

# NEW PROVISIONS OF INCOME TAX ACT 2025

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## OVERVIEW OF TRANSITION FROM THE ITA 1961 TO ITA 2025



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## INTRODUCTION

- 1.01** The Income-tax Act, 2025 brings with it a comprehensive restructuring of the framework governing the taxation of non-profit organisations. While the underlying philosophy of granting tax benefits to charitable and religious institutions continues, the manner in which the law is organised and applied has undergone significant change.
- 1.02** Under the erstwhile Income-tax Act, 1961, the provisions relating to charitable trusts and institutions were scattered across multiple sections and, to a large extent, shaped by judicial interpretation.
- 1.03** In contrast, the ITA, 2025 introduces a more structured and codified framework, largely contained in Chapter XVII-B, which sets out a consolidated scheme for the computation, classification, and taxation of the income of registered non-profit organisations.
- 1.04** As most readers are already familiar with the earlier law, this issue provides a consolidated and simplified overview of the key changes introduced under the ITA, 2025. It also provides the fundamental shift and changes made in the new Act.

## NEW TERM “REGISTERED NON-PROFIT ORGANISATION”

- 2.01** Under the ITA, 1961, the law referred to various forms of entities such as trusts, institutions, funds, universities, and hospitals. The ITA, 2025 replaces this fragmented terminology with a single, unified expression, “Registered Non-Profit Organisation.”

- 2.02** An entity falls within this regime only upon meeting the prescribed eligibility conditions, obtaining registration under section 332, and operating within the framework laid down in sections 332 to 355.

## SHIFT FROM CHAPTER III TO CHAPTER XVII-B

- 3.01** Under the ITA, 1961, charitable and religious institutions were dealt with in Chapter III - *"Incomes which do not form part of total income"*. This positioned the income of such entities as being outside the normal charging framework of the Act, subject to the fulfilment of prescribed conditions. Sections 11 to 13 were consistently regarded by courts as a self-contained code, operating on commercial principles rather than the head-wise computation mechanism contained in section 14.
- 3.02** The ITA, 2025 retains the substance of these principles but alters their statutory placement. The provisions relating to non-profit organisations are no longer situated in a chapter dealing with exclusion of income. Instead, they are contained in Part B of Chapter XVII, as part of the special provisions applicable to certain persons.

## CONSOLIDATION OF PROVISIONS

- 4.01** A key feature of the ITA, 2025 is the consolidation of provisions relating to registered non-profit organisations into a dedicated and self-contained framework. Under the ITA, 1961, the regime was largely fragmented, with relevant provisions dispersed across sections dealing with exemption, investment, accumulation, and violations.

**4.02** In contrast, the ITA 2025 adopts a more structured and codified approach. Chapter XVII-B brings together the entire lifecycle of a registered NPO, covering registration, computation of income, application and accumulation, compliance requirements, and consequences of non-compliance, within a single, integrated framework.

## KEY CHANGES IN REGISTRATION PROVISIONS

- 5.01** The ITA 2025 introduces a restructured framework governing the registration and approval of non-profit organisations. The key changes emerging under the new law may briefly be noted as follows:
- (a) Registration is now governed by section 332, replacing sections 12A/ 12AB of the ITA 1961, with a corresponding restructuring of approval provisions under section 354.
  - (b) Eligibility for registration is now restricted to specified categories of entities such as public trusts, societies, section 8 companies, universities, and other notified persons, as against fragmented terminology under the earlier law.
  - (c) The expression “legal obligation”, which expanded the scope of charitable institutions under the ITA 1961, has not been retained under the ITA 2025.
  - (d) A specific requirement has been introduced that the entity must be constituted, registered, or incorporated in India, thereby establishing a clear territorial nexus.

- (e) The law now requires that the property must be held for charitable or religious purposes in India, as against the earlier framework which primarily focused on application of income in India.
- (f) The timeline for filing provisional registration application, particularly in cases of entities where activities have not commenced, has been relaxed, allowing applications to be made at any time during the relevant tax year.
- (g) The eligibility conditions for fresh registration now focus on whether the entity has been previously registered under any specified provision, as against the earlier emphasis on whether exemption had been claimed.
- (h) The exception available under section 80G for institutions benefiting Scheduled Castes, backward classes, Scheduled Tribes, women, and children has not been carried forward in section 354.
- (i) Rule 181 introduces a system of combined application forms (Form 104/105) for registration and approval, with separate orders being issued thereafter.
- (j) New procedural features have been introduced in Rule 181, including the ability to surrender provisional registration or approval, withdrawal of application within a specified time, to submit a request for correction of section code or nature of activities, if these are wrongly mentioned and a limited right to re-apply in prescribed circumstances.
- (k) While the specific rule relating to entities created otherwise than under a formal instrument has not been retained, the requirement to furnish supporting documents continues through the prescribed forms.

## SHIFT FROM “LEGAL OBLIGATION” TO ENTITY BASED REGISTRATION FRAMEWORK

- 6.01** The ITA 2025 marks a significant shift in the manner in which eligibility for the registered NPO regime is determined. Under the ITA 1961, the expression “trust” was interpreted broadly and extended to situations involving “any other legal obligation”, thereby enabling even informal or customary arrangements to claim exemption under sections 11 and 12.
- 6.02** In contrast, the ITA 2025 adopts a more structured and entity-based approach. Section 332 limits eligibility to specified categories of recognised entities, such as public trusts, societies, section 8 companies, universities, government-financed institutions, and certain notified persons.
- 6.03** The omission of the expression “legal obligation” represents a departure from the earlier framework.

## SHIFT FROM EXEMPTION BASED TO COMPUTATION BASED FRAMEWORK

- 7.01** Under the ITA 1961, the regime was broadly understood as one of exemption, where income derived from property held under trust was excluded from total income subject to fulfilment of specified conditions.
- 7.02** The ITA 2025 marks a conceptual shift by introducing a computation-based framework. Income is first determined on commercial principles, and thereafter subjected to classification and taxation under the statutory scheme. The focus is thus on computation and characterisation of income, rather than mere exclusion from the tax base.

## INTRODUCTION OF CLASSIFICATION OF INCOME

- 8.01** One of the most significant innovations under the ITA 2025 is the explicit classification of income into:
- (a) Regular Income;
  - (b) Specified Income;
  - (c) Residual Income.
- 8.02** This classification operates after the determination of income and forms the basis for taxation under section 334.
- 8.03** Regular Income constitutes the primary category eligible for application and accumulation. Specified Income arises upon the occurrence of defined statutory violations and is subject to tax at a special rate. Residual Income represents the balance income not falling within the other categories and is taxed under general provisions.

## CHANGES IN TAXATION MECHANISM

- 9.01** Section 334 introduces a structured rate mechanism for different categories of income:
- (a) Taxable Regular Income and Residual Income is taxed at the rate applicable to the entity.
  - (b) Specified Income is taxed at a flat rate of 30%.
- 9.02** The presence of a *non-obstante* clause in section 334 ensures that this framework prevails over other provisions of the Act, reinforcing its character as a special code.

## RELOCATION OF PROVISIO FROM DEFINITION OF CHARITABLE PURPOSE

- 10.01** The ITA 2025 retains the traditional definition of “charitable purpose” but introduces an important structural change in its formulation. Under the ITA 1961, the definition was contained in section 2(15), which included a proviso restricting commercial activities in cases of advancement of any other object of general public utility (GPU).
- 10.02** Under the ITA 2025, while section 2(23) continues to define “charitable purpose” in substantially similar terms, the restrictive proviso has been removed from the definition itself. Instead, the conditions governing commercial activities of NPOs engaged in GPU have been relocated to a separate provision under section 346.

## TIME LIMIT FOR FILING FORM NO. 108 (DEEMED APPLICATION)

- 11.01** The concept of deemed application is governed by section 341(5) to (7), which permit an NPO to treat any shortfall in application (below 85%) as application of income, subject to prescribed conditions.
- 11.02** Under section 341(7) read with Rule 184, this option is required to be exercised by furnishing Form No. 108 electronically on or before the due date specified under section 263(1).
- 11.03** A significant change from the earlier regime is the rationalisation of the timeline for exercising this option. Under the ITA 1961, the corresponding provision (*Explanation 2* to section 11(1)) required filing of Form No. 9A

at least two months prior to the due date for furnishing the return of income (subsequently relaxed by administrative circulars).

- 11.04** The ITA 2025 removes this requirement of advance filing and allows the option to be exercised up to the due date of filing the return of income, thereby aligning the compliance timeline with the return filing process.

#### TIME LIMIT AND CONDITIONS FOR ACCUMULATION (FORM NO. 109)

- 12.01** The ITA 2025 retains the framework permitting accumulation or set apart of income for a specified purpose for a period not exceeding five years under section 342. The option is to be exercised by furnishing a statement in Form No. 109, specifying the purpose and period of accumulation.
- 12.02** A notable change relates to the timeline for exercising this option. Under section 342 read with the relevant rules, the statement is now required to be furnished on or before the due date for filing the return of income under section 263(1).
- 12.03** Under the ITA 1961, while accumulation under section 11(2) was also permitted for a similar period, Form No. 10 was required to be filed at least two months prior to the due date under section 139(1), though this requirement was subsequently relaxed by CBDT Circular No. 6/2023. The ITA 2025 removes this advance filing requirement altogether and aligns the timeline with the return filing due date.
- 12.04** Further, under the ITA 1961, section 13(9) linked the availability of accumulation benefits to the condition that the return of income must be

filed within the due date. No such explicit condition has been prescribed under the ITA 2025 in relation to section 342.

## SPECIFIED FORMS FOR CHANGE IN PURPOSE OF ACCUMULATION

- 13.01** Section 342(5) and 342(6) permit a registered NPO to seek approval from the Assessing Officer for a change in the purpose of accumulation.
- 13.02** A notable change under the ITA 2025 is the introduction of a structured procedural framework for such applications. Under the ITA 1961, there was no prescribed form for seeking approval for change of purpose, nor any prescribed format for the order of the Assessing Officer.
- 13.03** In contrast, Rule 186 of the Income-tax Rules, 2026 now prescribes Form No. 110 for making the application and Form No. 111 for the order of the Assessing Officer approving or rejecting such request.

## USE OF THE TERM “DEEMED ACCUMULATED INCOME”

- 14.01** Under the ITA 2025, a registered NPO is required to apply at least 85% of its regular income for charitable or religious purposes in each tax year. Section 343 expressly permits retention of up to 15% of such income, which is now described as “deemed accumulated income.”
- 14.02** While this concept existed under section 11(1)(a) of the ITA 1961, the statute did not expressly use the term “deemed accumulation” for this 15% retention. The ITA 2025 formalises this position by introducing a defined expression, thereby bringing greater clarity and precision to the treatment of such income.

## TAXATION OF ENTIRE INVESTMENT IN CASE OF VIOLATION

**15.01** Under the ITA 2025, any investment or deposit made in contravention of section 350 is treated as specified income under section 337. This represents a significant departure from the earlier regime, as the entire amount of such investment is now brought to tax, irrespective of the source of funds, rather than taxing only the income arising therefrom.

## APPLICATION FOR NON-CHARITABLE PURPOSES EXPRESSLY TAXED

**16.01** The ITA 2025 expressly includes within specified income under section 337 any amount applied for purposes other than the objects for which the NPO is registered. This marks a departure from the earlier framework, where such application did not constitute a separately classified category of taxable income.

## INCOME EARLIER TAXABLE UNDER SECTION 164(2) NOW INCLUDED WITHIN “SPECIFIED INCOME”

**17.01** The ITA 2025 expands the scope of “Specified Income” under section 337 by expressly including certain categories of income which were earlier governed by section 164(2) of the ITA 1961.

**17.02** One such category relates to deemed corpus donations. Under the ITA 2025, any deemed corpus donation in respect of which the conditions

specified in section 340 are violated, such as failure to maintain separate identification or failure to invest in permissible modes, is treated as specified income and subjected to tax at 30%.

**17.03** Similarly, any additional income determined by the Assessing Officer under section 344 in excess of the income disclosed in the books of account of a business undertaking held by the NPO is also specifically included within the scope of specified income.

**17.04** Under the ITA 1961, both these categories were generally governed by section 164(2) and were taxable at the rates applicable to an Association of Persons (AOP).

## CONSEQUENCES FOR NON-COMPLIANCE UNDER SECTION 353

**18.01** The ITA 2025 introduces a structured mechanism under section 353 for denial of exemption in cases of specified non-compliances, such as failure to maintain books of account, failure to get accounts audited, failure to furnish return of income, or undertaking impermissible commercial activities. In such cases, the income of the NPO is computed under a special mechanism and becomes taxable accordingly.

**18.02** A notable change under the ITA 2025 is the clear distinction between substantive and procedural non-compliances. The provision restricts its application to core compliance failures listed in 353(1). It does not extend to ancillary or procedural lapses, such as failure to maintain additional documents or delay in furnishing the audit report.

## COMPUTATION OF GAINS FROM COMMERCIAL ACTIVITIES

**19.01** The ITA 2025 introduces a structured mechanism for computation of gains from permissible commercial activities carried on by registered NPOs under sections 344, 345 and 346. Rule 182 of the Income-tax Rules, 2026 provides that such activities are to be treated as if carried on by a separate entity, with a requirement to maintain separate books of account, and the gains are to be computed in accordance with the provisions relating to profits and gains of business or profession.

**19.02** This represents a departure from the earlier regime under the ITA 1961, where the manner of computation of such income was largely governed by general principles and judicial interpretation. The ITA 2025 formalises this position by prescribing a clear computation framework through delegated legislation.

**19.03** However, this approach gives rise to an interpretational issue when read with section 334(2), which provides that the special provisions governing NPO taxation operate notwithstanding other provisions of the Act. The prescription of computation under the general business income provisions may therefore create confusion between the special regime and the general computation framework.

**19.04** While the rule appears to operate only for the limited purpose of computation, its interaction with the overriding provisions of the Act may require careful interpretation.

## SEGREGATION OF GPU FROM INCIDENTAL COMMERCIAL ACTIVITY FRAMEWORK

- 20.01** Under the ITA 2025, section 345 governs the permissibility of commercial activities only in respect of registered NPOs other than those engaged in the advancement of any other object of general public utility (GPU). NPOs falling under the GPU category are specifically carved out and are instead governed by a separate provision under section 346.
- 20.02** This represents a structural change from the position under the ITA 1961. Section 11(4A) applied uniformly to all charitable institutions, including those engaged in GPU, and permitted business activities subject to the conditions of being incidental to the objects and maintenance of separate books of account.
- 20.03** The ITA 2025, by contrast, segregates the treatment of commercial activities based on the nature of charitable purpose, by placing GPU entities under a distinct framework with separate conditions and thresholds. As a result, section 345 is now confined to “per se” charitable categories, while GPU-related commercial activities are governed independently under Sec 346.

## FROM TWO AUDIT FORMS TO A SINGLE UNIFIED AUDIT REPORT

- 21.01** Under the ITA 1961, audit reporting requirements were prescribed through Forms 10B and 10BB, with applicability determined by thresholds relating to income, foreign contributions, and the application of income outside India.

- 21.02** The ITA 2025 replaces this form-based distinction with a single unified audit report in Form No. 112.
- 21.03** The distinction between different categories of NPOs is now embedded within the reporting framework itself, rather than being reflected through separate audit forms.

## INTRODUCTION OF “SMALL” AND “LARGE” REGISTERED NPO CLASSIFICATION

- 22.01** The ITA 2025 introduces a formal classification of registered NPOs into “Small Registered NPOs” and “Large Registered NPOs”, determined through a structured questionnaire embedded in the audit report (Form No. 112).
- 22.02** Under the new regime, an NPO is classified as a Large Registered NPO if any one of the following conditions is satisfied:
- (a) Regular income under section 335 exceeds Rs. 5 crore; or
  - (b) Foreign contribution received during the tax year exceeds Rs. 10 lakh; or
  - (c) Application of income outside India exceeds Rs. 10 lakh.
- 22.03** An NPO is classified as a Small Registered NPO only where all of the above conditions are not triggered.
- 22.04** This classification now serves as the basis for determining the extent of disclosure and reporting obligations under the audit framework.

## REVISED THRESHOLD FOR AUDIT REPORT FORM

- 23.01** In addition to the structural change in audit reporting, the ITA 2025 also revises the threshold criteria governing such classification.
- 23.02** Under the ITA 1961, Form 10B was required where the total income exceeded Rs. 5 crore, or where the trust had received any foreign contribution or applied any part of its income outside India, with no minimum threshold for the latter two conditions.
- 23.03** The ITA 2025 replaces this form-based distinction with a single unified audit report in Form No. 112. In place of separate forms, the law now classifies NPOs as Small or Large Registered NPOs based on specified criteria.
- 23.04** While the Rs. 5 crore income threshold has been retained, a notable change is the introduction of quantitative thresholds of Rs. 10 lakh for foreign contributions and for applications of income outside India. Accordingly, an NPO is classified as a Large Registered NPO only when such amounts exceed Rs. 10 lakh, as opposed to the earlier position, where any amount, however small, triggered the requirement to file Form 10B.
- 23.05** It is further to be noted that Section 348, dealing with audit requirements, is triggered where the total income of a registered NPO, computed “without giving effect to the provisions of this Part,” exceeds the maximum amount not chargeable to income-tax in a given tax year, whereas the criteria for classification as a Large/Small NPO is that the Regular Income under section 335 exceeds Rs. 5 crores in the relevant tax year.

## SHIFT FROM AOP BASED TAXATION TO ENTITY BASED TAXATION

- 24.01** Under the ITA 1961, section 164(2) provided that income of charitable or religious trusts which was not exempt under section 11 or 12 would be taxed “as if” such income were the income of an Association of Persons (AoP). Consequently, even where the underlying arrangement arose from a trust or other legal obligation, the taxable income was generally subjected to tax in the status of an AoP.
- 24.02** The ITA 2025 does not contain a corresponding provision similar to section 164(2). Instead, the new regime adopts an entity-based approach to taxation. A “Registered Non-Profit Organisation” is not treated as a separate category of person under the Act, but merely represents a regulatory status granted to an existing legal entity satisfying the conditions of section 332.
- 24.03** Accordingly, the assessment status of an NPO under the ITA 2025 depends upon its underlying legal form, such as a trust, society, section 8 company, university, or other eligible entity, rather than a deemed status of Association of Persons. This marks a structural departure from the earlier framework.

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