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Standards & Norms

Resource support on NGO Governance, Accounting and Regulations

10 YEAR REGISTRATION FOR SMALLER NPOs

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INTRODUCTION

1.01 The Finance Bill 2025 has proposed increasing the validity of registration from five years to ten years for trusts or institutions whose total income, before exemption under Sections 11 and 12, does not exceed Rs. 5 crores in each of the two previous years preceding the year of application. This amendment will provide significant relief to smaller charities. However, there is a lack of clarity on certain issues that need to be addressed to make this amendment effective and useful.

1.02 It may be noted that last year the Hon'ble Finance Minister Smt Nirmala Sitharaman had stated that the Finance (No. 2) Bill 2024 marked the beginning of efforts to simplify the tax regime for charitable organisations. Among several amendments made in 2024, the most significant change was merging the two parallel tax exemption regimes i.e. section 10(23C) and Section 12A. This year the major proposed changed is to provide a 10 year tenure of registration to smaller charities. However, though the intent is good but the amendments do not suggest any real benefit to most of the smaller charities.

RATIONALE AND PURPOSE OF THE AMENDMENT

2.01 Currently, regular registration to a trust or institution is granted for a period of five years. Similarly, provisional registration (for cases where activities have not commenced at the time of filing the application) is granted for a period of three years.

2.02 All organisations are required to apply for renewal of registration or conversion of provisional registration to regular registration at least six months before the expiry of the three-year or five-year period, as applicable. The current registration process under Section 12AB involves extensive compliance and documentation on the part of the trust or institution, as well as detailed due diligence, including field inquiries, by the revenue authorities. Notably, the registration requirements are uniform for all organisations, meaning a small charity with an income of Rs. 10 lakh is subjected to the same compliance requirements as a charity with an income of Rs. 100 crores.

2.03 The Finance Bill 2025 has rightly proposed exempting smaller charities from renewing their registration every five years by extending the registration period to ten years. This change will reduce the compliance burden for both charities and the tax department.

UNDERSTANDING THE PROPOSED AMENDMENT

3.01 In Section 12AB(1), the following proviso shall be inserted:

> *'Provided that where an application is made under sub-clauses (i) to (v) of the said clause, and the total income of such trust or institution, without giving effect to the provisions of sections 11 and 12, does not exceed rupees five crores during each of the two previous years, preceding the previous year in which such application is made, the provisions of this sub-section shall have effect as if for the words "five years", the words "ten years" has been substituted.'*

3.02 The proposed amendment effectively increases the registration tenure from five years to ten years for organisations whose total income, before Sections 11 and 12 exemptions, does not exceed Rs. 5 crores in each of the two previous years preceding the application year.

IS THE BENEFIT EXTENDED TO ALL CATEGORIES OF APPLICANTS WITH INCOME LESS THAN RS. 5 CRORES?

4.01 This extended validity benefit applies to trusts or institutions that have made an application under sub-clauses (i) to (v) of Section 12A(1)(ac). Therefore, it does not apply to applications under sub-clause (vi) of Section 12A(1)(ac). This means that the benefit is not available to trusts or institutions applying for registration for the first time, whether before or after commencing activities. It is granted only to applicants seeking re-registration of existing trusts, renewal of registration, or conversion of provisional registration.

TWO TYPES OF REGISTRATION EVEN FOR NEW CHARITIES

5.01 The exclusion of Section 12A(1)(ac)(vi) has created a situation where if a new applicant applies for the first time before the commencement of activities, provisional registration will be granted for three years. Within six months of commencing activities, this provisional registration can be converted into a ten-year regular registration for small charities.

5.02 However, if a trust applies directly for regular registration for the first time after commencing activities, the regular registration will only be granted for five years.

5.03 As a result, new trusts may prefer to go through the provisional route and then convert to regular registration to secure a ten-year validity, rather than applying directly for regular registration after commencing activities, which would limit the validity to just five years.

5.04 Another question that arises here is regarding the condition that total income before exemption should not exceed Rs. 5 crores in each of the two previous years preceding the year of application. In the case of a newly formed entity that obtains provisional registration and subsequently converts it into regular registration, there may be no history of the past two years, as both applications, provisional registration and conversion to regular registration, are made within the first year itself. Since there is no income history for the previous two years, the Rs. 5 crore income condition would not apply, and the certificate of conversion into regular registration should be granted for ten years.

EFFECTIVE DATE OF THE AMENDMENT

6.01 The amendments will take effect from 01-04-2025. However, it is unclear whether they apply only to registration certificates granted after 01-04-2025, or to applications made after this date.

6.02 Section 12AB(1) outlines the procedure for registration or cancellation of registration by the Principal Commissioner or Commissioner upon receiving an application under

Section 12A(1)(ac). Since certificates are granted under Section 12AB, but applications are made under Section 12A, and there is no amendment to Section 12A, we believe that all registration certificates issued on or after 01-04-2025, will be valid for ten years for organisations meeting the criteria. Consequently, all pending applications for five-year registration, including applications for regularising provisional registration, should be issued ten-year certificates if granted after 01-04-2025.

WHAT HAPPENS IF INCOME EXCEEDS RS. 5 CRORES DURING THE REGISTRATION PERIOD?

7.01 There is no clarity regarding the tenure of the registration certificate if the organisation's total income exceeds Rs. 5 crores during the registration period after receiving a ten-year registration certificate.

7.02 The amendment states that the total income of such a trust or institution, before applying Sections 11 and 12, must not exceed Rs. 5 crores in each of the two previous years preceding the application year. However, it does not specify whether a change in income affects the validity of the registration certificate or whether re-registration is required if income surpasses Rs. 5 crores.

WILL THIS AMENDMENT EXTEND THE EXISTING FIVE-YEAR REGISTRATION PERIOD?

8.01 The amendments do not provide any relief to currently registered small charities. Therefore, they do not fully achieve their intended purpose. The changes will only benefit existing charities when they apply for renewal after completing their five-year period. It would have been more effective if all existing charities with incomes below Rs. 5 crores were automatically granted a ten-year extension.

WILL THE AMENDMENT ALSO EXTEND SECTION 80G APPROVALS TO TEN YEARS?

9.01 There is no corresponding amendment to Section 80G, meaning smaller charities will not experience significant relief. The compliance burden for renewing 80G approval remains equally cumbersome. It does not make sense to require charities to apply for 80G approval every five years while allowing Section 12AB registration to last ten years. A corresponding amendment to Section 80G would make this change more meaningful.

DOES IT GENUINELY OFFER REGISTRATION RELATED RELIEF TO SMALL CHARITIES?

10.01 The intent behind the amendment, in practical terms, remains minimal and is largely ineffective for the following reasons:

(a) The amendments fail to provide relief to existing small charities whose five-year registration renewal is due, which could number close to a million. Instead, they only benefit new charities, a much smaller proportion of institutions. As a result, the majority of small charities will not see immediate benefits.

(b) Even most smaller charities are not granted relief, as the number of charitable organisations applying for provisional registration before commencement is typically very low. Charities usually apply for direct registration under clause 12A(1)(ac)(vi) after starting their activities, meaning these organisations will be excluded from the ten-year benefit.

(c) There is no corresponding amendment in Section 80G. Consequently, despite the ten-year registration certificate tenure, the five-year compliance burden will persist, as organisations will still need to apply for 80G renewal.

The amendments would be meaningful only if the registration certificate of all the existing charities is extended to 10 years and all prospective smaller charities are also allowed similar 10 year tenure irrespective of the nature of registration i.e. provisional or regular. Further, the tenure of 80G certificate has to be extended to 10 years.

ARE THERE ANY ADDITIONAL RELAXATIONS FOR SMALL CHARITIES?

11.01 No additional relaxations have been provided regarding documentation, compliance, or other registration requirements. The only change is the extension of the registration period from five years to ten years for eligible smaller trusts or institutions.

11.02 The real challenge for small charities remains the extensive requirements related to maintaining books of accounts, audits, and filing ITR-7. Since no relief has been granted for these compliance obligations, this amendment is largely symbolic and may not provide substantial material benefits to smaller charities.

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