



CPA CONNECT



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Dear Partner,

Warm Greetings from CPA Services!

As you know, through this broadcast, I am updating our partners about critical issues related to financial management, legal compliance, and governance. Over the last nine issues, we have covered various topics. In this issue, we will delve into the intricacies of inter-charity donations, and their impact.

If you have missed our earlier editions, click [here](#) to download

"Understanding Inter-Charity Donations and Its Impact"

Inter-charity donations, where one charitable organization donates to another organization, are a critical aspect of the nonprofit sector. Inter Charity donations have specific tax implications under the Income Tax Act. Understanding these aspects are vital for charitable organizations to ensure valid application and avoid chargeability of tax.

Application of Income

Voluntary contributions and income derived from property held under trust for charitable or religious purposes are exempt from tax, provided certain specified conditions are met. However, our discussion in this issue is limited to the conditions of inter-charity donations as described below:

Application of Income for Inter-Charity Donations

When a charitable organization donates to another charitable organization having similar objects and valid registration under section 12A or 10(23C), this donation is considered a valid application of income towards charitable purposes. Further, an amendment effective from April 1, 2023,

stipulates that only 85% of the inter-charity donation (sub-grant) will be treated as valid application in the hand of grantor.

However, inter-charity donation will be considered as income for 100% of the receipt amount in the hand of the grantee (receiving organization). Further, the grantee has to apply 85% of the sub grant receipt for charitable objectives of the organization.

Objective Alignment

Inter-charity donations should only be given to organizations having similar objectives. Inter-charity donations to organizations with different objectives are not treated as valid applications. The ITAT Allahabad in the case of *Nazareth Hospital Society v. Deputy Commissioner of Income-Tax (Exemption) Lucknow Uttar Pradesh* (2021) ruled that donations to an organization engaged in different activities are not permissible.

Accumulation of Income

Section 11(1) allows for accumulation of income only upto the 15% of the total income calculated as described above. Further, there is no precondition for filing any specified form for such accumulation within the allowed limit of 15%.

Further, Section 11(2) allows charitable or religious organizations to accumulate or set aside income for future application towards charitable purposes subject to fulfillment of following specific conditions.

- The specified form 9A or form 10 is submitted through the income tax portal stating the purpose for which the income is being accumulated or set apart. The form 9A allows the accumulation for setting apart for stated purposes only for the next year. However, form 10 allows for setting apart for a period not exceeding 5 years.
- The accumulation form 9A or form 10 is furnished at least two months prior to the due-date for filing the normal income tax return i.e. by 31st August of the relevant Assessment Year. Further, as per the CBDT clarification vide circular number 6 of 2023 dated 24th May, 2023, the accumulation shall not be denied as long as the application form 9A/10 is filed before the Due-Date of normal ITR i.e. by 31st October, 2023.

However, this is to be noted that there is no amendment in the Section 11(2) regarding the due-date of filing of form 9A/10. Further, the due-date of filing of audit report in form 10B/10BB, as applicable still remains same i.e. 30th September (extended by a week for Assessment Year 2024-25 i.e. upto 7th October, 2024). Therefore, to ensure no variance in Audit report and ITR, organisations should file the application form 9A/10 by the Due-date of 31st August and should avoid delaying further than the Due-date of audit report i.e. 30th September (7th October, 2024 for AY 2024-25).

- The money so accumulated or set apart should be invested or deposited in the forms or modes specified in Section 11(5).

- The fund accumulated through form 9A/10 is not further allowed for doing inter-charity (sub-granting) and sub-granting of those accumulated funds will be subject to tax @30%.

Example:

- If an organization receives a donation of Rs 100 and donates Rs 80 to another organization, the computation of income would reflect only 85% of Rs 80 as applied income.

Particulars	As per the Previous Law		With effect from 1 st April 2023	
	Rs.	Rs.	Rs.	Rs.
Income		100		100
Less: Inter-charity donation	80		(85% of 80) =68	
Less: Other Expenses	5	85	5	73
Surplus		15		27
Less: Statutory accumulation upto 15%		15		15
Surplus subject to tax OR reduced from the statutory accumulation allowed upto 15% under Section 11(1)				

Further, it has been clarified by the Income Tax department via Circular no. 3 dated March 6, 2024, that in the case of inter-charity donations, the 15% of such donations by the donor trust / institution shall not be required to be invested in specified modes under section 11(5) of the Act as the entire amount of Rs. 100 has been donated to the other trust / institution and is accordingly eligible for exemption. The Illustration as given by the department is reproduced below:

S. No.	Particulars	Trust 1		Trust 2			
1.	Income (A)	300		100		100	
2.	Income which is required to be applied (B= 85% of A)		255		85		85
3.	Income (A)	300		100		100	
4.	Donation to other trusts under the first of second regime (C)	100		100			Nil

5.	Amount to be considered as application of income against the donations at row no. 3 [as per clause (iii) of the Explanation 2 to third proviso to clause (23C) of section 10 or clause (iii) of the Explanation 4 to sub-section (1) of section 11 of the Act]. (D = 85% of C)		85		85		
6.	Balance income for application (E = A - C)	200		Nil		100	
7.	Application other than Sl. No. 4 (F = 85% of E)		170		Nil		85
8.	Remaining income which may be accumulated without Form No. 10 / 9A (G = 15% of E)		130		Nil		15
9.	Funds required to be invested in section 11(5) modes (H = G)		30		Nil		15
10.	Exemption of income (I = C + F + G)	300		100		100	

Link for Notice: <https://incometaxindia.gov.in/communications/circular/circular-3-2024.pdf>

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.