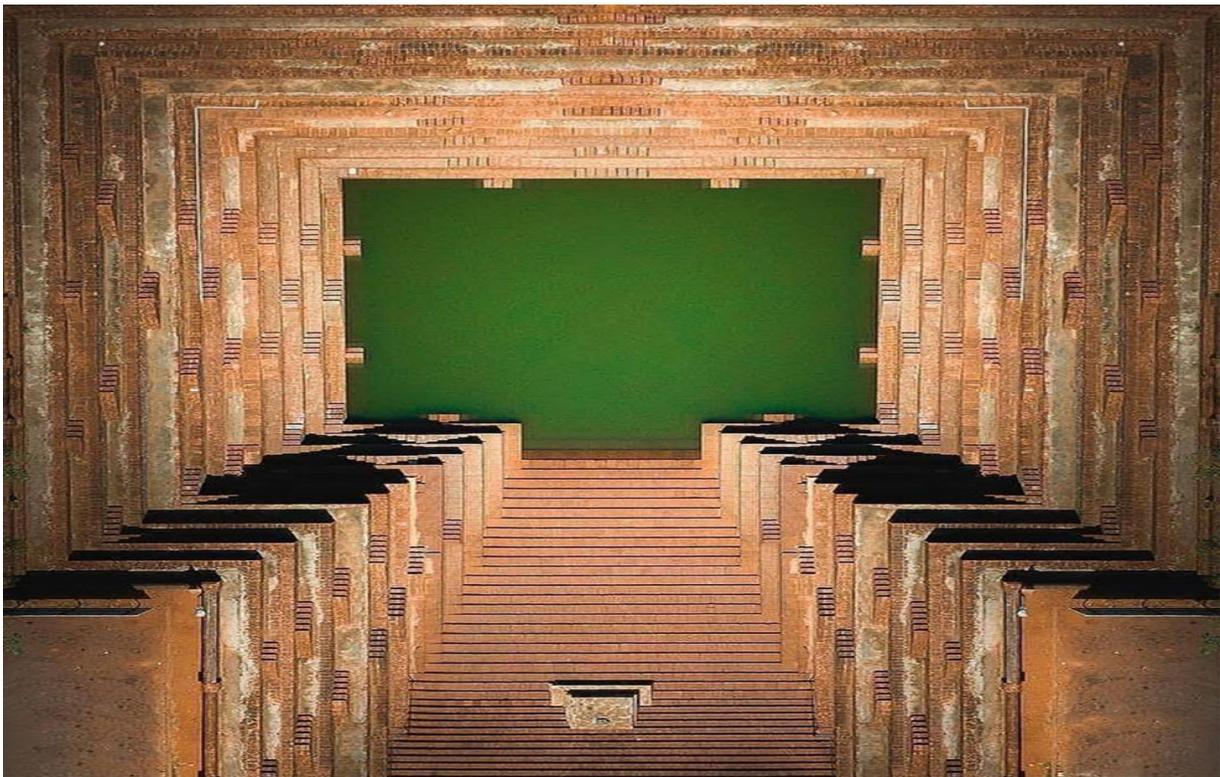


**Important Provisions relating to Charitable Trusts  
&  
Applicable to FY Ended March 2022**



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## **Preface**

Income Tax laws have gone through a sea change so far as Charitable Trusts are concerned. From massive reporting requirements to cancellation of Registrations is the new norm.

In this connection, all Charitable Trusts who give 80G benefit to donors for giving Donations will have to file details of Donations received on tax portal in prescribed format. In addition to this, there are many other provisions that seek your attention.

This short Note explains what are the new requirement, how it should be done and consequences of non compliance in few months.

This communication is intended to provide a general guide to the subject matter and should not be regarded as a basis for taking decisions on specific matters. In such instances, separate advice should be taken.

Unless otherwise specified, the reference to the words "the Act" used is to the Income-tax Act, 1961.

Mumbai, India.  
17<sup>th</sup> February, 2022

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## GENERAL

### 1. Charitable Trust- A brief introduction:

Charity is a voluntary help either in money or kind to the needy. Hence, there are various Non-Governmental Organizations (NGOs) and non-profit entities constantly working on charitable activities by raising funds all over the world by forming either an institution or trust.

Efforts of such institutions play a significant role in promoting economic development and the social welfare objectives of the Government. Their outreach and more localised approach help to identify the needy and lend a supporting hand. For this reason, Indian government provides various tax incentives and exemptions to charitable institutions (referred herein as "trust/s") as they carry education, medical relief and many other activities that serve those in need by without means.

### 2. Statement of Donation: Form 10BD (Mandatory):

#### i. E-Filing of Form 10BD:

- **To whom does it apply:** Assessee trust registered under section 80G / 35(1) of the Act
- **What is required:** E-file Form 10BD
- **What is the content:** Donations received during the previous year 2021-22
- **Timeline for Filing:** on or before 31<sup>st</sup> May 2022
- **Mandatory or Optional:** Mandatory
- **E-Verification:** DSC or EVC via OTP by a Trustee / Principal Officer
- **View Form:**

<https://incometaxindia.gov.in/Forms/Income-Tax%20Rules/10352000000080975.pdf>

#### ii. Information required for the Form 10BD:

1. PAN of the Donor
2. Name of the Donor
3. Address of the Donor
4. Nature of donation (corpus, specific Grant, others )
5. Mode of Receipt (cash, kind, cheque, online transfer)

**iii. Issue Form 10BE to Donor:**

The Trust will have to download and issue **Certificate of Donations (Form 10BE) to EACH DONOR**. Form 10BE has to be sent to the donor by 31<sup>st</sup> May, 2022 for FY 2021-22.

**Contents of Form 10BE**

This form shall contain:

**DONEE INFORMATION:**

- a) Name, PAN, address of the donee
- b) Registration numbers allotted for section 80G or 35(1) of the Act
- c) Date of approval u/s 80G or 35(1) of the Act

**DONOR INFORMATION:**

- a) Name, Address of the Donor
- b) Amount of donation received, Type
- c) Financial year in which donation is received
- d) Section under which such donation is eligible for deduction

**iv. Consequences of Non-filing of Form 10BD:**

Nature of penalty	Section	Amount
Fee for default relating to statement or certificate – For Form 10BD and Form 10BE	234G	Rs. 200 per day of default
Penalty for failure to furnish statements	271K	The Assessing Officer may direct that a sum of Rs. 10,000 up to Rs. 1,00,000

**3. Corpus Donations to be invested before 31<sup>st</sup> March 2022:**

- i. Corpus Donation will be considered as Corpus and not to be applied for Charitable Purpose only if invested in the modes specified in section 11(5)
- ii. Earmarked investment **mandatory** for corpus donation
- iii. Above Investment must be invested in the same year in which it is received.

#### 4. PROVISIONS OF THE FINANCE BILL 2022

- i. Application from loans and borrowings considered as application of income only if repaid to the lender
- ii. Application will be allowed on actual payment basis and not accrual basis
- iii. Trust now requires to maintain books of accounts
- iv. Penalty for passing on benefits to person covered under section 13(3) equal to the amount of benefit transferred
- v. **Specified Income** of the trusts/institutions will be **taxed at 30%** without any allowance or deduction:
  - income accumulated or set apart in excess of fifteen percent of the income and same is not invested in the modes specified
  - any income is applied to purposes other than charitable or religious purposes
  - any accumulation ceases to remain invested or deposited in any of the forms or modes specified
  - any accumulation is not utilized for the purpose for which it is so accumulated or set apart
  - any income which is applied directly or indirectly for the benefit of any person referred to in section 13(3).
- vi. **Aligning section 10 (23C)** – Provisions related to Charitable trusts like educational and medical institutions, hospitals similar to provisions of section 11.
- vii. **Cancellation of Registration** in case of following specified violation by all trusts:
  - where any income of the trust or institution has been applied other than for the objects for which it is established
  - the trust of 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.
  - the trust or the institution has applied any part of its income from the property held under a trust for private religious purposes which does not ensure for the benefit of the public

- the trust or institution established for charitable purpose has applied any part of its income for the benefit of any particular religious community or caste.
- any activity being carried out by the trust or the institution is not genuine; or is not being carried out in accordance with all or any of the conditions subject to which it was registered.
- the trust or the institution has not complied with the requirement of any other law applicable to such trust.

viii. **Others**

- A trust can accumulate its income if minimum of 85% of the income remains unspent for 5 years, which was so far taxable in the 6<sup>th</sup> year, will now be taxed in the 5<sup>th</sup> year itself.