

BOOKS OF ACCOUNTS UNDER RULE 17AA

◆ Legal Series Vol. XV ◆ Issue 6

For private circulation only

INTRICACIES OF THE NEWLY INSERTED RULE 17AA SPECIFYING BOOKS OF ACCOUNTS & OTHER DOCUMENTS



Standards & Norms

Resource support on NGO Governance, Accounting and Regulations



Authors* :

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

Dr. Sanjay Patra, Executive Director, FMSF

Suresh Kejriwal, Consultant

Sandeep Sharma, Director Program, FMSF

* The Authors can be contacted at mfogla@yahoo.com

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CHAPTER AT A GLANCE

- 1.01** Prior to the Finance Act, 2022, there was no specific requirement under section 12A to maintain books of account by trusts and institutions. Although, certain provisions made it an implicit requirement to maintain the books of account.
- 1.02** The Finance Act, 2022 has introduced additional condition to maintain books of account by the trusts and institutions under section 12A(1)(b)(i) with effect from the assessment year 2023-24.
- 1.03** The Finance Act, 2022 inserted Section 13(10) and 13(11) with effect from the assessment year 2022-23 to provide that if the trust or institution has not maintained the books of account, the income chargeable to tax shall be computed after allowing a deduction for only those expenditures specified in these section.
- 1.04** CBDT has notified Rule 17AA w.e.f. 10/08/2022 providing form and manner of the books of account to be maintained and also providing for place at which such books of accounts to be kept and the period for which books of accounts to be preserved.
- 1.05** Rule 17AA has four (4) Sub Sections [(1) to (4)] and it provides for –
- a) Books of Accounts and Other documents required to be maintained **[17AA(1)(a)(b)(c)&(d)]**
 - b) Form of keeping Books of Accounts & Other documents **[17AA(2)]**
 - c) Place of maintaining such books of accounts and other documents **[17AA(3)]**
 - d) Period for which books of accounts & other documents should be kept **[17AA(4)]**
- 1.06** The specified books of accounts shall include cash book, ledger, journal as well as copies of serially numbered receipts, original copy of invoices, etc.

- 1.07** In addition to books of accounts as mentioned in Rule 17AA (1)(a)(b)&(c) there is another requirements of keeping other documents for maintaining records of ten specific items, as given below :
- a. Record of all the projects and institutions run by the person
 - b. Record of income of the person during the previous year
 - c. Record of application out of the income during the year
 - d. Record of specified application out of the income of preceding years
 - e. Record of voluntary contribution with a specific direction to form Corpus
 - f. Record of contribution received under 80G(2)(b) being treated as corpus
 - g. Record of Loans and Borrowings
 - h. Record of properties held by the assessee
 - i. Record of specified persons, as referred to in sub-section (3) of section 13 of the Act
 - j. Any other document
- 1.08** 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.
- 1.09** Under Rule 17AA(3), the books of account and other documents as specified shall be kept and maintained at its "registered office"
- 1.10** If the accounts are maintained other than the registered office or at various project locations, then the concerned organisation is required to intimate to the Assessing Officer in writing, giving full address of the other places and such intimation shall be duly signed & verified by the person who is authorised to sign the return and this should be supported by resolution of the board.
- 1.11** 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.

INSERTION OF EXPLICIT PROVISION TO MAINTAIN BOOKS OF ACCOUNTS BY THE FINANCE ACT 2022

- 2.01** The Finance Act, 2022 amended Section 12A(1)(b), imposing an explicit requirement to maintain books of account by charitable institutions.
- 2.02** ***Text of Section 12A(1)(b):*** “(b) where the total income of the trust or institution as 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 in any previous year,—
- (i) *the books of account and other documents have been kept and maintained in such form and manner and at such place, as may be prescribed; and*
 - (ii) *the accounts of the trust or institution for that year have been audited by an accountant defined in the Explanation below sub-section (2) of section 288 before the specified date referred to in section 44AB and the person in receipt of the income furnishes 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;”.*
- 2.03** ***Requirement to maintain books of account:***The Finance Act, 2022 amended Section 12A(1)(b) to provide that where the total income of the trust or institution without giving effect to an exemption under 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. This amendment is effective from the assessment year 2023-24
- 2.04** ***Requirement to maintain books of accounts is an additional condition:*** It is to be noted that this condition to maintain books of accounts is in addition to the conditions requiring the trust or institutions to get registration, audit of the books of accounts and

filing of return of income. Thus, if the trust fails to comply with any of these conditions, the benefit of exemption under Section 11 and 12 shall not be available.

- 2.05** **Applicable if total income exceeds INR 2,50,000:** This provision regarding maintenance of prescribed books of account and other documents is applicable only if the total income of the charitable institution as computed under the Act, without giving effect to the provisions of sections 11 and 12, exceeds the maximum amount, which is not chargeable to income tax in the previous year.

FORM AND MANNER AND PLACE TO MAINTAIN THE BOOKS OF ACCOUNTS

- 3.01** Section 12A(1)(b) provides that books of account shall be kept and maintained in such form and manner and at such place, as may be prescribed.

3.02 **Which books of account are required to be maintained?:**

The term 'books of account' has been defined in section 2(12A) as under:

"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;

Thus, as per the definition under section 2(12A), the books of accounts include the following:

- (a) Ledgers
- (b) Day-books
- (c) Cash books
- (d) Account books
- (e) Other books

- 3.03** CBDT has notified Rule 17AA w.e.f. 10/08/2022 providing form and manner of the books of account to be maintained and also providing for place at which such books of accounts to be kept and the period for which books of accounts to be preserved.

RULE 17AA W.E.F. 10TH AUGUST, 2022

- 4.01** Rule 17AA has four (4) Sub Sections [(1) to (4)] and it provides for –
- a) Books of Accounts and Other documents required to be maintained[**17AA(1)(a)(b)(c)&(d)**]
 - b) Form of keeping Books of Accounts & Other documents [**17AA(2)**]
 - c) Place of maintaining such books of accounts and other documents[**17AA(3)**]
 - d) Period for which books of accounts & other documents should be kept[**17AA(4)**]

BOOKS OF ACCOUNTS REQUIRED TO BE MAINTAINED [17AA(1)(A)(B)&(C)

- 5.01** 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;

5.02 Hence organisation having income subject to section 11(4) and 11(4)(a) is required to maintain separate set of books of account of such income in line with the provision under Income Tax Act.

5.03 It is to be noted that the books of accounts as defined under section 2(12A) includes copy of day-books and ledgers but the books of accounts specified under Rule 17AA also includes copy of bills, receipts, etc.

5.04 Moreover the requirement of 17AA is the original bills in respect of the application of income, whereas the practice of receiving softcopy of bills has been started. Hence it needs to be clarified what shall constitute original bills for the purpose of meeting the requirement of Rule 17AA.

OTHER DOCUMENTS REQUIRED TO BE MAINTAINED [17AA(1)(D)]

6.01 In addition to books of accounts as mentioned in Rule 17AA (1)(a)(b)&(c) there is another requirements of keeping other documents for maintaining records of ten specific items, details of which is summarised herein below :

- (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 educational 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 :-**
 - (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; 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;

- (II) 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;
 - (III) 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;
 - (IV) 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;
 - (V) money invested or deposited in the forms and modes specified in sub-section (5) of section 11 of the Act;
 - (VI) 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 :—**
- (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 sub-section(5) of section 11 of the Act;
- (iv) **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;

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 voluntarycontribution 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;
 - (III) 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;

- (IV) *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 voluntary contribution, received during the previous year, is invested or deposited;*
- (V) *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;*
- (VI) *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 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;*
- (VII) *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;*
- (VIII) *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 voluntary contribution, received during any previous year preceding the previous year, is invested or deposited;*
- (IX) *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) **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 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;*
- amount credited or paid towards corpus to any fund or institution or trust or any university 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;*
- (IV) *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;*
- (V) *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 the previous year, is invested or deposited;*
- (VI) *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;*
- (VII) *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;

(VIII) *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.**

FORM OF KEEPING BOOKS OF ACCOUNTS & OTHER DOCUMENTS [17AA(2)]

7.01 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.

7.02 The above definition enables an organisation to maintain books in any form including electronic or in digital form. This is a landmark shift which will enable the organisations to maintain books of account only in digital or electronic form. Normally, physical printouts of cash book and ledgers were required to be taken even in case of electronic or digital book keeping. However, organisations should be extremely careful in not keeping physical copies of the books of accounts because such books have to be kept in safe custody for more than 10 years.

- 7.03** With regard to documents, one has to keep the hard copies where the originals were generated in hard form. Further, one should ensure the admissibility of any supporting document in electronic/digital form before doing away with the physical copies.

PLACE OF MAINTAINING SUCH BOOKS OF ACCOUNTS

& OTHER DOCUMENTS [17AA(3)]

- 8.01** Under Rule 17AA(3) the place for maintaining books of accounts has been provided as under:

“(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.”

- 8.02** In the light of the above provision, all organisations are required to keep the books of account at the registered office. If the organisation keeps all books of account or a portion of books of account at some other place then the following procedure should be followed:

- The place should be approved through Board Resolution
- Informed to Assessing Officer within 7 days of decision with full address of such other place. This intimation should be signed and verified by the same person who is authorized to verify the Income Tax Return.

- 8.03** Hence, if the accounts are maintained other than the registered office or at various project locations, then the concerned organisation is required to intimate to the Assessing Officer in writing, giving full address of the other places and such intimation shall be duly signed & verified by the person who is authorised to sign the return and this should be supported by resolution of the board.

PERIOD FOR WHICH BOOKS OF ACCOUNTS & OTHER DOCUMENTS SHOULD BE KEPT [17AA(4)]

- 9.01** 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.

Under Rule 17AA(4), books of account and other documents are required to be kept for a period of **ten** years from the end of the relevant Assessment Year.

- 9.02** This is a change which will have far reaching impact because organisations will effectively be required to preserve the books of account for **11 years**. It may be noted under Foreign Contribution Regulation Act, 2010 (FCRA 2010) the requirement of preservation is limited to 6 years. However, in the light of this amendment in the Income Tax rules, even the FCRA records will have to be preserved for 11 years.
- 9.03** It is to be noted, that for the purpose of preservation, the books of accounts as specified in Rule 17AA(4), shall also include copies of all the bills & supporting documents and not only the cash book, bank book & ledger.

OTHER RELATED ISSUES

10.01 Effective Date Of Notification

Notification for maintaining specified books of account and other records is effective from 10th August 2022, the question arises about the implication for the accounts already maintained i.e. from 01/04/2022 to 10/08/2022. In our opinion, the effective date will be 10/08/2022 and it will not be treated as a violation if some documents or informations are not maintained in a specified manner between the period 01/ 04/2022 to 10/08/2022.

10.02 Implication of Non-Maintenance of Books of Account

The Finance Act, 2022 inserted Section 13(10) and 13(11) with effect from the assessment year 2022-23 to provide that if the trust or institution has not maintained the books of account, the income chargeable to tax shall be computed after allowing a deduction for expenditure incurred for the objects of the institution as specified in this section.

The newly inserted section provides that the income chargeable to tax shall be computed after allowing the 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 last day 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 an 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.

The provisions of Section 40(a)(ia), Section 40A(3) and Section (3A) shall, *mutatis mutandis*, apply as they apply in computing the income chargeable under the head “Profits and gains of business or profession”. Therefore, the disallowances shall be made for the cash payment of expenditure and non-deduction or non-payment of TDS on the sum payable to a resident.

Further, no deduction of any expenditure or allowance or set-off of any loss shall be allowed to the assessee under any other provision of the Act.

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e-mail : fmsf@fmsfindia.org