

# EY Tax Alert

**CBDT grants further extensions to charitable institutions for complying with charity registration provisions**

## Executive summary

EY Alerts cover significant tax news, developments and changes in legislation that affect Indian businesses. They act as technical summaries to keep you on top of the latest tax issues. For more information, please contact your EY advisor.

This Tax Alert summarizes a recent Circular No. 7/2024 (Circular) and Press Release dated 25 April 2024 issued by the Central Board of Direct Taxes (CBDT)<sup>1</sup> wherein the CBDT grants further extension to charitable institutions<sup>2</sup> for complying with registration procedure within extended due date i.e., 30 June 2024 in order to avoid and mitigate genuine hardships faced by the charitable institutions in electronic filing of application. The extension is granted for specified cases of migration of registration from old registration regime to new registration regime and conversion of provisional registration into final under new registration regime.

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<sup>1</sup> Apex body of direct tax administration in India.

<sup>2</sup> Entities which seek to claim benefit of regime of section 10(23C) or section 11 or section 80G of the Income Tax Act, 1961 (ITA).



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# Background

- ▶ Income of any charitable institution is exempt from taxation under the Income Tax Law<sup>3</sup> (ITL) subject to the fulfilment of specified conditions<sup>4</sup>. Further, donors are eligible to claim tax deduction<sup>5</sup> for contributions made to registered charitable institutions subject to fulfilment of specified conditions.
- ▶ The charitable institutions, amongst fulfillment of other conditions, are required to seek registration under the ITL in order to avail charity exemption and grant of tax deduction to the donors.
- ▶ The provisions relating to the registration were revamped vide The Taxation and Other Laws (Relaxation and Amendment of Certain Provisions) Act, 2020 with effect from 1 April 2021. Few key features of new registration regime are as follows:
  - ▶ Charitable institutions who were already registered under the old registration regime as on 1 April 2021 were required to migrate into new registration regime by making application in Form 10A within a specified time. The tax authority shall grant final registration on automatic basis for five years.
  - ▶ New or unregistered charitable institutions can make application for registration under new registration regime in Form 10A within the specified time. The tax authority shall grant provisional registration on automatic basis for three years.
  - ▶ Charitable institutions registered provisionally under new registration regime are required to convert their provisional registration into final registration by making application in Form 10AB within the specified time<sup>6</sup>. The tax authority shall grant final registration after making suitable inquiry for five years.
  - ▶ The procedure for filing application and seeking registration under new registration regime is electronic.
- ▶ The time limit for making application under new registration regime for situations referred to above was extended on various occasions<sup>7</sup> in the past and the last operative extension was till 30 September 2023.
- ▶ The stakeholders have made various representations before the CBDT to condone the

delay in filing charity registration applications in view of the difficulties faced in filing electronic applications.

- ▶ The CBDT has now issued the Circular and the Press Release to grant extension in specified cases with a view to avoid and mitigate genuine hardship cases.

<sup>3</sup> ITA read with Income Tax Rules, 1962 (Rules).

<sup>4</sup> The exemption to these charitable institutions is available either under the regime of section 10(23C) of ITA or section 11 of ITA.

<sup>5</sup> The tax deduction is available under the scheme of section 80G of ITA.

<sup>6</sup> Earlier of (a) at least six months prior to expiry of provisional registration; or (b) within six months of commencement of charitable activity.

<sup>7</sup> Vide Circular No. 12/2021 dated 25 June 2021, Vide Circular 16/2021 dated 29 August 2021 -Refer EY Tax Alert "CBDT further extends due dates for different compliances under Income Tax Laws (ITL) and payment of disputed tax (without additional cost) under Vivad se Vishwas Act" dated 31 August 2021, Vide Circular 8/2022 dated 31 March 2022, Vide Circular no. 22/2022 dated 1 November 2022, Vide Circular No. 6/2023 dated 24 May 2023 - Refer EY Tax Alert "CBDT provides procedural reliefs and clarifications applicable to charitable institutions" dated 26 May 2023

## Circular and Press Release:

- ▶ The CBDT, in deference to its general powers vested under the ITL, grants further extensions in time limit for filing charity application as under:

Sr. No.	Cases	Last extended date	Extended dated as per the Circular
1.	Cases <sup>8</sup> of migration from old registration regime to new registration regime (Form 10A)	30 September 2023	30 June 2024
2.	Cases of conversion of provisional registration into final under new registration regime where	30 September 2023	No application in Form 10AB is made till date
			Any belated application in Form 10AB pending as on the date of the Circular
			Any application in Form 10AB was rejected by the Tax Authority solely on ground that (i) application was filed beyond the extended due date or (ii) under incorrect provision of new registration regime
			30 June 2024.
			Application being within 30 June 2024 is treated valid for being processed for registration.
			30 June 2024

- ▶ The Circular also provides that charitable institution, which was registered under old registration regime and failed to migrate into new registration regime by 30 September 2023 but has filed an application to seek provisional registration under new registration regime as a new trust, can surrender its application and make fresh application on or before 30 June 2024 to seek final registration under new registration regime.

## Comments

This is a welcome move. Considering the difficulties being faced by charitable institutions in complying with new registration regime, the CBDT has time to time extended the date. This may immensely help charitable institutions to protect their tax exemption and may not lose it due to procedural delay.

Like earlier extensions, the Circular provides relief to limited cases of registrations. Cases of default on account of delay in application where objects were modified, etc. are not covered by the Circular. With a view to enable charitable institutions to remain compliant in such cases as well, it would be beneficial if the CBDT, as one time measure, also provides similar extensions for such other cases considering the newness of registration provisions.

<sup>8</sup> This includes migration of approval of research institutions from the old regime of approval to new regime of approval under section 35 of the ITL.

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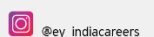
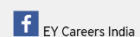
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