;"

Note – A few bodies/ organizations of the United Nations, World Bank and some other International agencies/multi lateral organisations are exempted from this definition, and are not treated as foreign source. Hence, the funds received from them are not considered as foreign contribution. List of such bodies / organizations, which are not treated as 'foreign source', are available on the website https://fcraonline.nic.in.

Q.15 Whether an Individual of Indian Origin who has acquired foreign nationality is treated as foreign source?

Ans. Yes. The contribution received from all the non- Indian Passport Holders is treated as "Foreign Source."

Q.16 What is a foreign company?

Ans. Please see section 2(1)(g) of FCRA, 2010. Foreign company means any company or association or body of individuals incorporated outside India and includes-

a) a foreign company within the meaning of Section 379 of the Companies Act, 2013

b) a company which is a subsidiary of a foreign company

c) the registered office or principal place of business of a foreign company referred to in sub-clause (i) or company referred to in sub-clause(ii);

d) a multi-national corporation

Q.17 What is a Multinational Corporation?

Ans. As per explanation given under clause (g) of sub-section 1 of Section 2 of FCRA, 2010 a corporation incorporated in a foreign country or territory shall be deemed to be a multi-national corporation if such corporation,-

(a) has a subsidiary or a branch or a place of business in two or more countries or territories; or

(b) carries on business, or otherwise operates, in two or more countries or territories;

Q.18 Whether a Company incorporated in India under the Companies Act, 2013 having its operations in 2 or more countries is to be treated as a MNC under FCRA, 2010?

Ans. No

Appendix XX

Sample Management Representation Letter

The following illustrative letter includes written representations that are recommended by this Guidance Note for audit of reports under section 12A/10(23C) for the previous year ……. relevant to assessment year…….. It is assumed in this illustration that there are no exceptions to the requested written representations. If there were exceptions, the representation would need to be modified to reflect the exceptions.

(Letter head of the Trust/Institution) (along with PAN)

(To Auditor) **(Date)**

This representation letter is in addition to the representation letter provided in connection with audit of financial statements. Kindly refer to the illustrative representation letter – Appendix I in the publication issued by Accounting & Assurance Board (AASB) – Implementation Guide to SA-580 available at the following link- https://resource.cdn.icai.org/73178aasb59027.pdf

This is in reference to your engagement for carrying out audit of **<<Name of Trust/Institution >>** u/s 12A of the Income-tax Act, 1961 ('Act') and issuance of audit report in Form No. **10BB/Form No. 10B** (as the case may be) as prescribed by Rule 17B of the Income-tax Rules, 1962 ('Rules'), for the year ended 31st March…….

(OR)

This is in reference to your engagement for carrying out audit of **<<Name of Trust/Institution >>** u/s 10(23C) of the Income-tax Act, 1961 ('Act') and issuance of audit report in Form No. **10BB/Form No. 10B** (as the case may be) as prescribed by Rule 16CC of the Income-tax Rules, 1962 ('Rules'), for the year ended 31st March…….

In this regard, the **Trust/Institution** makes the following representations:

1. The Trust is established under a Trust Deed (copy enclosed) dated _____. The Trust is registered under the _____ Public Trust Act (or under any Act, as the case may be). The object of the Trust is _____ as per section 2(15) of the Act and there are no modifications thereto during the financial year.

2. The Trust/Institution is also:

   a) Registered u /s 12A of the Act vide order No. _____ dated _____ and offers its income to tax u/s 11 to u/s 13 of the Act

   b) Approved u/s 10(23C)(iv),(v),(vi),(via) of the Act vide order no. dated_____

   c) Approved u/s 80G(5) of the Act vide order no. _____ dated _____

   d) Approved u/s 35(1)(ii) of the Act vide order no._____ dated _____

   e) Registered under FCRA vide order No. _____ dated _____

3. The Trust/Institution confirms that :

   a) Its total income without giving effect to the provisions of sections 11 and 12 of the Act, does not exceed Rs. 5 crores during the previous year ……. and

   b) It has not *received* foreign contribution during the previous year ….. and

   c) It has *not applied* any part of its income outside India during the previous year …..

   Accordingly, Form No. 10BB is relevant in this case.

   (or)

   The Trust/Institution confirms that:

   a) Its total income, without giving effect to the provisions of sections 11 and 12 of the Act, *exceeds* Rs. 5 crores during the previous year ……./

   b) It has *received* foreign contribution during the previous year …../

   c) It has *applied* any part of its income outside India during the previous year …..

   Accordingly, Form No. 10B is relevant in this case.

4. The details of Trustees/ Authors/ Members of Governing Council etc of the Trust/Institution who are involved in the management of trust/institution are as given below —

(a) Details of all the Author (s)/ Founder (s)/ Settlor (s)/Trustee (s)/ Members of society/Members of the Governing Council/ Director (s)/ shareholders holding 5% or more of shareholding / Office Bearer (s) of the auditee at any time during the previous year							
Name of Person (1)	Relation (2)	Percentage of share-holding in case of shareholder (3)	Unique Identification Number (4)	Id Code (5)	Address (6)	Whether there is any change in relation during previous year of audit (7)	If yes, specify the change (8)

There is no change in Trustees/ Authors/ Members of Governing Council etc and other particulars as compared to the previous financial year.

5. No application is made towards charitable or religious purposes outside India during the relevant previous year.

6. No amount is paid towards corpus of any Trust/Institution referred to in Section 10(23C)(iv)/(v)/(vi)/(via) or 12AA/ 12AB or to entities not having same objects or any other person other than such entities.

7. No services are provided to persons referred to in section 13(3) of the Act and no application is deemed to have been made for persons referred to in section 13(3) of the Act during the previous year on account of lack of adequate consideration/security/interest etc. The Trust/ Institution confirms that it has not entered into any transaction with the persons specified u/s 13(3) of the Act. No part of its property or income is utilized directly or indirectly for the benefit of the specified persons covered u/s 13(3) of the Act. The services of the Trust/ Institution are not made available to any specified person during the financial year without adequate remuneration or other compensation. No share, security or other property is purchased by or on behalf of the Trust/ Institution from any specified person during the financial year for consideration, which is more than adequate. No share, security or other

property is sold by or on behalf of the Trust/ Institution to any specified person during the financial year for consideration which is less than adequate.

Note - In case the trust/ institution has applied some part of the income for the benefit of any specified person, it should state the same in the management representation letter. Some examples are given below -

(a) The property of the Trust located at ……. is, made available for the use of Mr. _____ the trustee for the entire financial year without charging any rent. The fair rent of the property is…….. . Apart from this, the Trust confirms that it has not entered into any transaction with the persons specified u/s 13(3) of the Act and no other part of the Trust's property or income is utilized directly or indirectly for the benefit of the specified persons covered u/s 13(3) of the Act. The services of the Trust are not made available to any specified person during the financial year without adequate remuneration or other compensation. No share, security or other property is purchased by or on behalf of the Trust from any specified person during the financial year for consideration, which is more than adequate. No share, security or other property is sold by or on behalf of the Trust to any specified person during the financial year for consideration which is less than adequate.

(b) Salary amounting Rs……. is paid to ……., a relative of the trustee during the financial year. Apart from this, the Trust confirms that it has not entered into any transaction with the persons specified u/s 13(3) of the Act and no other part of the Trust's property or income is utilized directly or indirectly for the benefit of the specified persons covered u/s 13(3) of the Act. The services of the Trust are not made available to any specified person during the financial year without adequate remuneration or other compensation. No share, security or other property is purchased by or on behalf of the Trust from any specified person during the financial year for consideration, which is more than adequate. No share, security or other property is sold by or on behalf of the Trust to any specified person during the financial year for consideration which is less than adequate.

8. The Trust/ Institution acknowledges the responsibility for keeping and maintenance of books of account and other documents as prescribed under Rule 17AA of the Rules introduced by Income-tax (Twenty Fourth Amendment) Rules, 2022. The Trust confirms that it has kept and maintained all such books of account and other documents in the form and manner prescribed under Rule 17AA of the Rules, for the financial year (as per Clause 11 of Form No. 10BB/Clause 14 of Form No. 10B), and that it has set-up internal systems and controls for keeping and maintaining such books of account and other documents, as may be applicable, at our registered office at:

   Registered Office:

   _____,

   _____,

   _____.

9. There are no accumulation of the prior year's income u/s 11(2) or Clause 2 to Explanation 1 to section 11(1) of the Act which are required to be spent in the current financial year…….

   The Trust/Institution has made an application of Rs _____/-out of corpus received in the current financial year and Rs. _____/- out of corpus as on 31.03.2021 which has not been claimed as application.

   No amount is applied out of borrowed funds during the previous year.

   The Trust/Institution has made an application of Rs. _____ /- out of the income of earlier previous years to the extent of 15% accumulated or set apart in those years.

10. The Trust/ Institution has complied with the requirement of all laws. There is no non-compliance which has to be reported as specified in Clause 30(f) of Form No. 10BB/ Clause 43(f) of Form No. 10B.

11. The Trust/ Institution has not claimed depreciation on fixed assets as application.

12. The Trust/ Institution does not have any business undertaking, therefore, the question of maintaining separate books of account does not arise.

13. The Trust/ Institution has incurred expenditure of Rs. _____ which is of religious nature and the same amounts to …% of total income of previous year. The property held under Trust/ Institution does not include any temple, mosque, gurdwara or such other place notified u/s 80G(2)(b) of the Act.

14. No investments held by the Trust/ Institution are in violation of the provisions of section 11(5) of the Act. Additions to corpus, if any, are invested in modes specified u/s 11(5) of the Act.

15. The Trust/ Institution has not taken any loan or deposit or any specified sum, exceeding the limit specified in section 269SS of the Act during the year.

16. The Trust/ Institution did not receive any amount exceeding the limit specified in section 269ST of the Act, from a person in a day; or in respect of a single transaction; or in respect of transactions relating to one event or occasion from a person during the previous year.

17. The Trust/ Institution did not repay any amount being loan or deposit or any specified advance exceeding the limit specified in section 269T of the Act, during the previous year.

18. The Trust/ Institution has received Rs _____/- as anonymous donations as referred to u/s 115BBC of the Act.

19. The entire application, both capital or revenue, is met out of current year's income in accordance with the objects of the trust for charitable purposes in India.

20. There are no amounts paid to residents on which taxes are deductible under Chapter XVII-B and have not been deducted or deducted but not been paid.

21. All payments are made through normal banking channels – account payee cheques/ bank draft, ECS or prescribed electronic modes. The amounts which are paid during the current financial year are claimed as application.

22. The Trust/ Institution hereby provides the computation of total income for the previous year …… and makes the following representation with respect to computation of total income.

a) The financial statements are prepared on *accrual/cash basis.* For the purpose of taxation, the income is offered to tax on cash basis and application is also claimed on cash basis. A management certified statement of non-cash income and expense is attached.

b) The Total contributions reported in Form No. 10BD is Rs _____/- .

The particulars furnished in Form No.10B/10BB and duly signed by the undersigned are complete, true and correct (whether or not specifically covered in this representation letter).

Further, it is confirmed that all the above-mentioned records/ documents/ information are complete, true and correct.

Yours Sincerely,

For **<<Trust/ Institution>>**

_____

Trustee/ Authorized signatory

Place:

Date: