

Charitable Institutions Related Changes u/s 12A/12AA and 80G- Budget 2020

In the Union Budget presented on **1st February, 2020** by our Honourable Finance Minister, there have been dynamic and aggressive changes which relates to Charitable Institutions. The move is purely intended to curb tax evasion and bring transparency in the operations of Charitable Institutions. The government is keen to take strict measures to avoid any undue advantage taken by Charitable Institutions like Charitable Trusts, Societies and Section 8 Companies whose objective, in short, is to conduct charitable activities. The changes have come in for Charitable Institutions registered under *12A/12AA and 80G of the Income Tax Act* and exempt institutions registered under *section 10(23C) of the Income Tax Act*. The changes are majorly focused on the registration process through which exemption is granted.

Knowledge Dashboard – Charitable Institutions

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2. What are the proposed changes in Budget 2020 related to Charitable Institutions?
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4. Other related changes.

What are the earlier provisions related to registration under section 12A/12AA and 80G?

Earlier, all the Charitable Institutions were granted registration under section 12A for those who were registered prior to 1996 and under section 12AA for those who were registered after 1996. There was no timeline or period of validity being prescribed for the Income Tax Department to grant registration to Charitable Institutions. Once registration was granted, it was treated as for life unless otherwise mentioned. The registration was cancelled only in certain scenario. Registration **under section 12AA** implies that Charitable Institution has charitable objective and therefore exemption was given from tax payment on complying with other conditions.

Registration **under section 80G** is beneficial for those who contribute some part of their income as donation to Charitable Institutions.

What are the proposed changes in Budget 2020 related to Charitable Institutions?

The major change is w.r.t period of validity of registration.

- Existing provisions of Section 10 are amended and a new section 12AB is proposed to be inserted w.e.f 01.06.2020.
- The existing section 12AA will become inoperative and section 12AB is proposed to be operational w.e.f 01.06.2020
- It is proposed that Charitable Institutions registered under section 80G and section 35 shall issue **certificate of donation** to the donor.
- It is also proposed that such institutions registered under section 80G and section 35 shall **issue information return of donations received** to the government and that will be cross examined with the donor detail. With the technological developments taking place, this is proposed to enhance cross verification of donation details disclosed by the donor and charitable institution.
- Non filing of above statement would lead to late fees of 200 per day. Penalty may be also be imposed by the officer varying from Rs.10000/- to Rs 100000/-

Existing Registrations vs Fresh Registrations

| Explanation | Existing Registrations | Fresh Registrations |
|---|---|--|
| Time limit to file application | Within 3 month starting 01.06.2020 | Atleast one month prior to the commencement of Previous year |
| Process of filing | Online | Online |
| Grant of Registration | Within 3 months | Within one month |
| Validity period | 5 Years | 3 Years provisional registration at first |
| Application for Renewal of Registration | To be filed at least 6 Months prior to expiry of 5 years. | To be filed at least 6 Months prior to expiry of 5 years. |
| Application of registration on Income | Income of assessment year for which approval was granted | Income of the following financial year in which |

| | | |
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| | earlier | application is made |
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Notes

- Once provisional registration gets expired in case of fresh registration, it shall be granted again for 5 a period of 5 years.
- It is sufficient enough to assume that at the time of provisional registration, no in dept examination of the activities of Charitable Institutions will be done.

Other Related Changes – Charitable Institutions

- The concept of **dual exemption** under section **12AA and 10(23C)** is done away with in this budget.
- Charitable institution can now only opt for Section **12AA** exemption or section **10 (23C)** exemptions.
- If any Charitable institution opts for exemptions under **10(23C) or 10(46)**, the existing registration granted under section 12AA will become inoperative.
- Since no change has been proposed in 10(23C), it implies that once Charitable Institutions availing exemption under section 11 and 12 of the act starts to avail benefits of exempt institutions, automatically registration under 12AA /12AB shall become inoperative.
- If any **modification** is done in the **object clause** of the Charitable Institution, it needs to be reported to the Commissioner of Income tax **within 30 days** of modification and on being satisfied with the objects of the Charitable Institution, registration will be granted.

Conclusion

It is sufficient enough to conclude that all these changes are being brought into to avoid any tax evasion and malpractices related to it. The time limit set for allotting the registration and specifying the validity period after grant of registration is a welcome move. It shall rest many ambiguities which were their earlier. Also the alignment of donations receipts is a good move to avoid any leakage in tax flow but this may increase compliance cost on part of Charitable Institutions.