



CPA CONNECT



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Dear Partner,

Warm Greetings!

Analysis of Sub-clauses for 12A registration and its timelines

When analyzing the provisions related to the registration of trusts or institutions under Section 12A and 12AB of the Income Tax Act, it's crucial to understand the timelines and conditions for maintaining or renewing these registrations. Here's a detailed breakdown:

Sub clause	Provision	Analysis
(i)	where the trust or institution is registered under section 12A [as it stood immediately before its amendment by the Finance (No. 2) Act, 1996 (33 of 1996)] or under section 12AA [as it stood immediately before its amendment by the Taxation and Other Laws (Relaxation and Amendment of Certain Provisions) Act, 2020 (38 of 2020)], within three months from the first day of April, 2021;	The provision states that the Trusts or institutions already registered under Section 12A or under Section 12AA as on 1st April, 2021 must reapply for registration within three months from April 1, 2021*. This re-registration ensures compliance with current legislative requirements. The provision for renewal or re-registration is applicable for the organization being registered under section 12A or section 12AA. It does not seem to cover such trusts etc. which are deemed to be due to non-disposal of registration application within the prescribed time period. This is further clear from the language of sub section (2) of section 12AB according to which all applications pending on which no order under section 12AA(1)(b) was passed, would be treated as applications under the residuary clause viz. section 12A(1)(ac)(vi).

		*The Central Board of Direct Taxes has extended the last date vide circular 07/2024 dated 25th April, 2024 to reapply for registration till 30th June, 2024
(ii)	where the trust or institution is registered under section 12AB and the period of the said registration is due to expire, at least six months prior to expiry of the said period;	The trusts or institutions registered under Section 12AB, renewal applications must be submitted at least six months prior to the expiration of the current registration period. This proactive approach helps prevent any lapses in registration, which could impact their tax-exempt status.
(iii)	where the trust or institution has been provisionally registered under section 12AB, at least six months prior to expiry of period of the provisional registration or within six months of commencement of its activities, whichever is earlier;	Trusts or institutions with provisional registration under Section 12AB must apply for regular registration at least six months before the provisional registration expires or within six months of starting their activities, whichever is earlier. This requirement ensures that institutions transition smoothly from provisional to permanent registration without interrupting their operations. Opportunity of being heard shall be provided in case application is rejected or registration is cancelled. In case registration is granted, it shall be for a period of 5 years. In this case, period of 5 years would start from the first of the assessment years for which it was provisionally registered, as provided in sub clause (b) of the proviso to section 12A(2). It is to be noted that the activity date considered by the department is the date earlier of the following, - Date of start of activities - Date of receipt of first Donation
(iv)	where registration of the trust or institution has become inoperative due to the first proviso to sub-section (7) of section 11, at least six months prior to the commencement of the assessment year from which the said registration is sought to be made operative;	If a trust or institution's registration becomes inoperative because of modifications that don't conform to the original registration conditions (per the first proviso to sub-section (7) of Section 11), they must reapply for registration at least six months before the beginning of the assessment year from which they seek reactivation. Once registration under section 12AB is revived, the approval under section 10(23C) or notification under section 10(46) would cease to have any effect from the date on

		which the said registration becomes operative. “First proviso to Section 11(7) provides that trusts or institutions cannot simultaneously hold registrations under multiple sections for tax exemptions i.e. 12A or 10(23C) or notified under section 10(46).”
(v)	where the trust or institution has adopted or undertaken modifications of the objects which do not conform to the conditions of registration, within a period of thirty days from the date of the said adoption or modification;	When a trust or institution adopts or modifies its objectives in a way that doesn't align with the conditions of its initial registration, it must inform the authorities within thirty days of making such changes. This prompt notification ensures that the trust's activities remain transparent and compliant with regulatory standards. In case, if the same is not intimated within the respective time lime limit, the registration of the organization could be cancelled by the Income tax department.
(vi)	in any other case, where activities of the trust or institution have— (A) not commenced, at least one month prior to the commencement of the previous year relevant to the assessment year from which the said registration is sought; (B) commenced and no income or part thereof of the said trust or institution has been excluded from the total income on account of applicability of sub-clause (iv) or sub-clause (v) or sub-clause (vi) or sub-clause (via) of clause (23C) of section 10, or section 11 or section 12, for any previous year ending on or before the date of such application, at any time after the commencement of such activities, and such trust or institution is registered under section 12AB;	In cases not explicitly covered by the previous points: - Charitable trusts etc. which seek to avail the registration for the first time under the new registration regime of section 12AB would have to apply for registration at least one month prior to the commencement of the previous year relevant to the assessment year from which the registration is sought. Such trusts etc. would be given provisional registration and such provisional registration would be valid for 3 years from the assessment year from which the registration is sought. No enquiry would be made by the competent authority while granting provisional registration as is clear from the provision of section 12AB(1)(c). - If a trust or institution has commenced its activities and no part of its income has been excluded from the total income due to various clauses under Section 10, 11, or 12, it can apply for registration at any time after starting its activities. The organization must apply for regular registration within a period of six months from the date of such commencement.

		Following the application, the competent authority will conduct an inquiry to assess: • The genuineness of the activities. • The alignment of the objects with the stated purposes. • Compliance with any other laws relevant to achieving its objectives. Based on this inquiry, the authority will issue an order either granting regular registration or rejecting and canceling the provisional registration. The trust or institution will be given an opportunity to be heard before any rejection or cancellation is finalized.
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In the meantime, if you have any question on the above, feel free to get back to me/us and we will respond to it.